
PART V

CHILDREN WITH DIVERSE NEEDS

ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN

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OVERVIEW

The discussion of child protection for Aboriginal children is a difficult topic. Past policies, including forced removals, forced assimilation and dispossession of land and culture, continue to have significant negative impacts on Aboriginal peoples. This legacy casts a long shadow over child protection services. Aboriginal children and families are over-represented at every stage of the child protection system. While the removal of children from their parents is disruptive and painful no matter the cultural group, it has profound historical echoes for Aboriginal people.

All children, including Aboriginal children, are entitled to enjoy a range of rights, including the right to a full life, care and protection and an adequate standard of living. Aboriginal children also have specific rights to enjoy their culture, religion and language in their community. While there is potential for tension between these rights, the better view is to see them as mutually beneficial and interdependent: Aboriginal children flourish best when they can *safely* enjoy their land, language, community and culture.

Practitioners should be trained and supported to ensure that assessments of risk to children consider Aboriginal culture and parenting practices. However, culture should never be used to excuse situations where children are abused or neglected: all children are entitled to the same standards of health, safety and wellbeing.

Like other families, some Aboriginal families need support. There should be more investment in early intervention support services and more intensive support, including by services run by Aboriginal organisations.

As with many other families, some Aboriginal children cannot safely live with their family. In accordance with the Aboriginal and Torres Strait Islander Child Placement Principle, Aboriginal children who are taken into care should be placed wherever possible with other Aboriginal carers, preferably those from the same family, community or culture. More support is needed to identify these carers. A limited pool of potential Aboriginal carers means a growing number of children are placed with non-Aboriginal carers. These carers need support to preserve and strengthen the children's cultural links.

The child protection system should build its Aboriginal workforce. It should also consult meaningfully with the Aboriginal community to draw on Aboriginal knowledge and skills to address the needs of children. At the same time, the system should equip its non-Aboriginal workforce, through training and support, to respond effectively to the needs of Aboriginal children and families. There is a need to re-focus cultural support in

Families SA (the Agency) to ensure that all practitioners have access to advice and support in specific cases, as well as more strategic guidance and training.

There are particular challenges in many remote Aboriginal communities, where many children are highly vulnerable and continue to be exposed to all forms of maltreatment. Practitioners require specific training, support and clinical supervision to equip them to work effectively with children and families in these communities. They need sound knowledge of Aboriginal culture and parenting practices and should give due weight to children's connection to land, language, community and culture. However, they should not lose sight of the fact that children in remote communities have the same rights to health, safety and wellbeing as other children.

This chapter surveys a range of recent initiatives by government and not-for-profit agencies in remote communities to support children, families and the broader community. It discusses how these services could operate more effectively and more collaboratively. Because the support and involvement of Aboriginal communities are central to the success of child protection initiatives, the Commission recommends that the South Australian Government consult meaningfully with communities about these recommendations as it considers their implementation. In future, agencies should work collaboratively with remote communities to develop a common vision for child safety and wellbeing.

This chapter principally relates to the Commission's Terms of Reference 5(a) to (h), in the context of Terms of Reference 1 to 4.

HUMAN RIGHTS

The United Nations Convention on the Rights of the Child recognises the right of children to a full life, care and protection, and a standard of living adequate to allow their physical, mental, spiritual, moral and social development. These rights apply to all children, irrespective of race, language or ethnic origin. The Convention makes special provision for indigenous children, recognising their right, in community with their indigenous people, to enjoy their culture, profess and practice their religion, and use their language.²

The United Nations Declaration on the Rights of Indigenous Peoples recognises further rights for indigenous peoples, including³:

- to practise and revitalise their cultural traditions and customs;
- to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies;

- to revitalise, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures; and
- to participate in decision making in matters which affect their rights.

There is potential for tension between the right of Aboriginal children to life, care and protection, and healthy development, and 'the collective rights of Indigenous peoples to know who they are, where they come from and maintain contact with their culture and family'.⁴ Clearly, children's right to life and safety is paramount: no right for a community to remain intact can trump a child's right to be safe. Yet this should not overlook the fact that Aboriginal children flourish in their community, where they remain connected to family and culture and can draw on their cultural and spiritual heritage. The better view is not to regard individual and collective rights in 'simple competition', but as mutually beneficial and interdependent.⁵

*Cultural rights directly impact on a child's ability to meaningfully enjoy every other human right and freedom, let alone their health. Like all human rights, they are universal, indivisible and interdependent.*⁶

LEGACIES OF THE PAST

Aboriginal people continue to bear the effect of past policies. There remains a significant gap between Aboriginal and non-Aboriginal people across a wide range of measures, including life expectancy, child and infant mortality, infant birth weight, incarceration, family and community violence, alcohol and substance use and related harm, and a range of health and education measures.⁷

Forced removals, in particular, cast a long shadow over child protection services in Australia. From 'the very first days of the European occupation of Australia', Aboriginal children were forcibly removed from families and communities.⁸ From about 1910 to 1970, between one in three and one in 10 Aboriginal children were forcibly removed. Not one Aboriginal family escaped the effects and most families were 'affected, in one or more generations, by the forcible removal of one or more children'.⁹ Most children removed 'suffered multiple and disabling effects'.¹⁰

This continues to have a profound impact. Inter-generational trauma manifests itself 'through issues such as family violence and excessive drug and alcohol use, as well as knowledge of parenting itself'.¹¹ Many who were forcibly removed grew up without positive parenting role models, leading some to develop poor parenting skills and to pass these on to their children, creating a negative inter-generational cycle.¹²

ABORIGINAL APPROACHES TO PARENTING

It is important to recognise the strengths in Aboriginal parenting. While there is no single approach¹³, it is possible to identify general themes, including¹⁴:

- a collective approach, where families and communities together care for and protect their children;
- increased freedom and autonomy for children to explore their world and to learn their responsibilities for protecting one another;
- the integral contribution of elders to family functioning; and
- the sharing of culture and spirituality with children as part of their broad family and community.

These themes offer a useful counterpoint to individualistic, overly protective modes of parenting, which may burden parents and undermine a child's resilience and independence.¹⁵

As discussed in Chapter 3, attachment theory describes the need of all children to form selective attachment relationships with their primary caregiver to support their physical, social and emotional development. However, cultural differences may apply to how these needs are satisfied in a particular context. Collective caregiving can support the formation of multiple attachment relationships that provide the child with emotional security.¹⁶ Aboriginal peoples' conception of a 'competent' child may place more emphasis on communal responsibility than individual autonomy and assertiveness.¹⁷

While all children are entitled to the same standards of health, safety and wellbeing, assessments should 'take particular cultural expressions of safety, sensitivity and competence into consideration'.¹⁸ Poor knowledge of culture and parenting practices may lead non-Aboriginal practitioners to identify child protection concerns where there are none.

Cultural explanations do not necessarily mean a child is not being maltreated. Nor do they mean that an attachment bond is secure in instances when it may not be.¹⁹ The child protection system should not permit culture to excuse genuine risk or absence of safety.

Practitioners need training and support to draw the distinction 'between parent/caregiver behaviour which harms or impedes a child's development and that which ... is considered within Aboriginal culture to be appropriate and responsible parenting practice'.²⁰ Put another way, practitioners need to know 'what constitutes "good-enough parenting" for Aboriginal families, from the standpoint of the state's interest in child development'.²¹

16 ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN

OVER-REPRESENTATION

Aboriginal children and families are vastly over-represented in all parts of the South Australian child protection system. Figure 16.1 compares the rate of Aboriginal children in South Australia who have had screened-in notifications with the rate for non-Aboriginal children.

As Figure 16.1 shows, in 2014/15 Aboriginal children were 6.6 times more likely to be the subject of a screened-in notification. This over-representation occurs throughout the state's child protection system. Figure 16.2 and Figure 16.3 compare the rate of Aboriginal children who have finalised child protection investigations and substantiations of abuse or neglect with the rate for non-Aboriginal children.

In 2014/15, Aboriginal children were 9.8 times more likely to be the subject of a finalised child protection investigation and 9.9 times more likely to be the subject of a substantiated finding of abuse or neglect than non-Aboriginal children.

Figure 16.4 shows that this over-representation carries through to children in out-of-home care.

In 2014/15, Aboriginal children were 9.2 times more likely to enter out-of-home care than non-Aboriginal children.

Aboriginal people make up about 2.4 per cent of South Australia's population and about 4.5 per cent of the state's child population.²² Yet in 2014/15, 26 per cent of children with screened-in notifications and about 30 per cent of children with finalised investigations and substantiated abuse or neglect findings were Aboriginal. They represented 28 per cent of children admitted to care in 2014/15 and 30 per cent of children who were under a care and protection order at 30 June 2015.²³ Similar over-representations are found in all jurisdictions in Australia.²⁴

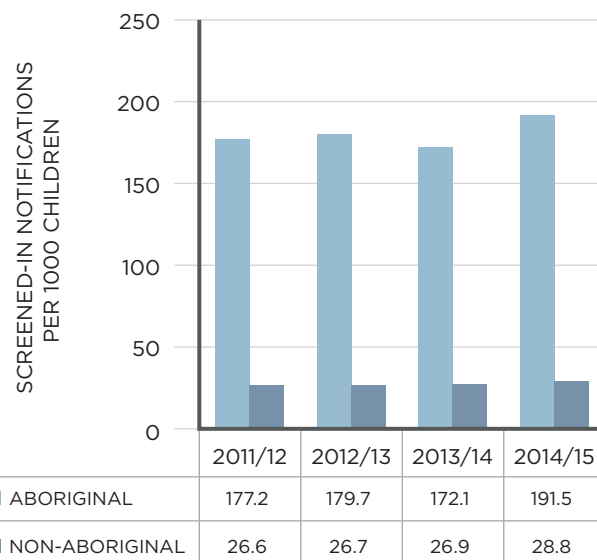


Figure 16.1: Rate of South Australian Aboriginal and non-Aboriginal children who have had screened-in notifications per 1000 children

Note: Includes extra-familial (EXF) cases, which South Australia Police respond to.

Source: Productivity Commission, 'Child protection services' in *Report on government services 2016*, Australian Government, 2016, table 15A.8.

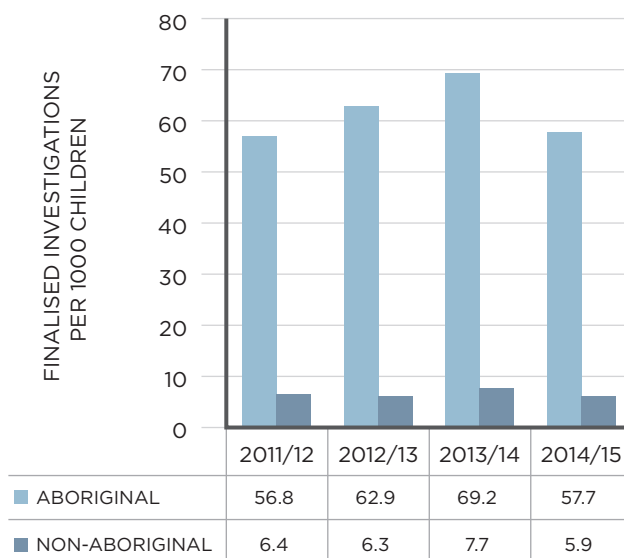


Figure 16.2: Rate of South Australian Aboriginal and non-Aboriginal children with finalised child protection investigations per 1000 children

Note: Finalised investigations include investigations finalised by 31 August in the following financial year.

Source: Productivity Commission, 'Child protection services' in *Report on government services 2016*, Australian Government, 2016, table 15A.8.

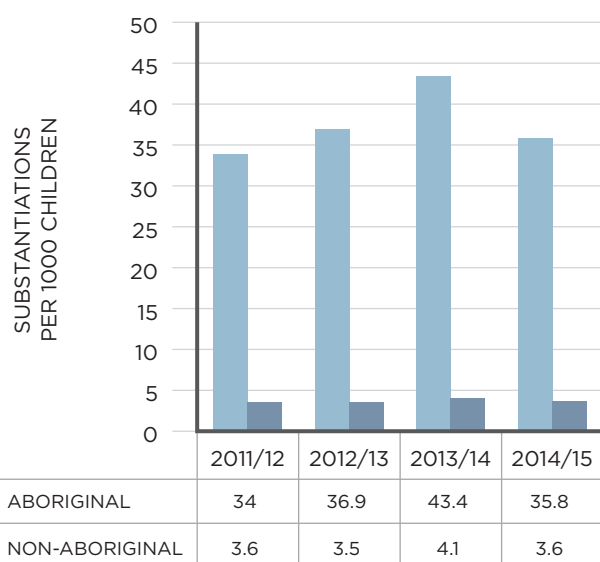


Figure 16.3: Rate of South Australian Aboriginal and non-Aboriginal children with a substantiated finding of abuse or neglect per 1000 children

Source: Productivity Commission, 'Child protection services' in *Report on government services 2016*, Australian Government, 2016, table 15A.8.



Figure 16.4: Rate of South Australian Aboriginal and non-Aboriginal children in out-of-home care per 1000 children

Source: Productivity Commission, 'Child protection services' in *Report on government services 2016*, Australian Government, 2016, table 15A.8

This over-representation has profound, cumulative effects on many Aboriginal childhoods. A 2010 longitudinal study followed South Australian children born in 1991, adding comparative data for children born in 1998 and 2002. By 2007, 57-76 per cent of Aboriginal children born in 1991 had been the subject of at least one notification (the figure was 23 per cent for children generally). Forty per cent of Aboriginal children had four or more notifications (23 per cent for non-Aboriginal children). The study found that the over-representation appears to be increasing: 16 per cent of Aboriginal children born in 1991 were the subject of at least one notification by 1995 (5 per cent for non-Aboriginal children), whereas 56 per cent of Aboriginal children born in 2002 were the subject of at least one notification by 2006 (11 per cent for non-Aboriginal children).²⁵

UNDER-REPORTING OF ABUSE AND NEGLECT

There is reason to believe official notification and substantiation records understate the number of children, both Aboriginal and non-Aboriginal, who experience abuse and neglect.²⁶ In some Aboriginal communities, past inquiries have found sexual abuse in particular is grossly under-reported.²⁷ The reasons for under-reporting all types of abuse and neglect of Aboriginal children include²⁸:

- fear, mistrust and loss of confidence in the police, justice system, government agencies and the media;
- fear of racism;
- fear the child may be removed from the community;
- community silence and denial;
- social and cultural pressure from other members of the family or community not to report abuse or violence and the belief that reporting is a betrayal of the culture and community;
- a belief in the need to protect the perpetrator because of the high number of Indigenous deaths in custody;
- fear of repercussions or retaliation from the perpetrator or their family;
- personal and cultural factors of shame, guilt and fear;
- lack of understanding about what child abuse and neglect is generally, and lack of understanding about what constitutes child sexual abuse specifically;
- language and communication barriers, lack of knowledge about legal rights and the services available, and lack of services for Aboriginal victims; and
- geographical isolation (that is, nobody to report to, no means of reporting and minimal contact with child welfare professionals).

EFFECTIVE RESPONSES TO CHILDREN AT RISK

Chapter 9 outlines concerns that Families SA assessments are often compromised by excessive optimism and tolerate situations that are plainly abusive or neglectful. These concerns also apply to assessments concerning Aboriginal children. The Commission observed many assessments of Aboriginal children, including in the case study of Abby (see Vol. 2, Case Study 2) and in the course of the Commission's Cumulative Harm, Usual Practice and Intake reviews (see Appendix C). The Commission observed many examples of Aboriginal children who were exposed to prolonged abuse and neglect with little or no effective response, including the following:

- At the time of Erin's birth, her parents had ongoing issues with drug and alcohol abuse and domestic violence, and they refused to work with Families SA. Her two older siblings were already in long-term care. Over the next three years, there were repeated notifications involving homelessness, domestic violence, substance abuse and poor supervision. On one occasion, Erin was found, aged three years, wandering the streets unsupervised in hot weather without water, shelter or shoes. A safety plan was agreed, yet a few days later she was again found wandering unsupervised. The response was another safety plan. Notifications continued, including an incident where the father beat Erin and dragged her down the street. Finally, aged four years, Erin was placed in care. She bore the effects of neglect: delayed development, poor dental health and needing surgery for a condition which could have been treated had she not missed multiple medical appointments while in her parents' care.
- All five of Errol's older siblings were removed from his parents' care owing to concerns of chronic neglect, domestic violence, lack of supervision, and drug and alcohol abuse. When Errol was born, his mother signed a safety plan agreeing to abstain from drinking around the child. At least 11 notifications followed, relating to ongoing domestic violence, substance abuse and his mother's deteriorating mental health. When he was nearly five years, Errol was admitted to hospital under the pretence he had fallen from a cupboard at home, when in fact he had ingested his mother's anti-psychotic medication.
- Gemma has six children. Over 14 years, Families SA received more than 40 notifications featuring persistent concerns of domestic violence, lack of supervision, non-attendance at school, attending school without food or clean clothes, and presenting with minor physical injuries. On occasions, Families SA visited the family and referred them to various Aboriginal support services, but the responses

appeared uncoordinated and did not break the cycle of maltreatment. The children were not listened to, such as when Graham, aged eight, told his teacher:

'My fucking mum doesn't have any food in the house. I'm hungry and my tummy hurts'. Families SA assessed that this was too 'vague' to require a response. Signs of cumulative harm to the children appeared to receive little weight. The children remain in their mother's care and, without significant escalation of issues, appear likely to stay there.²⁹

It is not possible to conclude that these cases received a poor response, or that practitioners applied a different standard because the families were Aboriginal. However, the Commission observed a pattern across many cases of vulnerable Aboriginal families with children at significant risk who received no adequate response.

Witnesses described a reluctance on the part of Families SA and other agencies to intervene in Aboriginal families, noting that higher thresholds of risk and safety appeared to be applied for Aboriginal children.³⁰ One experienced practitioner stated:

Reluctance to recreate another stolen generation, and the very real risk of being accused of racism, have resulted in child protection workers adopting a two-tier risk threshold for Aboriginal and non-Aboriginal children, with the level of risk needing to be much higher for Aboriginal children before intervention occurs. Yet Aboriginal senior consultants and executives can still be heard to say that Aboriginal families are being unfairly targeted by the child protection system with issues of poverty being mislabelled as abuse or neglect. There may be occasional cases of this, but I have never seen one. What is overwhelmingly evident is a bias to not intervene. This means that when intervention finally occurs, the families' difficulties are usually extreme. When intervention occurs, there is also a very high tolerance for family conditions still mired in trauma.³¹

In 2012, the South Australian Child Death and Serious Injury Review Committee reviewed the circumstances surrounding six children who sustained serious injuries. Its recommendations emphasised the need for all agencies in the child protection system to be culturally appropriate, but to apply the same standards of risk and safety for both Aboriginal and non-Aboriginal children.³²

All practitioners in the child protection system should have training, support and clinical supervision in working effectively with Aboriginal children and families, including knowledge of culture and parenting practices, but should apply the same standards of risk and safety to all children.

ABORIGINAL SERVICES IN FAMILIES SA

Families SA has a range of roles and services that work specifically with Aboriginal children and families. These are discussed below.

PRINCIPAL ABORIGINAL CONSULTANTS

The Agency employs four principal Aboriginal consultants (PACs), each of whom has a geographical area of responsibility. These senior practice roles provide strategic guidance to help the Agency respond more effectively to Aboriginal children and families, including strategies to maintain the cultural identity of children in care and training for staff in how to work more effectively with Aboriginal families. They also consult about specific cases, for example, concerning the cultural implications of a placement decision or the needs of particular Aboriginal families and communities.³³

ABORIGINAL FAMILY PRACTITIONERS

Some offices of the Agency employ Aboriginal family practitioners (AFPs), who have flexible roles. They perform direct casework with Aboriginal families and help non-Aboriginal staff to more effectively engage Aboriginal families in a culturally appropriate way. They often co-work cases with non-Aboriginal practitioners, assisting and advising in casework and identifying resources in the community that families can access.³⁴

Each Families SA Call Centre team has at least one AFP. Most regional offices also have at least one, although the Mount Barker office and most metropolitan offices have none.³⁵ The Northern Protective Intervention hub and the Central Assessment and Support hub host AFPs from the northern Kanggarendi and Yaitya Tirramangkotti teams (discussed below). Instead of AFPs, Port Augusta has an Aboriginal services team of three staff.³⁶

KANGGARENDI

The Agency has two Kanggarendi teams. The teams respond to Tier 2 and Tier 3 intakes relating to Aboriginal children and families where a non-investigative, community-based response is appropriate.³⁷ One team responds to cases in northern and western metropolitan Adelaide and the other to cases in southern metropolitan Adelaide. The teams consist of AFPs and a supervisor.³⁸

As described in Chapter 9, resource constraints mean most Tier 2 and 3 intakes are Closed No Action (CNA). Therefore, the cases to which Kanggarendi responds might otherwise receive no response. The service works with families on a voluntary basis, offering support for up to 12 months, including practical in-home assistance, parenting skills development, referrals to community supports and intensive case management.³⁹

If risks escalate and the child needs to be removed, Kanggarendi closes the file and re-notifies the Call Centre.⁴⁰

YAITYA TIRRAMANGKOTTI

Until recently, Yaitya Tirramangkotti⁴¹ (Yaitya) was a unit in the Call Centre. It assessed notifications about Aboriginal children and families and supported other Call Centre staff to make culturally appropriate assessments. Its 'guiding principle' was that the Agency 'should not respond to reports on Aboriginal children without first taking advice from staff with sufficient knowledge of the relevant family and community'.⁴² The Layton Review in 2003 strongly supported Yaitya's role⁴³, as did an internal review in 2012.⁴⁴ By 2014, Yaitya consisted of a supervisor, a senior practitioner and eight social workers, supported by six AFPs, divided between the other teams in the Call Centre.⁴⁵

In 2014, Families SA moved Yaitya to its Central Assessment and Support hub. An internal report relating to the Call Centre supported the move but did not give a rationale for it and the Commission has not been able to establish why it occurred.⁴⁶ In practice, there is little contact between Yaitya and Call Centre staff.⁴⁷

CHALLENGES OF RECRUITING AN ABORIGINAL WORKFORCE

The challenges to recruitment outlined in Chapter 6 are much greater for Aboriginal employees. Many Aboriginal people are reluctant to work in the child protection system, particularly in Families SA. Many Aboriginal employees find Families SA a challenging, stressful workplace. Witnesses identified a number of challenges, including:

- poor cultural understanding and insensitivity among some non-Aboriginal colleagues;
- negative reactions in the Aboriginal community to a person working with 'welfare', which is accentuated in South Australia by the state's small Aboriginal community, where many people know each other; and
- conflict between providing support and advice to the Aboriginal community and advising Families SA about the removal of children.⁴⁸

The internal review in 2012 identified that Aboriginal staff in Families SA are not well supported. This affects performance, recruitment and retention.⁴⁹ The review recommended measures to make the Agency safer and more attractive for Aboriginal employees, including:

- development of a central Aboriginal recruitment and retention strategy;
- tailored support for the professional and personal needs of Aboriginal staff, many of whom experience significant pressure, particularly in front-line roles;
- improved induction and recruitment processes, including information to prepare employees for the complexities of working in a system where Aboriginal children are significantly over-represented;
- improved professional development and support for Aboriginal staff in leadership roles and those identified as future leaders; and
- improved personal and professional development opportunities, including access to training and qualifications.⁵⁰

The Commission was also told of commendable practices in the Agency, including a scholarship program that enables Aboriginal staff to study social work with course fees fully reimbursed.

Families SA developed a document titled, Aboriginal Recruitment and Retention Strategy, which addresses many of these issues.⁵¹ However, the Commission was told it is not a formal strategy, but rather a 'work in progress'⁵² designed to 'inform discussion'.⁵³ In October 2015, the Agency appointed a strategic Aboriginal advisor, whose role includes developing an Aboriginal recruitment strategy.⁵⁴ Four years after the internal review, the Agency should finalise this strategy as a priority. The strategy should reflect the recommendations listed above and should also complement the Agency's broader workforce strategy.

Despite these challenges, the Agency has had some success in recruiting an Aboriginal workforce. Aboriginal people represent about 5 per cent of employees (at June 2015), exceeding the state government's strategic target of 2 per cent Aboriginal employment across the public sector.⁵⁵ The vast majority of Aboriginal employees are full-time (88.5 per cent), permanent (78.2 per cent) employees. Most of those employed full time are in human service roles, as either allied health professionals (46.8 per cent) or occupational services officers (27.3 per cent).⁵⁶ The measures described above will help build on this representation.

Community-based, not-for-profit agencies in the broader child protection system face many of the same barriers to recruiting Aboriginal employees. While these agencies carry less stigma than Families SA, they face a retention

challenge in that Aboriginal staff with experience in the sector are often attracted to more senior roles, such as PACs, in the Agency.⁵⁷

TRAINING THE NON-ABORIGINAL WORKFORCE

Given the over-representation of Aboriginal children and families, it is important for the child protection system to build its Aboriginal workforce over time. However, it is not feasible in the foreseeable future for all Aboriginal children and families to be responded to by Aboriginal staff. It is essential that the Agency build the skills of its non-Aboriginal workforce to work effectively with Aboriginal children and families.⁵⁸

PACs, AFPs and staff from Yaitya and Kanggarendi are important sources of cultural advice to the broader Agency workforce. However:

*over-reliance among some non-Aboriginal staff on the assistance [Aboriginal staff] provide ... has resulted in a lack of effort exerted by some non-Aboriginal staff to expand their own skills and knowledge in respect of best cultural practice and to gain experience in working with Aboriginal children.*⁵⁹

Working effectively with Aboriginal children and families is core business for all staff of the Agency. Training, supervision and support programs should reflect this. Witnesses identified that many non-Aboriginal workers have poor understanding of Aboriginal culture. Not only does this affect the quality of their work, but the gulf in understanding is a significant challenge for their Aboriginal colleagues.⁶⁰ Existing cultural training is poorly attended and typically consists of a single, day-long session, sitting in a training room.⁶¹ One Aboriginal practitioner noted:

*You can't go to a culturally appropriate training session and think, well, I'm appropriate at the end of the day, because I've done one session.*⁶²

Witnesses suggested alternative training models, such as exposing practitioners to culture by taking them 'out bush' on camps, and asking them to participate in Aboriginal cultural events or co-work with Aboriginal workers.⁶³

The 2012 internal review found that Families SA's cultural training was too brief and offered little guidance about practical service delivery. Training should extend beyond the history of Aboriginal mistreatment and disadvantage—although this provides important context—to offer practical skills, techniques and advice. It needs to include information about the complexity and diversity of Aboriginal communities, including topics such as Aboriginal parenting practices and the role of extended family in Aboriginal communities.⁶⁴ Importantly, it should equip practitioners to distinguish practices that

are considered appropriate and responsible in Aboriginal culture from behaviour that harms or impedes a child's development and warrants a response.⁶⁵

In terms of tertiary training, the Commission heard that Deakin University gives a particularly good overview on Aboriginal culture and its relationship with child protection and that many Families SA practitioners have benefited from this course.⁶⁶

REFOCUSING CULTURAL SUPPORT IN FAMILIES SA

Because PACs, AFPs and staff from Yaitya and Kanggarendi offer cultural advice within Families SA, it can be confusing for staff to know to whom to turn.⁶⁷ There is also the potential for conflicting advice.

PRINCIPAL ABORIGINAL CONSULTANTS

PACs continue to spend most of their time consulting in relation to specific cases⁶⁸, despite a 2012 review concluding that this was 'unsustainable'. PACs should focus on:

*knowledge sharing, training and on-the-job skill transfer to non-Aboriginal staff [and] becoming disseminators of knowledge in best practice Aboriginal business, not merely a source for answers to specific questions and case-by-case assistance.*⁶⁹

PACs should serve as case consultants only in complex cases. They should use this opportunity 'to train and educate staff on the processes and knowledge that brought them to give the specific advice offered' and to identify where the workforce may require training.⁷⁰

ABORIGINAL FAMILY PRACTITIONERS

AFPs are well placed to provide cultural advice to practitioners in less complex cases, although their aim over time should be to build the knowledge and skills of non-Aboriginal staff. Complex cases that exceed their knowledge should continue to be referred to a PAC.

Some AFPs cannot provide cultural support in certain cases. Many AFPs negotiate informal arrangements about the types of work that they will perform. Some respond only to chronic neglect and family support cases. Many are reluctant to be involved directly in higher risk cases that may lead to removal, but are happy to co-work cases, providing assistance from the background to a non-Aboriginal primary worker.⁷¹ These arrangements often reflect the legacy of past policies and the close relationships between many Aboriginal people. They avoid placing practitioners in 'conflicting or personally compromising situations'⁷²:

*It is pivotal to have Aboriginal staff only undertaking work with client groups with which they are both comfortable and have the skills and aptitude with which to work therapeutically. Misplaced or misfit role allocation may lead to negative outcomes for clients.*⁷³

Consultation arrangements should be flexible enough to accommodate this, while ensuring practitioners have access to the support they need.

KANGGARENDI AND YAITYA TIRRAMANGKOTTI

As discussed below, Kanggarendi's functions should be transferred to the not-for-profit sector. Its staff should no longer offer internal cultural advice to Families SA practitioners.

For Yaitya, one option is to return to the Call Centre. Table 16.1 shows the total number of notifications received by the Call Centre during the past four financial years, by the child's Aboriginality.

Table 16.1: Number of Aboriginal and non-Aboriginal notifications, 2011/12 to 2014/15

	2011/12	2012/13	2013/14	2014/15
Aboriginal notifications	8583	8972	10,159	11,878
Non-Aboriginal notifications	30,699	32,879	35,786	41,562
Notifications where Aboriginality is unknown	1225	1688	2892	4370

Source: Data from Families SA.

In 2014/15, the Agency received 11,878 notifications concerning Aboriginal children, comprising 21 per cent of all notifications. The number of notifications concerning Aboriginal children rose 38 per cent between 2011/12 and 2014/15 (35 per cent for non-Aboriginal children).

It would take a dedicated team of about 10 AFPs, assessing five notifications a day, to assess all the notifications concerning Aboriginal children received in 2014/15.⁷⁴ If notifications for Aboriginal children rise during the next three years at the same rate as the preceding three years, a team of about 14 Aboriginal practitioners would be needed in the Call Centre by 2017/18. By comparison, in February 2016 the Agency had a total of 17 AFPs (one vacant) and four senior AFPs across the whole of metropolitan Adelaide.⁷⁵

While the Agency should decide how much of its Aboriginal workforce to devote to the Call Centre, it is one area among many that would benefit from cultural advice. While the Call Centre has less Aboriginal cultural input since Yaitya's departure⁷⁶, it retains six AFP positions, including at least one in each Call Centre team.

As with other functions in the Agency, the over-representation of Aboriginal children means it may not be feasible for Aboriginal practitioners to process all notifications concerning Aboriginal children. Further, building a sufficiently large Aboriginal workforce to respond to all such notifications could leave other parts of the Agency without adequate access to cultural advice and support. For this reason, notifications may need to be processed by non-Aboriginal practitioners, who are trained in Aboriginal culture and parenting practices and can draw on assistance from on-site AFPs.

Call Centre practitioners receive information by telephone or the internet and assess the level of risk using decision-making tools and their professional judgment. In some cases cultural considerations will help to distinguish appropriate, responsible Aboriginal parenting practices from behaviour that is harmful and requires a response. However, much depends on the context of the family and the child, which may be difficult to assess remotely. In many cases, some form of face-to-face assessment by practitioners who are informed by culture may be needed.

As noted, most metropolitan practitioners, as well as those in the Mount Barker office, have no on-site access to AFPs. This is a barrier, notwithstanding that staff in these offices can seek input from Kanggarendi or Yaitya.⁷⁷ An alternative to returning Yaitya to the Call Centre would be to reallocate its staff so that all Agency offices have on-site AFPs. The Agency should consult its Aboriginal practitioners and the broader workforce about the best model for providing cultural advice and support.

SUPPORT SERVICES FOR ABORIGINAL CHILDREN AND FAMILIES

Aboriginal children and families have access to a range of mainstream support services, including those described in Chapter 8. There are also many services specifically for Aboriginal children and families:

- The Aboriginal Family Birthing Program is available to many Aboriginal women in country and metropolitan South Australia. They receive care during pregnancy, labour, birth and the postnatal period from Aboriginal maternal and infant care workers, in partnership with midwives, obstetricians and general practitioners. A recent evaluation indicates that the program is helping to meet targets for reducing Aboriginal disadvantage

by increasing the proportion of mothers receiving antenatal care and reducing the proportion of infants with low birth weight.⁷⁸

- The Metropolitan Aboriginal Youth and Family Services (MAYFS) offers targeted early intervention services to Aboriginal young people (aged 10–18 years), including a mentoring program and programs to learn about culture and skills for life.⁷⁹
- Nunkuwarrin Yunti provides a range of allied health and specialist services to promote the physical, social and emotional wellbeing of Aboriginal children and families.⁸⁰
- Nanko-walun Po:rlar Nomawi is an early intervention service operated by Child and Adolescent Mental Health Service (CAMHS) in Murray Bridge. It offers support services to Aboriginal children and families throughout Ngarrindjeri country, including helping families involved with the child protection system.⁸¹
- Aboriginal Family Support Services (AFSS) offers a range of services at 17 sites in South Australia, including family support, gambling help, residential services for children in care, home-based foster care services, and a community safety and wellbeing program.⁸²

Aboriginal people should have the choice to use either mainstream support services or Aboriginal-specific services. Aboriginal services often more readily incorporate Aboriginal parenting practices and world views, tapping into their clients' cultural and normative assumptions and making it easier to engage with families and motivate them to change.⁸³

Many mainstream parenting programs, for example, simply aim to impart 'good parenting', modelling how parents should respond to challenging behaviours with strategies such as ignoring, use of rewards and time out. While potentially useful, these strategies contain basic assumptions about parenting that may conflict with Aboriginal practices⁸⁴:

*Seemingly straightforward ideas about household or family boundaries or the primacy of parents in supervision and monitoring of children may not transfer to Aboriginal family processes. When practitioners try to promote positive models, they may talk past and fail to engage with the experience of Aboriginal parents, with whom they find little resonance. As a result, parents remain unengaged, uninterested and do not acknowledge the pertinence of the messages for them.*⁸⁵

Chapter 8 recommends the establishment of an Early Intervention Research Directorate (EIRD) to identify evidence-based service models and invest in robust evaluations of new service models. Given the over-representation of Aboriginal people in the child protection system, EIRD should give particular attention

to service models that meet the needs of Aboriginal children and families. While some research exists concerning effective Aboriginal service models, more research is needed.⁸⁶ EIRD should specifically aim to build this research base.

Existing services for Aboriginal people should be equipped to identify families with complex needs, and refer them to services that have the capacity to meet those needs. Universal health services and services that are aimed specifically at Aboriginal people are particularly well placed to link these families to more intensive services. In particular the Aboriginal Family Birthing Program is well placed to identify families with high needs and ensure that they are referred to appropriate programs.

Where eligibility criteria exclude families with complex needs from universal services, alternative services should be available, with clear referral pathways to ensure that these families are not left to negotiate complicated service systems unassisted.

In particular, services should adopt an approach which ensures that if a family is identified as needing assistance, they are given it, whether by the service provider or through a referral to an appropriate service.

MOVING KANGGARENDI

Kanggarendi is intended as an early intervention service, responding predominantly to Tier 3 intakes and some lower risk Tier 2 intakes.⁸⁷ In practice, it responds predominantly to Tier 2 intakes, particularly higher risk Tier 2 (five days) intakes.⁸⁸ This no doubt reflects resource pressures in Families SA. However, as discussed in Chapter 9, higher risk cases require assessment and a voluntary response is inadequate and dangerous.

A 2013 evaluation found Kanggarendi's presence within Families SA was an obstacle for some clients, although this was somewhat offset by its voluntary service model, Aboriginal workforce and distinct identity:

*Families see that as welfare and you're going to get an automatic shutdown reaction.*⁸⁹

As outlined in Chapter 8, the not-for-profit sector is best placed to offer support of this kind. Consistent with its role as an early intervention service, Kanggarendi should be repositioned to respond to genuinely lower risk cases, including some Tier 3 intakes and notifications currently screened out as Notifier Only Concern, Adolescent at Risk or Report on the Unborn. The South Australian Government should fund one or more not-for-profit agencies—preferably Aboriginal organisations—to offer these services to Aboriginal children and families.

BETTER INTENSIVE FAMILY SUPPORT

A significant service gap remains for higher risk Tier 2 and 3 cases involving Aboriginal children and families.⁹⁰ Kanggarendi's service model was never intended to respond to cases of this kind.

Chapter 9 details how not-for-profit agencies provide more intensive support for families through the targeted intervention, family preservation and reunification programs. AFSS offers these services to Aboriginal people in Adelaide (except for targeted intervention), Berri, Ceduna, Coober Pedy, Port Augusta and Port Lincoln.⁹¹ The other agencies also have a significant proportion of Aboriginal clients.

A 2012 evaluation of these programs found that Aboriginal children comprised 38 per cent of targeted intervention clients, 26 per cent of family preservation clients and 33 per cent of reunification service clients. Aboriginal families were less likely to complete the programs successfully: only 27 per cent of Aboriginal families who were referred to targeted intervention completed the program successfully (compared with 48 per cent for non-Aboriginal families), with similar trends for the other programs.⁹²

Aboriginal clients of targeted intervention experienced reduced notifications, investigations and substantiations over time, but a much higher proportion of them remained involved in the child protection system after leaving the program than non-Aboriginal clients:

- 57.0 per cent had a notification (48.3 per cent for non-Aboriginal clients);
- 28.9 per cent had a Tier 1 intake (22.1 per cent);
- 31.6 per cent had an investigation (25.1 per cent);
- 17.7 per cent had a substantiated notification (11.8 per cent); and
- 19.0 per cent had a child in care after exit (13.0 per cent).⁹³

In other words, over-representation persisted after involvement in the programs.

As do other families, Aboriginal clients referred to these programs increasingly face complex combinations of child protection issues. The service models have not adjusted to this complexity. They tend to offer practical support and are not equipped to respond to complex, interrelated problems.⁹⁴

For higher risk families there is a need for evidence-based service models that are sensitively adapted for Aboriginal culture and parenting practices. The South Australian Government should fund not-for-profit agencies—preferably Aboriginal organisations—to develop service models that respond to higher risk Aboriginal families with multiple, complex problems.

COORDINATING SERVICES

Aboriginal support service providers face many of the same challenges in coordinating services as outlined in Chapter 8, including matching local services to the needs of children and families and integrating services into a cohesive system that is easily accessible.

The measures recommended in Chapter 8 will help Aboriginal service providers to meet these challenges. First, the annual Local Assessment of Needs (LAN) prepared in each local area should consult with Aboriginal people and service providers about the needs of local Aboriginal families and children and the most effective service response.

Second, local Aboriginal support services should be placed in child and family assessment and referral networks. This would allow a visible entry point for Aboriginal children and families to access Aboriginal and mainstream services. It would also encourage improved service coordination, including stronger referral pathways, consistent referral criteria, better information sharing and integrated, multi-service responses where required. As a result, more Aboriginal people would be able to access the support they need, when they need it.

REUNIFICATION SERVICES

As discussed in Chapter 9, many children reunified with their parents after a period in care subsequently return to care. Table 16.2 and Table 16.3 show that Aboriginal children are also generally over-represented in this area. Table 16.2 compares the numbers of Aboriginal and non-Aboriginal children who were reunified and who re-entered care between 2012/13 and 2014/15.

Some caution is needed in assessing these statistics, given the relatively small number of cases and the volatility from year to year. However, nearly one-third of Aboriginal children reunified with their parents in 2014/15 re-entered care within six months, which is a very short time given a child's need for stability. This is twice the rate of non-Aboriginal children.

Table 16.3 shows the proportion of children entering care under the *Children's Protection Act 1993* (SA) (the Act) who had previously entered care, that is, the proportion who were returning to care.

In each of the past three financial years, the percentage of children returning to care was higher for Aboriginal children than non-Aboriginal children, peaking at 57 per cent in 2013/14.

Aboriginal children have the same developmental needs for stability and permanency as other children. Children who move in and out of care face increased risks of developmental trauma and may never find a safe, stable care placement. Aboriginal children's experience of care as unstable and precarious is likely to contribute to poorer outcomes. As recommended in Chapter 9, Families SA practitioners should be trained and supported to make realistic assessments about the viability of reunification, conscious of the developmental risks of unsuccessful reunification efforts.

ABORIGINAL CHILDREN IN CARE

Some Aboriginal children need to be in care. The Agency should work to preserve and strengthen the connection of these children to land, language, community and culture.

CULTURAL CONSULTATION

Section 5(1) of the Children's Protection Act provides that:

No decision or order may be made under this Act as to where or with whom an Aboriginal or Torres Strait Islander child will reside unless consultation has first been had with a recognised Aboriginal organisation, or a recognised Torres Strait Islander organisation, as the case may require.

The Minister may declare an organisation a recognised Aboriginal organisation. During the past two decades, 24 organisations have been declared⁹⁵; however, many are now defunct. When Families SA tried to contact the organisations recently, only nine responded that they wanted to continue in the role.⁹⁶

Only one recognised organisation, Aboriginal Family Support Services (AFSS), is funded to perform the role. In practice, AFSS is the only organisation that Families SA consults under Section 5(1). Until recently, AFSS was funded for only one cultural consultant for the state.⁹⁷ This has now increased to two consultants and a coordinator.⁹⁸

As observed in the case study of Abby, Families SA interprets the Act to require consultation with a recognised organisation only in relation to court applications, not subsequent decisions about where a child in care should reside.⁹⁹

Table 16.2: Aboriginal and non-Aboriginal children reunified and re-entering care in South Australia, 2012/13 to 2014/15

	2012/13		2013/14		2014/15	
	ABORIGINAL	NON-ABORIGINAL	ABORIGINAL	NON-ABORIGINAL	ABORIGINAL	NON-ABORIGINAL
Reunified	32	102	62	117	47	93
Re-entered care within six months (percentage of total reunified)	9 (28%)	8 (8%)	10 (16%)	25 (21%)	15 (32%)	15 (16%)
Re-entered care within 18 months (percentage of total reunified)	9 (28%)	19 (19%)	13 (21%)	35 (30%)	N/a	N/a

Note: Relates to children returning to their parents after a period in care in accordance with the Children's Protection Act, including under a Voluntary Custody Agreement or a custody or guardianship order, and to those re-entering care in accordance with the Children's Protection Act.

Source: Data from Families SA.

Table 16.3: Aboriginal and non-Aboriginal children entering care and those re-entering care, 2012/13 to 2014/15

	2012/13		2013/14		2014/15	
	ABORIGINAL	NON-ABORIGINAL	ABORIGINAL	NON-ABORIGINAL	ABORIGINAL	NON-ABORIGINAL
Children entering care	263	614	244	517	264	696
Children re-entering care (percentage re-entering care)	115 (44%)	237 (39%)	139 (57%)	218 (42%)	107 (41%)	235 (34%)

Note: Relates to children in care in accordance with the Children's Protection Act, including under a Voluntary Custody Agreement or a custody or guardianship order.

Source: Data from Families SA.

This is an unduly narrow interpretation. The Act requires consultation for any decision or order made under it as to where and with whom an Aboriginal child may reside. The Act gives the Minister power to make arrangements for the placement of children (whether with a guardian, a member of the child's family, an approved foster parent, or a facility suitable for that purpose).¹⁰⁰ Placement decisions for Aboriginal children in care are therefore made under the Act and trigger the consultation requirements. AFSS also considers that it should be consulted in relation to placement decisions.¹⁰¹

In Abby's case, Families SA practitioners did not consult with AFSS apart from in court applications, but they did seek additional guidance from a principal Aboriginal consultant (PAC), an employee of Families SA. PACs are an important source of internal advice, but they are no substitute for consultation with a recognised organisation.

At 30 June 2015, there were 840 Aboriginal children in care.¹⁰² The Agency should consult with a recognised Aboriginal organisation in relation to all placement decisions for these children. This would require a significant increase in staffing and resources for declared organisations.

Many Aboriginal communities in South Australia have a distinct language and culture. It would be difficult for one organisation to connect with all these communities and offer advice for all Aboriginal children and families. The South Australian Government should consider funding several Aboriginal organisations, including those with strong links to specific communities, to provide more specific consultation.

For example, the Ngaanyatjarra, Pitjantjatjara and Yankunytjatjara Women's Council (NPY Women's Council) is an Aboriginal organisation based in Alice Springs with extensive experience and connections in the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands in the far north of South Australia. It has been a recognised organisation since 1994, but was unaware of this until Families SA wrote to it in March 2014.¹⁰³ The NPY Women's Council is nevertheless well placed to perform this role in the APY Lands and would be willing to do so, if funded appropriately.¹⁰⁴

The Agency is reviewing the list of recognised organisations.¹⁰⁵ Organisations that are defunct or otherwise unwilling to perform this role should have their designation revoked.

ABORIGINAL AND TORRES STRAIT ISLANDER CHILD PLACEMENT PRINCIPLE

The Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP) was developed in the 1980s. It has been implemented in all Australian states and territories and is recognised in the National Framework for Protecting Australia's Children 2009–2020.¹⁰⁶ The principle:

*establishes the basis for keeping children within their families and communities to provide the link between the past and the future for Aboriginal and Torres Strait Islander cultures and the assurance that if separation or removal is necessary, the child's links with their family, community and culture are actively maintained.*¹⁰⁷

The Children's Protection Act requires Families SA to apply ATSICPP when making placement decisions for Aboriginal children, giving a hierarchy of placement options:¹⁰⁸

- 1 A member of the child's family, as determined by reference to Aboriginal or Torres Strait Islander culture.
- 2 A member of the child's community who has a relationship of responsibility for the child, as determined by reference to Aboriginal or Torres Strait Islander traditional practice or custom.
- 3 A member of the child's community, as determined by reference to Aboriginal or Torres Strait Islander traditional practice or custom.

- 4 A person of Aboriginal or Torres Strait Islander background.
- 5 A person who is able to ensure that the child maintains significant contact with the child's family (as determined by reference to Aboriginal or Torres Strait Islander culture), the child's community or communities and the child's culture.

While ATSICPP offers a placement hierarchy for Aboriginal children in care, its significance is broader than this. For example, ATSICPP refers to family and community 'as determined by reference to Aboriginal ... culture' and 'a member of the child's community who has a relationship of responsibility for the child' as determined by 'traditional practice or custom'. These concepts recognise that Aboriginal people have knowledge and experience to make decisions for their children and imply a partnership between government and Aboriginal communities in decision making about children's welfare.¹⁰⁹ Effective implementation of ATSICPP therefore depends on robust, effective consultation with Aboriginal organisations.

ATSICPP is subject to the fundamental principles of the Act, with the additional requirement that 'consideration should be given to the child's cultural needs and identity' in determining a child's best interests.¹¹⁰ Recent amendments to the Children's Protection Act replaced the fundamental principles with a shorter, revised list of objects. The revised objects include to keep children safe from harm and to care for them in a way that allows them to reach their full potential. The phrase 'fundamental principles' presumably now refers to the revised objects. In any event, it is plain that pursuit of ATSICPP should not compromise a child's rights to safety and to reach their full potential.

CHALLENGES TO IMPLEMENTING THE CHILD PLACEMENT PRINCIPLE

There are significant challenges to implementing ATSICPP. There is a critical shortage of suitable Aboriginal carers. Further, a child's cultural background (skin group or moiety) may prevent placement with family members of another group.¹¹¹

Many Aboriginal families already look after for children in care, and they are more likely to offer care than non-Aboriginal families. They are:

*often motivated by a sense of duty or obligation to meet the needs of children within their families and to preserve their families' and the child's identity, and a legacy of shared care giving within families.*¹¹²

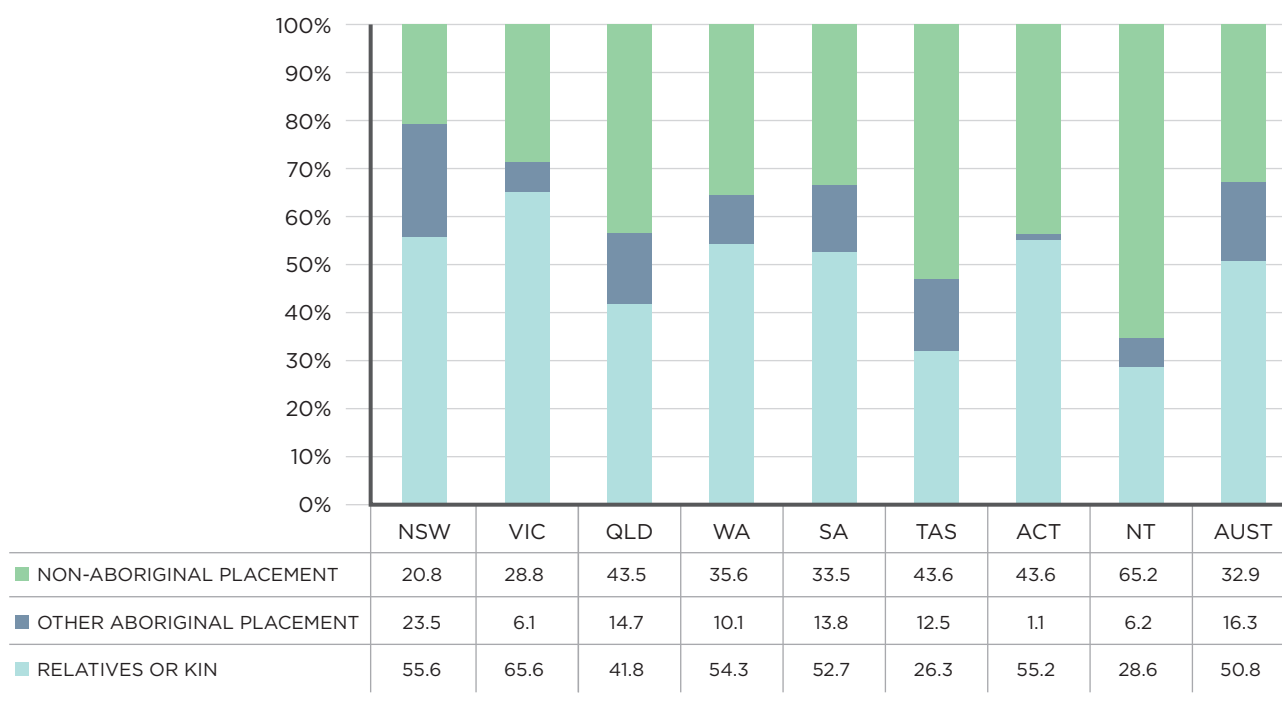


Figure 16.5: Placement of Aboriginal children in out-of-home care, 30 June 2015

Note: Other Aboriginal placement refers to an Aboriginal carer who is not a relative or kin or Aboriginal residential care. Non-Aboriginal placement refers to children placed other than with relative/kin, other Aboriginal carers or Aboriginal residential care.

Source: Productivity Commission, 'Child protection services' in *Report on government services 2016*, Australian Government, 2016, tables 15A.24, 15.25.

The measures discussed below should improve the recruitment and retention of Aboriginal carers. However, there are limits to the capacity of Aboriginal communities to care for all Aboriginal children in care, and to the number of children for whom a carer can provide safe care. The Chief Executive Officer of AFSS, Sharron Williams, said:

*There is not going to be a time when there will be enough community relative family members able to look after the increasing number of children coming into care.*¹¹³

While the Agency should strive wherever possible to place Aboriginal children with family and community, an increasing number will require non-Aboriginal carers. Figure 16.5 shows the proportion of Aboriginal children placed with a relative or kin, another Aboriginal placement or a non-Aboriginal placement in each Australian jurisdiction.

Every jurisdiction places a significant proportion of Aboriginal children in non-Aboriginal placements. This represents system failure that contributes to dislocation in Aboriginal families and communities. However, it is

a failure with a long history and no short-term solution. Placing an Aboriginal child in safe non-Aboriginal placements because no safe Aboriginal alternative is available does not equate to system failure for that child. To the contrary, it can offer the child safety, improved health and wellbeing, and the opportunity to develop to their full potential. Further, provided the carers are properly supported in the ways discussed below, it can offer the child the best possible opportunity to maintain their connection to land, language, community and culture.

If this is not acknowledged, then there may a temptation to bridge the gap between supply and demand by allowing Aboriginal children to be placed where they are not safe. Chapter 9 discusses the concerning pattern observed by the Commission of children being reunified with parents who have not addressed serious child protection concerns, only to experience further abuse and neglect. The outcomes for these children are poor and, in the case of Aboriginal children, the results are devastating for the future strength of their families, communities and culture.

The Commission examined selected documents relating to more than 200 ‘care concerns’—reports of children in care being maltreated by their carers—that were referred to the Care Concern Investigation Unit in the Department for Education and Child Development (DECD) between 1 July 2013 and 1 December 2014. Not surprisingly, given the over-representation of Aboriginal children in care, many of these reports related to Aboriginal children. The Commission observed a disturbing pattern of concerns being repeatedly raised about Aboriginal children given poor standards of care by Aboriginal carers, with no indication of the concerns being adequately addressed. Aboriginal children tended to be exposed to more concerns over a longer period of time before an effective response was made than non-Aboriginal children. Examples of concerning cases included¹¹⁴:

- Sean, aged three months, was neglected and emotionally abused by his relative carers, who had an extensive child protection history, including domestic and family violence, alcohol abuse, self-harming and suicidal ideation. This history did not appear to have been recognised or addressed before the carers’ initial registration.
- Susie, aged six years, was sexually abused by her relative carer, who had seven previous care concerns, including at least four relating to sexual abuse.
- Alan, aged 12 years, was physically abused by his relative carer, who had four previous care concerns for physically and emotionally abusing the child. Families SA considered Alan was safe to remain with the carer while it looked for a different placement. The carer remained resistant to a review of her registration or police checks on other adult members of the household.

Aboriginal children are entitled to the same standards of alternative care as other children.¹¹⁵ The Agency should properly screen Aboriginal carers and apply the same standards when responding to all care concerns, irrespective of cultural background.

If a safe Aboriginal placement is not available, the child should be placed with a safe, non-Aboriginal carer. This would not require a reworking of ATSICPP, which already prioritises children’s safety and contemplates the placement of children with non-Aboriginal carers. However, it would require a renewed commitment by the Agency to support non-Aboriginal carers in preserving and strengthening Aboriginal children’s cultural identity.¹¹⁶

It would also require a renewed commitment to consult with Aboriginal communities and organisations. As discussed above, ATSICPP is more than a placement hierarchy: it emphasises the need to draw on the knowledge and experience of Aboriginal communities

and organisations and to work in partnership to promote child welfare. This means that especially in cases where an Aboriginal placement is not available, the Agency should seek the guidance of recognised Aboriginal organisations as to how best to meet Aboriginal children’s ongoing cultural needs.¹¹⁷ Ms Williams of AFSS told the Commission that it wants to be consulted in such cases.

INTERACTION BETWEEN THE CHILD PLACEMENT PRINCIPLE AND CHILDREN’S NEED FOR STABILITY AND PERMANENCE

Chapter 9 recommends changes to the Children’s Protection Act to emphasise children’s need for stability and permanence in care. It sets timeframes for parents to address their problems to allow their child to return to their care and, if those timeframes are not met, for the child to be placed in alternative, long-term care. ATSICPP should be pursued in a way that promotes timely decision making and secures stable, permanent care for Aboriginal children.¹¹⁸

In the case study of Abby, the Commission observed the potential for tension between ATSICPP and a child’s need for stability and permanence. Despite clear advice that there was a short timeframe in which to secure a long-term, stable placement for Abby, Families SA pursued reunification with Abby’s mother for far too long and failed to plan for her long-term care needs. After Abby had resided with stable, non-Aboriginal foster parents for 18 months, Families SA decided to move her to live with interstate relatives who could support her cultural needs, rather than leave her with foster parents who wanted to give her a long-term home, and to whom she had developed important attachments.

The recommendations in Chapter 9 address this tension. The shortened timeframes emphasise the need to identify and pursue very early all potential Aboriginal carers for Aboriginal children. They encourage early decisions informed by ATSICPP as to where children should reside to promote all aspects of their wellbeing, including their cultural identity. Wherever possible, this would mean supporting Aboriginal carers to care safely for Aboriginal children. It would avoid Aboriginal children forming attachments over the long term with non-Aboriginal carers, only to have these connections severed due to the belated application of ATSICPP.

FAMILY SCOPING

The effective implementation of ATSICPP ‘relies upon trustworthy, comprehensive information about family connections and relationships’, commonly referred to as ‘family scoping’.¹¹⁹ Family scoping allows the child protection system to identify all available options for family support, kinship care and respite care.

Family scoping begins with careful information gathering from the first point of contact with a child's family members. It includes consultation with Aboriginal families and communities to identify family connections and relationships of responsibility for the child as determined by Aboriginal culture. This is complex work given the large number of Aboriginal cultural groups in South Australia: there are 52 different clan and kinship groups represented in the northern suburbs of Adelaide alone.¹²⁰

Properly researching a child's lineage is technical, time-consuming work, which is aided by access to genealogical records.¹²¹ Families SA's electronic database, C3MS, has some records of family groups, but these are often incomplete. Institutions such as the state library have extensive genealogical records, but they are not readily accessible to most practitioners.

The Agency should establish a family scoping unit, dedicated to researching family connections for its clients and preparing genograms. The unit should develop strong relationships with Aboriginal communities and organisations, including a strong partnership with Nunkuwarrin Yunti's Link-Up service.¹²²

The family scoping unit's work should be readily accessible to Agency practitioners. The unit should also offer regular training to practitioners about researching genograms, identifying family connections and using its work. It should offer short, rotational placements to Agency practitioners for them to develop skills in this area.¹²³

Within the Aboriginal community there may be people who are aware of family members who are experiencing challenges in parenting, and are aware that the children in the family may, at some point, need an alternative care placement. The family scoping unit could create and maintain a register of such people, with a description of their relationships in the Aboriginal community. This would provide another resource for unit staff to consult when searching for appropriate family to provide care. Registration in this way would not involve any assessment of suitability, or undertakings about decisions that would be made if a child who is related to them needs care. It would provide another source from which to gather information about children and their relationships, and potentially a source for targeted promotion of Aboriginal foster care opportunities more generally. Such a register, if it proved workable, could also have application for non-Aboriginal people. However, it should be trialled in the first instance as part of improved family scoping.

SUPPORTING CULTURAL NEEDS

The Standards of Alternative Care in South Australia emphasise the right of all Aboriginal children in care to know about their cultural and spiritual identity and their community, to have their cultural needs respected and to live in a place where people understand and respect their culture. These standards help Families SA comply with ATSICPP and maintain and strengthen Aboriginal children's cultural identity. In practice, they are routinely contravened. Whereas the standards require all Aboriginal children in care to have a cultural maintenance plan, Families SA policy requires a plan only for those in care longer than six months and those under a Family Care Meeting agreement where the agreement requires a specific placement.¹²⁴

Even this target is rarely met. The Commission required Families SA to produce a selection of 60 cultural maintenance plans prepared for children in care between May 2014 and May 2015; however, the Agency could produce only 11. Plans requested and produced were:

- 20 plans for children in a home-based placement with indigenous carers (three plans produced);
- 20 plans for children in a home-based placement with non-indigenous carers (four plans produced); and
- 20 plans for children in a non-home-based placement (four plans produced).

The plans produced were often incomplete, for example, the checklist for Aboriginal consultation was often not completed. While the plans identified members of the child's family and potential cultural supports, they contained little detail about the child's cultural needs or plans to meet those needs while in care.

The Guardian for Children and Young People attended 80 annual reviews of Aboriginal children in care in 2014/15. Of these, only 33 children (41 per cent) had a cultural maintenance plan. Fifty-one children (64 per cent) had been given information about their cultural heritage, albeit mostly of a general nature rather than specific to their clan group. Thirty-six children (45 per cent) had been given an opportunity to engage in activities to promote their cultural identity, although again this was mostly general.¹²⁵

The 2012 Families SA internal review noted cultural maintenance plans are 'pivotal to achieving therapeutic outcomes with Aboriginal children and families', but are not used consistently:

*due to the complexity of templates and an inconsistent approach to when and how these plans are used, which is influenced by the perception of field staff that these plans are an additional burden to already onerous workloads.*¹²⁶

To bridge this gap, at least two alternative care providers, Life Without Barriers (LWB) and AFSS, prepare their own cultural maintenance plans for Aboriginal children in their care. This is not a role they are funded to perform¹²⁷:

*This was developed by AFSS because we weren't getting cultural plans. And children who are in our system ... need to know their connections ... So this is AFSS's attempt to ensure that children have connection.*¹²⁸

The 2012 review recommended a more user-friendly template be developed to increase its use.¹²⁹ The Agency has since prepared a simplified template, drawing on examples from the Victorian Aboriginal Child Care Agency and Life Without Barriers. This will be trialled in several metropolitan and country locations.¹³⁰

It is very important that cultural planning reflect children's specific cultural background. Many plans are too generic, without sufficient consideration for the child's land, language, community and culture.¹³¹ On occasions, for example, Narungga children are given Kurna information or vice versa. Some children need support to maintain links to multiple cultural groups.¹³²

The Commission heard from non-Aboriginal carers who keenly feel the lack of support for the cultural identity of Aboriginal children in their care. One non-Aboriginal carer tried for three years to find a male mentor for a boy in her care so that he could attend men's business. Families SA's approach seemed to be that any Aboriginal person would do:

*I'm saying, 'I want a Ngarrindjeri man', because to me, having a Kurna man is a bit like saying, 'You're French, you'll have an Italian, it's close enough'.*¹³³

In the case of Abby, no cultural maintenance plan was prepared and her non-Aboriginal carers had no support to maintain her cultural identity. Abby's caseworker maintained that the child was exposed to Aboriginal culture during contact visits with her mother (during which the mother was often affected by drugs) and that it would be 'tokenistic' for her non-Aboriginal carer to support her cultural needs.¹³⁴

As discussed already, some Aboriginal children need to reside with non-Aboriginal carers. Supporting the cultural needs of these children is not tokenistic, but profoundly important.

Families SA should comply with its Standards of Alternative Care. All Aboriginal children in care need cultural maintenance plans that provide for their specific cultural needs. Caseworkers should be trained, supported and supervised to complete these plans, with input

from Aboriginal family practitioners and other Families SA cultural advisors, as well as a recognised Aboriginal organisation.

Training and support should also be offered to non-Aboriginal carers caring for Aboriginal children to help them meet the cultural needs of the children in their care.

Families SA should fund an Aboriginal mentoring service, run by one or more not-for-profit agencies, that links Aboriginal children in care with Aboriginal people from their cultural background.

As discussed in Chapter 10, the Standards of Alternative Care are not actively monitored or reported on. While it would be cumbersome to require the Agency to report performance against all the standards, the Commission considers it necessary that it report to the Minister quarterly on the following service criteria that form part of Standard 3.1.4, 'Each young person's Indigenous, cultural, spiritual and religious heritage is respected, strengthened and maintained'¹³⁵:

- Service criteria 3.1.4.1—Families SA and the service provider support case planning that includes developing cultural maintenance plans with input from local Aboriginal services/groups/forums and gazetted organisations.
- Service criteria 3.1.4.4—Caseworkers and carers support the child/young person's cultural needs with day-to-day support, such as transport to cultural events, respect for religious laws, attendance at funerals, the provision of appropriate food and access to religious celebrations, as agreed in the case plan.
- Service criteria 3.1.4.6—Indigenous children and young people have access to a caseworker/community person/volunteer/relative from the same Indigenous background.

ABORIGINAL CARERS

There are a number of barriers to greater participation of Aboriginal people in providing out-of-home care to Aboriginal children. Aboriginal people are generally more willing than non-Aboriginal people to provide kinship or foster care, motivated by a sense of duty or obligation to meet the needs of children in their community.¹³⁶ Some potential carers need support to overcome material difficulties such as stability of housing and income.¹³⁷ Many Aboriginal families who would otherwise be suitable carers already have households that are at capacity because they are informally caring for children from their family or community. For others, the use of culturally appropriate assessment tools would provide a more holistic and realistic picture of their strengths to care for an Aboriginal child.

In South Australia, AFSS provides a foster care service that places Aboriginal children in culturally appropriate placements. The substantial challenges in recruiting foster parents in the non-Aboriginal community are outlined in Chapter 11. These challenges are magnified for the recruitment of Aboriginal foster parents.

AFSS has had more success in recruiting Aboriginal foster parents in regional areas, where 75–80 per cent of their registrations are from Aboriginal people, than in metropolitan areas, where the organisation supports many non-Aboriginal people to care for Aboriginal children.¹³⁸

'Get foster parents that are Aboriginal so the kids are happy and feel normal'

As services are currently configured, Aboriginal-controlled organisations do not have a role in recruiting or supporting kinship placements for children in care. The reforms recommended in Chapter 11 would enable organisations such as AFSS to expand their operations to assess and support kinship as well as foster care. This would have the advantage of separating assessment and support from the statutory agency, which remains associated with the 'welfare' and has negative connotations of having been responsible for removing children from families. Collocating foster care and kinship care functions is especially appropriate for Aboriginal families, where the division between the two is less stark. For example, some families care for children under both models, depending on the nature of the biological or cultural relationship between them and the children.

Children in care appear to understand the importance of culturally appropriate placements. Participants in the consultation with young people conducted for the Commission identified the significance of these issues¹³⁹:

'Know how to work with Aboriginal [people].'

'Understand and respect beliefs and values.'

'Be, or find, someone who understands Aboriginal culture and is approachable.'

'Get foster parents that are Aboriginal so the kids are happy and feel normal.'

ASSESSMENT OF CARERS

Some Aboriginal families are uncomfortable with the intrusiveness of the current assessment process, fearing scrutiny of what are often minor and dated offences, which nonetheless cause the individual shame and embarrassment.¹⁴⁰ Step by Step, the prescribed assessment tool, is not necessarily appropriate for Aboriginal families, and this can be a barrier to engagement.

AFSS is also acutely aware of the two systems that operate for the registration of kinship or specific child only (SCO) carers (Initial Registration or iREG) and foster parents (Step by Step). There is inconsistency in the requirements for the two categories of carers. The reforms to kinship care assessment proposed in Chapter 11 should go some way to addressing these issues.

Another issue is that the Step by Step tool may not accurately capture the capacity of prospective Aboriginal foster parents. Culturally sensitive tools have been developed in Australia, and the Agency should investigate their potential to be applied to the assessment of prospective Aboriginal foster parents and kinship carers.

A promising model is the Winangay assessment tool, which has been developed specifically for use in Aboriginal communities. It uses a 'yarning' approach to gather information, which is supported by pictorial cards that help to identify areas of strength and concern. The tool is accompanied by training to strengthen practitioners' skills and knowledge of working with Aboriginal people. The tool was endorsed by Queensland's Carmody child protection inquiry¹⁴¹ in 2013 and is now used widely in that state. It has been trialled in New South Wales and is being evaluated by the Australian Centre for Child Protection. Families SA is aware of the tool and has shown some interest in it.¹⁴²

Gillian Bonser and Paula Hayden, who contributed to the development of the tool, were also heavily involved in developing the Step by Step tool. They told the Commission that Winangay was designed to meet the following needs:

*'Often, those foster care tools are a generic tool, they are not culturally appropriate. And we identified a gap ... Pretty early on in that process, we realised the gap was for culturally appropriate strength-based tools that were going to enable Aboriginal kinship carers to participate in the care of the kids.'*¹⁴³

Winangay's approach is enabling rather than assessing. Rather than aiming to identify a family as suitable or not suitable, the tool identifies strengths, concerns and needs to enable families to care for children, focusing on the safety of the child.¹⁴⁴ It identifies areas where a family who is taking on care of child might need particular support.

The movement of kinship assessment and support to the non-government sector would also provide an ideal opportunity to adopt an alternative assessment model. Because the Winangay assessment model focuses on identifying areas in which carers might need support to enable them to safely care for children, it suits an arrangement whereby the organisation that conducts the assessment then goes on to deliver support, in accordance with the specific needs identified.

SERVICE PROVISION IN REMOTE ABORIGINAL COMMUNITIES

This section concerns the provision of services to remote Aboriginal communities in the far north and far west of South Australia: the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands, Oak Valley and Yalata. Figures 16.6 and Figure 16.7 show the locations of these communities.

The APY Lands comprise about 102,000 square kilometres. The population varies, but is estimated to be about 2700, of whom almost 90 per cent are Aboriginal people.¹⁴⁵ The median age is 27 years (compared with 37 years for Australia)¹⁴⁶ with about one-third of its population aged 0–19 years (compared with about one-quarter for South Australia).¹⁴⁷

Yalata, which has a population of about 100, is 215 km from the town of Ceduna and Oak Valley, which has a population of about 105, is 517 km from Ceduna.¹⁴⁸

The APY Lands communities share strong family and cultural connections with those in Oak Valley and Yalata, as well as in nearby communities in Western Australia and the Northern Territory. These communities 'share language, historical, cultural and familial connections and concerns for themselves and their families that take precedence over state and territory borders'.¹⁴⁹ These connections 'contribute to high mobility, where families follow a cultural route and connect with kin across the jurisdictional borders'.¹⁵⁰

This means it is a mistake to think of service provision only in state-based terms. For example, Alice Springs in the Northern Territory is the closest municipality to the APY Lands and is much easier for residents to access. In many cases, it makes sense for service provision to the APY Lands to be centred in Alice Springs, rather than Port Augusta or Adelaide.

The communities face the combined challenges of remoteness and high need. The significant gaps between Aboriginal and non-Aboriginal people across a range of measures, outlined above, tend to 'worsen as remoteness increases'.¹⁵¹ At the same time, remoteness makes many aspects of service delivery a challenge (see Chapter 17).

There have been many reviews concerning the APY Lands. The APY Lands Inquiry in 2008 conducted an in-depth examination of the incidence of sexual abuse of children.¹⁵² The serious issues identified in that report caused this Commission to look again at the situation of children in the APY Lands and, by extension, in Yalata and Oak Valley. The communities of Yalata and Oak Valley receive less attention than the APY Lands, but evidence to the Commission suggests that they experience many of the same challenges.

The Commission's task is to examine the child protection system in South Australia. This broad scope means that it could not provide as detailed an analysis of the APY Lands as the APY Lands Inquiry. However, the Commission has been able to identify some key challenges to child wellbeing and service provision and to recommend some obvious areas for improvement. Because the support and involvement of Aboriginal communities are central to the success of child protection initiatives, the Commission's first recommendation is that the government should consult with each community about the implementation of the recommendations that follow.

COMMUNITY PARTICIPATION

Child protection responses are best when they draw on community support and input. This is particularly the case in remote Aboriginal communities, which have a longstanding preference for engagement in, and control of, local services.¹⁵³

There are several examples of collaboration in remote communities that are relevant to this Commission. The elders in one community have worked with partner agencies to help oversee the development and coordination of services and develop a child protection plan for their community.¹⁵⁴ The Pitjantjatjara Yankunytjatjara Education Committee (PYEC), which is made up of representatives from Oak Valley, Yalata and each APY Lands community, oversees strategic direction and policy for education.¹⁵⁵



Figure 16.6: The APY Lands, Oak Valley and Yalata communities in South Australia

Source: Department of State Development, Government of South Australia.

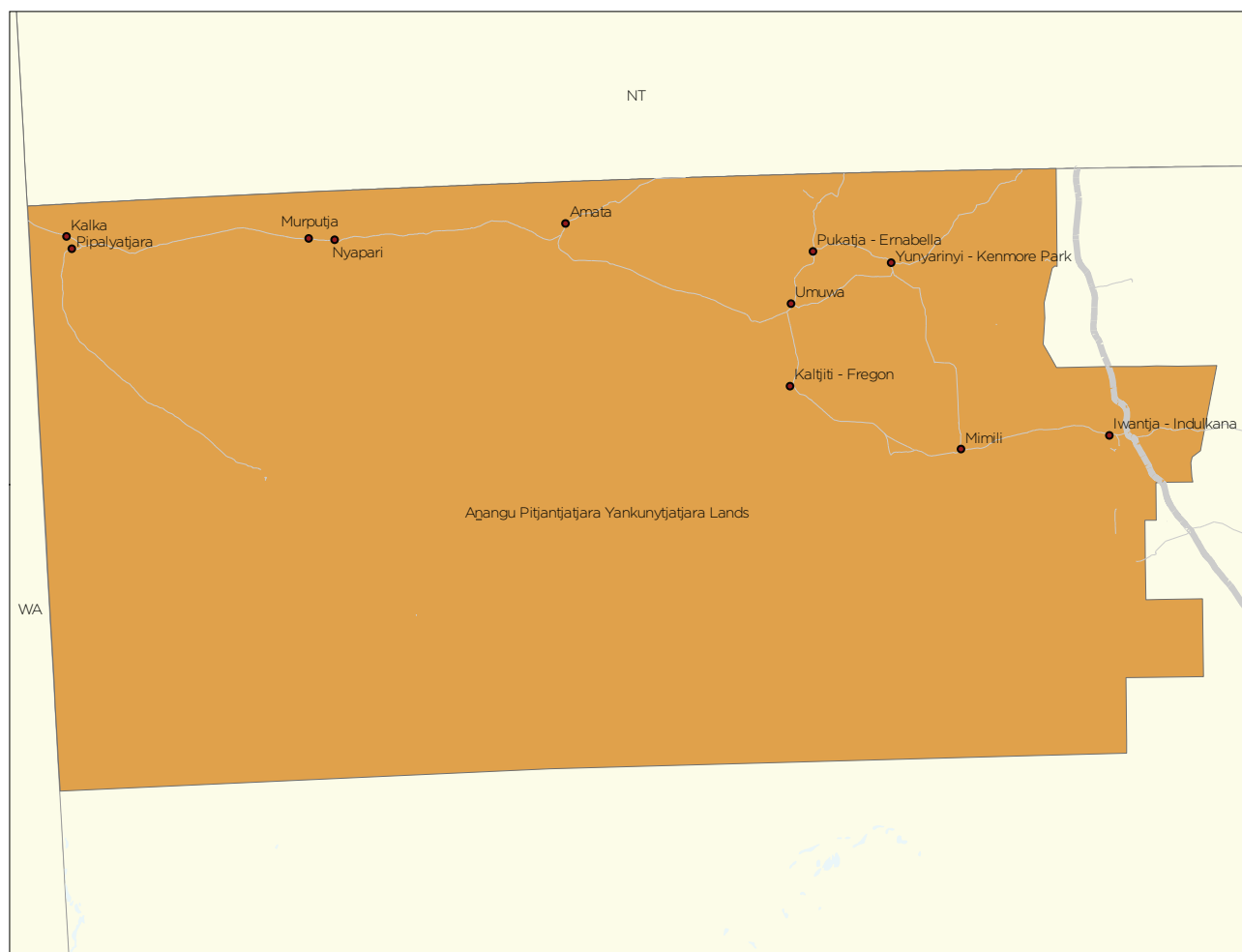


Figure 16.7: The APY Lands

Source: Department of State Development, Government of South Australia.

The NPY Women's Council advocates the use of community safety groups:

Essentially, the model involves remote communities being supported by an external, Aboriginal-controlled agency to develop community safety groups (CSGs), comprising highly respected community members that could act as cultural brokers, interpreters, solution seekers and support workers to assist Families SA workers to develop relationships and carry out their work with families. Further, CSGs could receive wide-ranging child safety education to foster mutual understanding of child safety between professionals and community members and build a local child safety language; the group members could then use their new knowledge and language to educate their respective communities about child safety and develop locally appropriate prevention-focused child safety

*campaigns and programs. Trusted CSG members could support families in liaising with Families SA, by receiving community reports and concerns, and providing advice and guidance to support their interactions with Families SA.*¹⁵⁶

The NPY Women's Council emphasised that were the Agency to employ and interact with a community group, it could 'diminish some of the stigma and complexities for people in working with and alongside "welfare"':

*It can be hard for one Anangu person to work with Families SA. Families might get the wrong idea and think that the person is doing the wrong thing; it's too much pressure. FSA could work with a group of people in each community. Families will understand welfare more if they are working with Anangu, talking together.*¹⁵⁷

Models such as these allow relationships with community members to be 'established as part of an ongoing service system, rather than having to be established in a "crisis mode"',¹⁵⁸

Government should draw on these models to engage remote communities about the strategic direction of services to improve the health, safety and wellbeing of their children. This engagement should aim to help each community to develop a child safety partnership plan in collaboration with key government and not-for-profit agencies. The plan would help to develop a common vision for child safety and wellbeing.¹⁵⁹

THE APY LANDS INQUIRY

The APY Lands Inquiry concluded that child sexual abuse was widespread in APY Lands communities and that it was substantially under-reported. Girls, in particular, had a culture of acceptance that they would be sexually abused and that 'resistance is futile'.¹⁶⁰ This abuse occurred in the context of broader dysfunction and maltreatment:

*Children live in dysfunctional communities where there is considerable violence and fear, drug and alcohol abuse, and a sense of hopelessness. There is considerable unemployment and physical and mental health issues among many Anangu ... it is reasonable to accept that this sense of hopelessness is shared by many [children on the Lands].*¹⁶¹

The inquiry identified an 'urgent need' to implement strategies to prevent sexual abuse.¹⁶²

CHILD WELLBEING AND SAFETY

As in other parts of South Australia, it is difficult to measure with certainty the incidence of child maltreatment in the APY Lands, Yalata and Oak Valley. However, the evidence suggests high levels of child vulnerability and maltreatment.

According to 2012 data, 90 per cent of children aged five years in the APY Lands are vulnerable in one or more domains of human development, including physical (54 per cent), social (44 per cent), emotional (51 per cent), language (56 per cent) and communication (48 per cent). This excludes children with a diagnosed special need or disability.¹⁶³

In a 2012 study, an average of 70 per cent of children across the APY Lands, Oak Valley and Yalata failed a hearing screening.¹⁶⁴ A recent survey of children under five years in one community showed 75 per cent had significant hearing infections, perforations or otitis media.¹⁶⁵

Measures including the introduction of Opal fuel across the APY Lands have reduced the dangerous practice of petrol sniffing to the point where it is rarely seen.¹⁶⁶ However, those who sniffed petrol in the past suffer serious, long-term harm. Many are now having children and struggle to care for themselves, far less raise children safely.¹⁶⁷ Food security and nutrition continue as issues in all APY Lands communities, Yalata and Oak Valley.¹⁶⁸

DECD told the Commission:

*In recent times it has been challenging for families and government to safeguard children living in these communities, including children in care arrangements. While alcohol, cannabis and possession of volatile substances (including petrol) is banned on the Anangu Lands, illicit substance trafficking, resulting in family violence and crime related to substance abuse, continues.*¹⁶⁹

The Commission was told that, while an increased police presence has reduced violence on the APY Lands¹⁷⁰, it remains 'a high-risk place that experiences a lot of violence'.¹⁷¹ A 2009 report commissioned by the NPY Women's Council stated:

*Interpersonal or domestic and family violence is deeply embedded in this region. The level and severity of violence against women who can be repeatedly abused over many years by their husband or partner and subsequent husband or partner is extremely high and it is common for offenders to abuse more than one woman over a period of years. Children directly witness and experience the violence in their homes and communities and learn that it is socially and culturally viewed as acceptable and legitimate for men to use violence against their wives or partners. Anangu men and women perceive that violence is a legitimate action and response for jealousy and in instances where it is alleged that a mother has neglected or abused her child or children.*¹⁷²

Aboriginal women in the cross-border region that includes the APY Lands are more than 60 times more likely to be victims of domestic violence-related homicide than other women.¹⁷³ Children are exposed to, and traumatised by, serious incidents of domestic and community violence, often fuelled by alcohol and other drugs. Episodes of community unrest sometimes involve up to 100 people armed with bats and rocks.¹⁷⁴ The prevalence of alcohol and drugs also deprives children of money for food and other essentials.¹⁷⁵

There is no reason to believe that the incidence of child sexual abuse in the APY Lands has reduced since the APY Lands Inquiry. In 2010, a multiagency task force was established to respond to specific disclosures of sexualised behaviour between children in one APY Lands community. An investigation identified that about two-thirds of the children in the community were either initiators or subjects of sexualised behaviour.¹⁷⁶ As discussed in Chapter 12, persistent sexualised behaviours raise questions of sexual abuse and coercive features raise highly specific concerns. A 2013 evaluation of the response in the same community noted 'widespread agreement [among support agencies] that children are still being abused and are at risk, and [that] maltreatment is endemic'.¹⁷⁷ An experienced health worker expressed alarm to the Commission at the lack of effective response for children in that community.¹⁷⁸

One educator told the Commission, 'There's 50 per cent of boys in a number of [APY Lands] communities who have been sexually abused, who are perpetrating against each other'.¹⁷⁹

CAMHS does not keep records of sexualised behaviour and sexual abuse. However, for a time in 2013/14, it categorised referrals for the presence and seriousness of sexualised behaviour. About 80 per cent of referrals involved either concerning or extreme sexualised behaviour. At that time, CAMHS had about 230 open cases.¹⁸⁰ CAMHS told the Commission:

We are aware of examples where girls aged 11 having been targeted by groups of boys up to the age of 15 years, being anally and vaginally penetrated by more than one adolescent and performing oral sex on others in a single incident and boys from eight years of age having anal sex with each other. Adolescents target younger girls and boys often in group situations while encouraging younger boys to watch, hold others down or masturbate ... Adolescents frequently describe peer relationships where forced sex is the norm: girls saying things like 'at least if you have a partner the others can't have you'.

*Our clinicians are aware of many disclosures made by victims or [their] peers of sexual abuse within family, sexual assault and rape by adults, masturbation in front of children and exposure [to children], [performing] sexual acts for drugs or being forced to participate in such behaviour after being given drugs.*¹⁸¹

Under-reporting remains a problem, with powerful pressures against disclosing abuse or neglect, including shame, fear of social and violent repercussions, and family and community values that tend to normalise child maltreatment.¹⁸² Even when disclosures are made in a therapeutic context, they are rarely confirmed during formal forensic investigations, meaning legal action rarely follows.¹⁸³

It is plain that despite significant changes to service provision since the APY Lands Inquiry, many children remain highly vulnerable and continue to experience all forms of maltreatment.

FAMILIES SA SERVICES

Recruiting and retaining sufficient Agency staff in remote communities is a longstanding problem. For extended periods in recent years, about half of the Agency's available positions in the APY Lands have been vacant.¹⁸⁴ This undermines the ability to offer timely, effective responses to children and families.

FLY-IN FLY-OUT TEAMS

In response to this challenge, in late 2014 Families SA implemented a fly-in fly-out (FIFO) service model for most of its staff on the APY Lands. There are two FIFO teams, each with a team leader and seven practitioners. Each Tuesday, a team boards a chartered aeroplane in Adelaide. The aeroplane usually drops two staff members in Coober Pedy to help service that town and Oodnadatta. The rest continue to Umuwa in the APY Lands. The second team returns to Adelaide. Each team works eight days (from Tuesday to Tuesday, including travel time) and has six days off. The incoming and outgoing team leaders have a short period together to discuss cases and issues.

The model aims to provide consistent staffing and service provision on the APY Lands, including timely responses to notifications. It has significantly reduced travel time.¹⁸⁵

In June 2015, a consultant reviewed the FIFO model and concluded that it provides 'the resources, structure and mode of practice to enable Families SA to meet its statutory and service obligations'.¹⁸⁶ For the first time in years, the teams are fully staffed.¹⁸⁷

APY LANDS-BASED WORKERS

The FIFO model assumes the presence of several Lands-based workers (LBWs), each resident in a community. The APY Lands Inquiry recommended at least six LBWs, one for each major school on the APY Lands. The LBWs were to focus on early prevention strategies and training, but were also to receive and respond to mandatory notifications.¹⁸⁸

In practice, LBWs focus on early prevention strategies, community education and child safety capacity building. They form strong relationships and their knowledge of culture, community and family groups is an invaluable resource for both the Agency's FIFO teams, who respond to child protection notifications, and other organisations.¹⁸⁹ The presence of LBWs allows community

members to seek them out and raise concerns about individual children. However, they deliberately do not perform child protection investigations due to the risk of conflict and cultural 'payback'.¹⁹⁰

LBWs have a challenging role. Recruitment and retention are made harder by the use of temporary employment contracts and the fact that workers must re-apply for retention allowances every three months. Recently, some LBWs were refused the allowance.¹⁹¹ By late 2015, only two remained.¹⁹²

The demise of LBWs risks the viability of the FIFO model. LBWs need stable employment arrangements (after a suitable probationary period) and competitive, ongoing retention allowances.

LBWs were initially employed in the AHP stream, which generally requires a social work degree. More recently they have been employed in the ASO stream, which does not have a minimum qualification. This broadens the range of potential candidates to include those without formal qualifications, but with extensive experience in community development or remote, intercultural work.¹⁹³ Chapter 6 discusses the need for all child protection case managers to hold a tertiary qualification. LBWs have a broader community development focus and do not hold child protection caseloads. It is appropriate to take a more flexible approach to their recruitment, although LBWs without formal qualifications in social work or child protection should receive additional ongoing training to strengthen their practice over time.

The Agency should employ at least six LBWs to support the FIFO service model.

TRAINING AND SUPPORT FOR WORKERS

In view of the challenges, the Agency's workers in remote communities need ongoing training, support and clinical supervision to have the knowledge, skills and techniques to work effectively with Aboriginal children and families in remote communities, including sound knowledge of Aboriginal culture and parenting practices. One promising model is to bring the LBWs and FIFO teams together for training in Coober Pedy about every two months. The Agency should also explore the use of video technology for training.¹⁹⁴

A 2014 review found induction and training was inadequate:

*No written material regarding appropriate practice within Anangu culture is given to new workers to support their orientation and practice. The organisational 'Cultural Awareness' training program is essential to helping workers understand the impact of colonisation on Aboriginal people but is not designed to help workers understand the implications of Anangu culture (including parenting styles and communication styles) for child protection practice.*¹⁹⁵

The review recommended that the Agency engage the NPY Women's Council to deliver orientation training for all new staff, noting that its program is highly regarded. The report also recommended that the Agency establish a learning network for remote area child protection practice, with links to relevant tertiary agencies and Aboriginal organisations, such as the Australian Centre for Child Protection, the Menzies School of Health Research, the NPY Women's Council, the Institute of Child Protection Studies, the Healing Foundation, the Secretariat of National Aboriginal and Islander Child Care and Dr Tracey Westerman of Indigenous Psychology Services. It also recommended that the Agency develop a project plan, linked to the tertiary sector, to produce guidelines and documentation for child protection practice in remote Aboriginal communities.¹⁹⁶

These recommendations would substantially strengthen practice and should be implemented.

Chapter 6 discusses the need to support the Agency's practitioners with access to ongoing support, mentoring and clinical supervision. This is particularly important for workers in remote communities, given the complexity and isolation of their work.¹⁹⁷ The Agency should secure external clinical supervision for LBWs to reflect the fact that it has limited internal experience in community development work.¹⁹⁸

The Agency's workers in remote communities rarely use the services of the two principal Aboriginal consultants (PACs) or the principal social worker. PACs have limited on-the-ground experience in remote communities. They rarely visit them and are not familiar with their family and community structures and geography.¹⁹⁹ It is important that workers in remote communities have access to the strategic guidance that PACs offer to other parts of the Agency. The Agency should either support the existing PACs to develop knowledge, experience and expertise pertinent to these remote communities or recruit an additional PAC to focus on remote Aboriginal service provision.

INTERPRETERS

The APY Lands Inquiry noted the shortage of suitable interpreters for Aboriginal people in the APY Lands and recommended additional training for interpreters be established as a matter of urgency.²⁰⁰ Eight years later, the shortage remains.

Practitioners from the Agency do not generally use formal interpreters as part of their daily business.²⁰¹ The Commission was told that in many cases, APY residents have 'reasonable' English skills²⁰², but if an interpreter is required and requested by the family, practitioners use the interpreter service in Alice Springs or identify a family member to interpret.²⁰³ There is need for caution when using family members as interpreters given the sensitive nature of child protection work and the interconnectedness of many communities.

The South Australian Government would not contemplate sending practitioners to investigate child abuse in a non-English speaking country without reliable access to accredited interpreters. It is unrealistic to expect the Agency's practitioners to operate in remote communities where English is commonly a second or third language without reliable access to interpreters. The difficulty in accessing interpreters encourages these practitioners to proceed without an interpreter in cases where they should not. This inevitably produces sub-optimal results. The Agency's inappropriate use of safety plans with family members who do not understand them is discussed below.

South Australia Police's child abuse team uses interpreters in investigations. The two hospital-based Child Protection Services use interpreters in forensic interviews. The Youth Court Conferencing Unit often uses them in Family Care Meetings.²⁰⁴

The draft Interagency Code of Practice: Investigation of Suspected Child Abuse or Neglect (an updated version due to be released in July 2016) emphasises the need for Aboriginal people to have access to accredited interpreter services and cautions against using interpreters who have a close familial or cultural relationship to the child or carers. It notes that this may be challenging in some circumstances, but emphasises that 'the child's right to a fair and just investigation of their current and future safety must not be compromised by the convenient, but inappropriate use of individual interpreters'.²⁰⁵

If the code is to be effective, the government should invest in training to increase the number of accredited interpreters in languages used in remote Aboriginal communities, as recommended by the APY Lands Inquiry. It is also important that the interpreters used have specialist training in phrases and concepts relevant to child protection, to enable them to capture the nuances that need to be communicated in sensitive

matters that will be raised. High school graduates in remote communities should be encouraged to consider interpreting as a career.

While the Commission is conscious of the limited availability of interpreters, practitioners from the Agency should be supported to use interpreters more often and wherever necessary to assist their work and not to overestimate the English language abilities of people they deal with. They should take particular care to ensure that Aboriginal clients understand the content of safety agreements. As a practical measure, all Agency staff operating on the APY Lands should be trained in working effectively with accredited interpreters and complete training in basic language skills (at least the 50 most commonly used words related to child protection discussions).²⁰⁶ The viability of employing an interpreter on a permanent basis to support each of its FIFO teams should also be considered.

EFFECTIVE RESPONSES TO CHILDREN AT RISK

Witnesses told the Commission that the Agency applies higher thresholds of risk and safety in remote Aboriginal communities than elsewhere in the state. They suggested that there is a reluctance to remove children out of a fear of repeating past mistakes:

*They are actually trying really hard to be not charged with stealing children ... we've gone from worrying about the Stolen Generation to generating an abandoned generation.*²⁰⁷

In the course of its Usual Practice review (see Appendix C), the Commission identified 'Josephine', a young girl who lives in an APY Lands community. In 2012 and 2013, Josephine, then aged eight, and her siblings were exposed to ongoing domestic violence. Josephine and some other children in her community were also reportedly having sex with each other. The Agency responded with a safety plan.

The response was plainly ineffective. By mid-2015, Josephine was still exposed to domestic violence, including an incident where her father hit and kicked her mother, who defended herself with knives and broke his arm. The father dragged Josephine across the floor, inflicting large grazes and yelling, 'You are not going anywhere'. Josephine was scared and fled the house. Her parents then left the community, leaving Josephine and her siblings apparently without carers. Josephine continued to be exposed to sexual abuse: in one incident a man in his 30s locked Josephine and her friend in his house and had sex with them. The same man had allegedly exposed himself and assaulted numerous other children in the community.²⁰⁸

Josephine's file depicts a young child exposed to a dangerous, abusive environment over multiple years. Her trauma is recorded, but without an effective response to prevent harm from recurring. It occurs in the context of a broader community crisis, with many children exposed to ongoing abuse and bearing signs of trauma.

SAFETY PLANS

Witnesses expressed concern that Families SA practitioners too often respond to notifications by quickly issuing a safety plan, then closing the case. Practitioners visit with a safety plan already prepared for parents to sign. In many cases, parents cannot read the plan, let alone understand the allegations and what they need to do. When the inevitable re-notification follows, practitioners return to criticise parents for not following the plan, then ask them to re-sign it.²⁰⁹

In one example, the Commission was told of a father with brain damage from earlier petrol sniffing. He was suspected of sexually abusing his sons and had them sleeping in his bed. Families SA had him sign a safety plan that he could neither read nor understand.²¹⁰

Karen Barry, Families SA's APY Lands Manager, accepted past criticism about the misuse of safety plans and the premature closing of files. She said the position had improved now that the FIFO model allowed practitioners to visit families more regularly.²¹¹

Safety plans are a short-term measure to secure a child's immediate safety. They should not be used to address longer-term issues and cannot take the place of formal responses when a formal response is required. Safety plans should be realistic about parents' ability to change and include measures to verify children's ongoing safety. If plans are breached and children remain in harm, then other, more assertive measures will usually be required.

FAMILY CARE MEETINGS

Chapter 9 discusses how Family Care Meetings (FCMs) are supposed to give the child's family an opportunity to develop a plan to care for the child without a court order, but that referrals to FCMs often occur too late, when concerns have escalated and court involvement is inevitable. Families SA practitioners tend to take a different approach in rural and remote Aboriginal communities. They reportedly approach FCMs more as a partnership with the family²¹², and use them to avoid families going through a court process that they often do not understand.²¹³

Witnesses noted that the FCM coordinator uses an interpreter in remote communities and explains the purpose of the meeting and the concerns about the child. The family has time to talk in language, for hours if needed, about arrangements for the child. One

experienced remote worker described the process as 'as close as we can get to culturally appropriate'.²¹⁴ Families tend to remember and support the plan under an FCM agreement more than an arrangement imposed by the Court.²¹⁵

In the past, FCM agreements ran for many years, in some cases until the child turned 18. More recently, agreements in rural and remote areas run for 12 months. If the situation has stabilised after 12 months, no further response is needed. If the concerns persist, Families SA seeks a further 12-month FCM agreement.²¹⁶

The Agency has a different role with children who are under an FCM agreement than for those in care under a court order. Under an FCM agreement, which is voluntary, the family is responsible for decisions about the child. Under a court order, the Minister is ultimately responsible. This responsibility includes obligations, for example, to visit the family and be involved in planning the child's education and health care.²¹⁷

FCMs are held because the Agency has child protection concerns. Experience shows that some FCM agreements are not successful. Good practice requires that children under agreements be monitored for a time to ensure that the plan is resolving the concerns. If concerns persist or there are new notifications, the Agency should consider whether a different response is needed.

ALTERNATIVE CARE OPTIONS IN REMOTE COMMUNITIES

The pool of Aboriginal carers in remote communities is limited. As there are no residential care facilities or foster parents, kinship carers are the only alternative care option if children are to remain in their community.²¹⁸ If a suitable kinship care placement cannot be found, the child is placed away from their community, often in Adelaide.

Practitioners are understandably reluctant to remove children from remote communities:

Staff working on the Lands reported facing a difficult dilemma where a child is at risk and no suitable kinship care option is available. Staff members reported wrestling with the desire to 'do no further harm to the child' in the absence of sound alternative care options. Staff described the trauma for children of being removed from the Lands, particularly where they end up isolated from family, language and culture and are in a city environment, cared for by rotating staff.²¹⁹

This dilemma likely leads practitioners to apply higher thresholds of risk and safety to avoid children being removed from their communities. While practitioners should give due weight to children's connection to culture, they also should be supported to secure children's rights to health, safety and wellbeing. If these rights cannot be protected, then, in accordance with ATSICPP, another placement that preserves their cultural needs should be pursued, even if this means removing the children from their community.

When a child needs to be placed in care, the Agency speaks to family members to help identify a suitable kinship carer.²²⁰ The FCM process is also an opportunity for family members to identify potential caregivers. However, the process of identifying carers is generally ad hoc and often conducted without sufficient understanding of family and community dynamics.

Practitioners need to navigate conflicts between maternal and paternal sides of the family, particularly in cases of domestic violence. For example, children are often placed with the paternal family, which may mean their mother must have potentially dangerous contact with the father to see the children.²²¹

These are complex matters and the Agency's practitioners would benefit from advice from Aboriginal organisations that have knowledge of local families and communities. As noted above, the NPY Women's Council is well placed to perform this role in the APY Lands. Practitioners may also benefit from support from the family scoping team recommended above. Better consultation and improved scoping of family can increase the pool of potential carers and allow better matching between children and carers.

It is likely that some children in remote communities will need to be placed outside those communities. A 2009 report commissioned by the NPY Women's Council opposed a proposal to establish 'safe house' style accommodation for children and carers on the APY Lands in cases of suspected abuse. It noted the lack of privacy and safety for people dealing with serious, sensitive matters such as child abuse on the APY Lands, the active discouraging of children from disclosing abuse and the risk of recrimination. It found that such accommodation would make children and their carers vulnerable and unsafe. It also noted the difficulty in recruiting suitably skilled and experienced carers and specialist staff to remote communities. The report stated that:

*A key feature of safe and therapeutic care for children is secure and safe services geographically distant from the situations and threats of harm and abuse, which can provide a mix of specialised services by well-trained and highly skilled staff.*²²²

The report concluded that these things could not be provided on the APY Lands and that a facility should instead be established in Alice Springs, where users could have the safety and privacy required for them to have trust and confidence in the service.²²³

These same arguments appear to make the establishment of residential care on the APY Lands unviable.²²⁴ They also support the conclusion that some children may not be able to be safely cared for on the APY Lands, because of ongoing threats of harm and abuse.

The impact of moving children away from the APY Lands would be greatly reduced if there were more placement options in locations such as Alice Springs or Coober Pedy. In these locations, children are much more likely to remain connected to land, language, community and culture than if they are removed to Adelaide or Port Augusta.

Many APY Lands residents have family and cultural connections in Alice Springs and travel there frequently. Ms Barry, Families SA's APY Lands Manager, suggested consideration be given to contracting with a foster care agency to recruit carers in Alice Springs for children who cannot stay on the APY Lands.²²⁵ Leanne Haddad, Families SA's Manager of Service and Accountability, confirmed that there are no barriers to such a contractual arrangement and that she would welcome the initiative if it could be funded.²²⁶

Subject to funding, Aboriginal Family Support Services (AFSS) is willing to establish a small residential care facility in Coober Pedy, similar to facilities it operates elsewhere in South Australia.²²⁷

The South Australian Government should partner with not-for-profit agencies to fund additional alternative care options, including a mixture of foster care and residential care, close to the APY Lands, such as in Alice Springs and Coober Pedy.

ASSESSMENT OF CARERS

As discussed in Chapter 11, when children are placed with kinship carers under a court order or FCM agreement, the Agency uses the interim assessment process known as iREG. Because of its brevity, this should be followed by a full assessment within three months. However, full assessments are often delayed, leaving children in potentially dangerous situations for prolonged periods.

These delays are particularly pronounced in remote communities. Local workers complete the iREG and a team in Adelaide is supposed to complete the full assessment. That team no longer attends the APY Lands and about 20 to 30 carers have never been fully

assessed.²²⁸ (In late 2015, there were 33 children in care in the APY Lands, Coober Pedy and Oodnadatta under court orders and another 25 under FCM agreements.)²²⁹

This is a serious risk. In an extreme example, a child was placed with carers under an FCM agreement. The full assessment later revealed that the carers had an extensive child protection history, including serious domestic violence and periods of imprisonment.²³⁰ The Agency should adequately resource the carer assessment process so that full assessments are completed in a timely manner.

The assessment processes are not appropriate for use in remote Aboriginal communities. Carers without a drivers licence or other identification documents struggle to provide the required 100 points of identification.²³¹ Many Aboriginal people in remote communities regard some of the assessment questions as overly intimate, and therefore inappropriate.²³² The assessment shows little understanding of Aboriginal parenting styles. The question-and-answer mode of delivery is also confronting for many Aboriginal people, where a conversational 'yarning' approach would be more appropriate.

Standards of risk and safety should not be compromised. However, wherever possible, assessments should be adapted for use in remote Aboriginal communities to remove unnecessary barriers for potential carers. The Winangay model is especially promising for application in remote communities. The Commission is attracted to its focus on identifying how people in the Aboriginal community can be supported to provide safe care, rather than ruling them in or out on strict criteria.

The Commission supports the trialling of a tool such as Winangay to assess potential carers in remote areas as a matter of urgency.

SUPPORT FOR CARERS

As discussed in Chapter 11, many children in care have complex, challenging needs and carers need support and guidance to meet these needs. Carers in remote Aboriginal communities face additional pressures, such as difficulty in accessing services, threats of 'payback' from family members in the event a child in their care is injured, and community pressure to care for additional children, which can lead to full, chaotic households.²³³

Unlike foster parents, who are supported by not-for-profit agencies, kinship carers are directly supported by the Agency. There are about 40 kinship placements in Ceduna, Oak Valley, Yalata and south to Streaky Bay, and about 25 in the APY Lands, Coober Pedy, Oodnadatta and Tennant Creek. Many placements have multiple children in care.

These placements are supported by two positions in Ceduna and two in Port Augusta. Problems with recruitment and retention mean these positions are frequently vacant. For an extended period, one worker in Port Augusta has been responsible for supporting all these placements, which stretch across about two-thirds of the state. On occasions, the same worker must also support children placed with carers in Western Australia and the Northern Territory.²³⁴

This requires vast amounts of travel. For example, visiting the APY Lands for a week requires at least two days' driving, reducing time spent with carers. Accessing communities in the far west of the APY Lands is particularly time consuming.²³⁵

At most, carers are visited about five times a year, but there can be a gap of several months between visits.²³⁶ This undermines the rapport between carers and the support worker.²³⁷ It also reduces the worker's ability to help carers in times of need. If carers need support, they can telephone the worker in Port Augusta, but he cannot respond immediately. In a crisis, carers seek help from other sources, such as a FIFO worker, Lands-based worker, doctor or school principal, depending on the problem.²³⁸

The Agency should adequately resource support for kinship carers in remote communities. These carers require at least as much support as those elsewhere in the state. Support workers should be based much closer to carers, either in communities, Alice Springs or Coober Pedy or by using a FIFO model. In the case of the APY Lands, the complexity of issues and the number of carers would appear to justify at least one full-time worker.

The Commission recommends, in Chapter 11, that support for kinship carers should shift to the not-for-profit sector. In remote communities, this is contingent on not-for-profit agencies being willing and able to do this work.

RESPONDING TO CARE CONCERNS

Witnesses expressed concern about the risk posed by some carers who are approved to care for children in remote communities:

*Some of the placements we've had kids placed in ... They're dangerous.*²³⁹

This is particularly problematic given the limited support available to these carers.²⁴⁰

As noted above, the Commission reviewed selected documentation from 200 care concerns referred to the Care Concern Investigations Unit (CCIU) between 1 July 2013 and 1 December 2014. These included some children residing with kinship carers in the APY Lands, including the following examples²⁴¹:

- Caden and Ethan are primary school-aged brothers whose carers reportedly drink and gamble excessively, leaving insufficient money for food and clothing. The carers frequently argue and fight and travel to other communities for extended periods, leaving the children without a nominated carer. The boys are always smelly and dirty and rarely attend school. Their medical care has been neglected to the extent that Ethan's long-term health and development are compromised. There have been numerous care concerns with similar issues over a number of years, despite the use of a safety plan.
- Lucas is a preschool-aged boy whose carer reportedly travels to town to 'play the pokies', leaving Lucas to wander the community unsupervised and uncared for. Lucas appears skinny and wears the same clothes for months at a time; he appears to be an 'angry' child. He has not been sighted by the Agency recently. His carer has numerous past care concerns for neglect.
- Jordan, Evan and Noel are three primary school-aged brothers. They repeatedly report being hungry, missing meals and having no food at home, but say that their carer threatens to hit them if they tell anyone. The youngest brother (aged nine) has matted hair and sleeps in a car at night to keep safe from a dog.

None of these cases was assessed to be serious enough to warrant an investigative response by CCIU. Instead, they were referred for management at the local office. In Caden and Ethan's case, CCIU noted the persistent concerns, but decided an independent investigation 'might not be particularly helpful and also inappropriate [sic] given the cultural, distance and timing considerations'.²⁴²

When asked about this case, Philip Adams, the Manager of CCIU, acknowledged that all children at risk need an 'appropriate response', but that 'political and social connotations are considered' for children on the APY Lands.²⁴³ He said that while distance and timing should not weigh against a CCIU investigation, an investigation would pose 'a significant issue ... from a resource perspective'. He said it was difficult for workers to get to the APY Lands and to locate people for interview. 'It could be a significant amount of time would have to be invested in such an investigation'.²⁴⁴ In his 15 months at CCIU, there have been no CCIU investigations on the APY Lands.

Mr Adams stated that the CCIU team did not have experience dealing with the APY Lands and relied on cultural advice from the principal Aboriginal consultants (PACs). As discussed above, PACs have limited experience and knowledge about issues on the APY Lands. CCIU practitioners should be trained in Aboriginal culture, including an understanding of parenting practices.

The care concerns investigation process should be adequately resourced so that children's circumstances, not resources or distance, determine the response to care concerns in remote communities.

CCIU procedures may need to be more flexible when responding to care concerns in remote communities. For example, CCIU may need more support from local practitioners, although it will need to ensure that practitioners with prior involvement in the case do not compromise the investigation's independence.

OTHER SERVICES

There are a number of other service providers on the APY Lands, both government and non-government, that contribute to the child protection system. The key services are outlined below.

EDUCATION

The Department for Education and Child Development (DECD) runs eight schools on the APY Lands: in Ernabella (Pukatja), Amata, Indulkana (Iwamtja), Mimili, Fregon (Kaltjiti), Pipalyatjara, Murputja and Kenmore Park (Yunyarinti). It also runs schools in Yalata and Oak Valley. Each school offers classes from Reception to Year 12. The schools range in size from Murputja, which had 21 enrolled students at June 2015, to Ernabella, which had 144.²⁴⁵ Together, the schools have 750–800 enrolled students.²⁴⁶

Each school except Kenmore Park has a preschool for children aged three and four. Each of the preschools has a playgroup for families with children aged from birth to three, except Yalata, which has a crèche instead, and Oak Valley.²⁴⁷

Wiltja school, based in Adelaide, is a residential secondary school for students from the APY Lands. It began in the 1970s when a group of Ernabella women saw the advantages of offering mainstream secondary schooling to APY Lands students. Wiltja was initially based at Ingle Farm High School, then Woodville High School. More recently a senior campus was established at Windsor Gardens Vocational College. Wiltja currently offers schooling and accommodation for up to 100 high school students. It also offers short, one-week visits for students to gain a 'taste' of boarding school.²⁴⁸

Educational outcomes for students in the APY Lands, Yalata and Oak Valley are generally poor. According to DECD, analysis of school data, National Assessment Program – Literacy and Numeracy (NAPLAN) results and the Australian Early Development Index (AEDI) suggests that ‘only a small percentage’ of children aged 14 to 18 in these communities are ‘developing in accordance with expected child development and literacy and numeracy milestones for their age’.²⁴⁹

One reason for this is poor school attendance. In 2013, average school attendance across the communities was 59.6 per cent (compared with statewide Aboriginal attendance of 79.4 per cent and non-Aboriginal attendance of 91.2 per cent).²⁵⁰ Attendance can vary markedly between communities: in 2014, from 45.1 per cent in one community to 89.3 per cent in another.²⁵¹ These figures probably overstate attendance, because the record system assumes children are present unless a teacher advises otherwise²⁵² and records students as present even if they attend for only a short period of the day.²⁵³ DECD is reviewing the system to improve tracking of school attendance.²⁵⁴

Under the National Partnership Agreement on Universal Access to Early Childhood Education, all children should have access to at least 15 hours per week or 600 hours per year of preschool or kindergarten in the year before starting school.²⁵⁵ Children in remote communities can commence preschool at three years of age and attend for two years. A number of the preschools have extended hours to encourage as much attendance as possible. However, average attendance remains only about six hours per week per child.²⁵⁶

Playgroups play a vital role. They help families develop parenting skills in a non-threatening way and set the foundation for preschool and school attendance. Unfortunately, their funding is short term and comes from a range of sources. Workers leave because of this uncertainty and playgroups are closed for months while a replacement is found.²⁵⁷ Existing funding should be pooled and playgroups given secure, long-term funding. Playgroups should be administered by a single agency to ensure consistency.

Many remote Aboriginal people are highly mobile, which contributes to low attendance rates. Students who move between communities are difficult to track. If they attend a different school, their learning records are not readily accessible. This affects learning. Students also potentially repeat or miss blocks of learning as a result of attending multiple schools.²⁵⁸

Some recent initiatives help to address this issue. All schools in these communities now offer a version of the Australian curriculum that is ‘specifically adapted to Anangu communities, culture and language’.²⁵⁹ Schools teach the same units throughout the year and

use a common daily learning pattern. They also have uninterrupted teaching blocks in weeks two to three and six to seven of each term, during which external service providers are not permitted to use the school space. This gives time for students to concentrate, work and develop routines. These measures aim to promote consistency so that students can move between schools without interrupting their learning. They also aim to encourage regular attendance and better learning outcomes by making learning more relevant, engaging and familiar.²⁶⁰

These initiatives would be strengthened by establishing an integrated administration information communication technology (ICT) system. The schools use a data monitoring and tracking tool to store detailed student assessment data and allow teachers to monitor the progress of children over time. However, teachers cannot track attendance and performance from school to school. Nor can they access individual education or behaviour management plans or evidence of a child’s literacy or numeracy. Teachers spend weeks or months reconstructing this information when a child moves school.²⁶¹ Integrated access to this information would arguably benefit schools across South Australia, but is particularly important to address the mobility of students in these remote Aboriginal communities. DECD should invest in a system to provide this functionality.

Persistent non-attendance at school is a child protection issue. Not only does it amount to educational neglect, it may also conceal other forms of maltreatment, a point emphasised by the Coroner’s Court in the inquest into the death of Jarrad Roberts.²⁶² Many children in care in remote communities also do not regularly attend school.²⁶³ This is unacceptable and should be raised with carers as a matter of urgency.

SOUTH AUSTRALIA POLICE

In 2010, new police stations were established in Mimili, Ernabella and Amata, adding to the existing station at Murputja. There are 19 permanent police officers across the four police stations, including an officer in charge, a detective and two child and family violence/crime prevention officers. Another five officers at Marla service Marla, Indulkana and Mintabie. South Australia Police (SAPOL) has temporarily recruited a detective and two investigators to investigate allegations of child sexual abuse.²⁶⁴

SAPOL told the Commission that the increased police presence on the APY Lands ‘has led to a stronger rapport with and acceptance by the communities, an increased visual police presence and timely police responses’.²⁶⁵ The ratio of police to the community on the APY Lands is about 3.5 times higher than anywhere else in South Australia.²⁶⁶

SAPOL facilitates regular community safety committee meetings in several communities. These meetings are attended by community members, including elders, and representatives from other government services. The meetings allow the community to identify issues of concern and work together towards agreed solutions. SAPOL told the Commission:

It has become apparent to police that for any agency to operate successfully on the APY Lands requires a continued presence over time and a desire to work collaboratively with all other agencies ... The establishment of rapport and the building of trust [with community members] are essential.²⁶⁷

SAPOL is also engaged in a range of community-based initiatives to improve community education, support and interaction, such as road safety education, Blue Light Discos, coaching and training of sporting teams, and participation in cultural camps.

DRUG AND ALCOHOL SERVICES SOUTH AUSTRALIA

The abuse of alcohol and other drugs is a long-term social issue with serious adverse consequences for APY Lands residents, particularly women and children. Drug and Alcohol Services South Australia (DASSA) has an outreach team that travels between six communities on the APY Lands. It receives referrals from a range of agencies. One staff member resides on the APY Lands and the rest visit for between two and six weeks at a time. The staff include nurses, social workers and substance misuse workers.

In 2013/14, the service received 81 individual client referrals. Forty-six per cent of referrals in 2013/14 were clients aged 30 years or less at the time of referral and 85 per cent were male.²⁶⁸ In addition to individual therapeutic work, the DASSA team runs community education and development programs, including men's groups, zumba classes and jewellery-making groups for women and education sessions for middle and senior school students.

The most common substances of concern are alcohol and cannabis. Some communities have significantly greater problems than others. Both substances are associated with significant aggression and domestic violence. As there are no detoxification facilities on the APY Lands, the closest options are in Alice Springs or Port Augusta.

With possession or consumption of alcohol prohibited in the APY Lands²⁶⁹, many residents travel to nearby towns to drink excessively or to transport alcohol back to the APY Lands for consumption or sale. In 2012, the Sobering Up Unit in Coober Pedy reported that 81.5 per cent of its clients were transitory clients from the APY Lands.²⁷⁰

In September 2013, the Liquor Licensing Commissioner introduced tighter conditions on the sale of takeaway liquor in Coober Pedy, including²⁷¹:

- A ban on sales to residents of the APY Lands or to those who it is suspected may take liquor back to the APY Lands.
- Purchasers must produce photographic identification.
- Cask wine is banned for takeaway purchase.
- A daily limit of 750 millilitres of wine, port wine, fortified wine or spirits per person.

Measures such as these do not purport to resolve all issues related to problem drinking, but they appear to help. The Liquor Licensing Commissioner is reviewing these changes to assess their impact.

Recommendations made in Chapter 9 will empower the Agency to issue written directions requiring a drug or alcohol assessment where they suspect a child is at risk. This power must also be exercised in remote areas, and its efficacy depends on the availability of services in remote areas to provide such assessments. The Government will need to ensure that DASSA is appropriately resourced to provide the service.

NGANAMPA HEALTH COUNCIL

Nganampa Health Council is an Aboriginal-controlled health organisation and the main provider of primary health care on the APY Lands. Its services for children and families include women's health, sexual health, antenatal care, nutrition education and support, health education, dental programs, hospital liaison and a child health program. Nganampa operates seven clinics in communities across the APY Lands.

The child health program has a strong focus in the areas of immunisation, child health checks, child growth monitoring for children under five years old and trachoma screening for children aged five to seven years. The program is supported by visiting health professionals, including a paediatrician, ophthalmologist, ENT specialist and Australian Hearing.

Nganampa offers annual checks for children aged five, 10 and 13 years in all communities, opportunistic health checks to children outside those age cohorts and a number of screening tests applicable to specific age groups. The program has had significant achievements, including childhood immunisation rates well above the national benchmark. For example, in 2014, 98 per cent of children under the age of seven years in the APY Lands were fully immunised.²⁷²

NPY WOMEN'S COUNCIL

The NPY Women's Council is an Aboriginal-controlled organisation that provides a range of services in the cross-border region in South Australia, the Northern Territory and Western Australia. It employs about 150 staff. Its services cover domestic violence, child nutrition and wellbeing, disability, youth and, through its Walytjapiti program, intensive family support.

NPY Women's Council's youth program employs four full-time youth workers, supported by about 20 part-time Anangu support workers, who operate on an occasional basis. It works with people aged from 10 to 24 years in all APY Lands communities, except Indulkana (where UnitingCare Wesley runs a youth program). The program offers diversionary activities to engage young people who are at risk and improve their wellbeing. It also runs a youth leadership program and offers case management, not only for young people at risk, but to support other young people to achieve their goals.²⁷³

The child nutrition and wellbeing program case manages children whose growth is restricted and offers community education and resource development. It also works with other services such as schools and shops.²⁷⁴ The program has seven workers, as well as several Anangu support workers who help them engage with families and organise community events. Cases often involve other risk factors, such as domestic violence, substance abuse and mental health issues, which affect a carer's ability to ensure their child's nutrition and wellbeing.²⁷⁵

The Walytjapiti program operates in four communities in the APY Lands. It offers intensive support for families who have children experiencing neglect or at high risk of neglect. Although the program is funded by the federal government, families must be referred by the Agency and have an open file at the time of referral. The program offers a range of services, including assistance with practical issues such as access to food and bedding, parenting support, school attendance and referrals to other services.²⁷⁶ A 2014 review endorsed the service, but noted that it was under-resourced: for every vacancy '35 families could be considered for referral'.²⁷⁷

The Agency has agreed to provide overall case management, including advice, problem solving and decision making, for each case referred to this program while their file on the case remains open. It has agreed to consult the program before closing the file and not to close files unless the risk has reduced over a sustained period.²⁷⁸ In practice, the Agency refers to the program and then closes the files.²⁷⁹ Sometimes cases are referred which involve too much risk or where children need therapeutic support, which the program is not designed to offer.²⁸⁰

Apart from the council's child nutrition and wellbeing program—which works with children aged less than five years—there is no early intervention program for vulnerable families on the APY Lands that does not require an open child protection file.²⁸¹

The Agency should provide substantial additional funding to strengthen the Walytjapiti program sufficient to meet demand. It should review its procedures, referral criteria and staff training to ensure that it only refers cases to the program that are appropriate for the service model and to ensure that files are only closed on consultation with the program and after the risk has reduced over a sustained period.

It should also partner with the NPY Women's Council or a similar not-for-profit agency to provide an early intervention service for families whose concerns do not require an open file. The government should consider whether this might involve expanding the council's existing child nutrition and wellbeing program.

SA HEALTH

The Women's and Children's Health Network, which is part of SA Health, provides a range of specialist services to children on the APY Lands, including:

- Child and Family Health Service (CaFHS), which offers nursing responses and support services for children under five years, including developmental health checks, parenting support and education and nutritional advice.
- Child and Adolescent Mental Health Services (CAMHS), which offers family-based therapy, assessments, counselling and a sexualised behaviours program. It has two staff based on the APY Lands, as well as regular visiting teams and a visiting psychiatrist.
- Child Protection Services (CPS), which has visiting psychologists, social workers and medical officers who perform forensic interviews and forensic assessments of young children as requested by the Agency or SAPOL.²⁸²

HOUSING SA

Housing SA offers services to all communities in the APY Lands and emergency maintenance services to many adjacent homelands. Housing SA offers intensive tenancy support services to help tenants care for their properties, manage visitors, pay rent and access other services.

Overcrowding remains a problem, but has improved somewhat with the construction of many new houses, including 304 additional bedrooms since 2010.²⁸³ An audit in 2013/14 found 15 per cent of remote Aboriginal dwellings in South Australia were overcrowded, including 35 per cent of dwellings in Indulkana, 25 per cent in Amata and 21 per cent in Kalka.²⁸⁴

As discussed in Chapter 8, Housing SA's new service model aims to engage the people who receive its services. Housing SA began implementing this model in the APY Lands in mid-2015. Under the model, tenancies must be visited at least once a year and children under five years of age who are registered as residents must be sighted or their whereabouts queried. A risk identification tool and a tenancy practitioner help staff to consider the needs of children.²⁸⁵

IMPROVING COLLABORATION BETWEEN SERVICES

Chapter 21 emphasises the need for collaboration between service providers in the child protection system throughout South Australia. In remote communities, the 'lack of Lands-based service staff, the distance, the level of disadvantage and the complex cultural environment' make collaboration indispensable.²⁸⁶

In practice, relationships between some service providers referred to above in the APY Lands are fractured. A 2014 review stated that 'relationships with some partner organisations were contested and viewpoints entrenched'. It described one inter-agency relationship as 'tense' and another as 'antagonistic and dysfunctional' to the point where it diminished child-focused practice.²⁸⁷

The Commission spoke to key agencies involved in service delivery to children and families in the APY Lands. While there are examples of good working relationships, there are also deep divisions that interfere with the effective delivery of services.

Every practitioner in every agency should commit to repairing and strengthening professional relationships and to working cooperatively to improve outcomes for children and families in these communities. If there are those who, on personal reflection, feel that they cannot put past grievances aside, they should consider employment elsewhere.

Agencies should actively pursue joint training opportunities, not only to maximise finite training resources, but also to promote shared knowledge and skills and to allow staff from different agencies to spend time together. The state government should allocate funding to inter-agency secondments.

Too often, agencies approach their mandate narrowly, which prevents an optimal response to the need in communities. Promoting collaboration and service efficiencies through pooled funding arrangements should be investigated as a strategy to address this. Arrangements should include, if possible, federal funds, especially for programs which address current priorities pursuant to the National Framework for Protecting Australia's Children 2009–2020.

Operational managers from each key agency should meet regularly to identify areas for collaboration and to address issues of concern. They should aim to find areas for strategic cooperation, where agencies can support each other to improve outcomes for children and families.

CHILDREN AND FAMILY SERVICE HUBS

Chapter 8 discusses how Children's Centres and Children and Family Centres act as service hubs, bringing together support services for families and children in a non-threatening environment. Centres commonly include a preschool, playgroups, parenting and personal development programs, and access to health services.

DECD has Children and Family Centres in three APY Lands communities, which offer services from the prenatal phase to five years of age. The Ernabella Centre, for example, is colocated with the school and offers a preschool, a supported playgroup and occasional care, as well as the following services²⁸⁸:

- Families as First Teachers, which is an art education program for mothers and children that focuses on parenting skills and literacy;
- parenting support programs;
- Child and Family Health Services' (CaFHS) early childhood development program for families with young children, which provides developmental evaluations, information sessions, individual support, counselling and advice;
- NPY Women's Council child nutrition and wellbeing program; and
- hearing specialists and a visiting dentist to examine children and talk with parents.

Four communities have Wellbeing Centres, which are funded by a range of sources, including SA Health, the Department for Communities and Social Inclusion and

the federal government. Together with the Children and Family Centres, the Wellbeing Centres are well placed to serve as service hubs, tailored to the needs of each community. They could offer a base for visiting professionals, as well as those permanently based in communities, such as the Lands-based workers. However, having the four Wellbeing Centres run by three different agencies leads to inconsistent, poorly coordinated services with significant gaps and duplication.²⁸⁹

Smaller communities with fewer children may not require a full Children and Family Centre, but they do need adequate facilities to accommodate playgroups, a preschool and other visiting services. The Commission understands that facilities in some communities are below acceptable standards.²⁹⁰

The South Australian Government should conduct an audit in each community to ensure access to adequate facilities to accommodate these services. A single agency should oversee these facilities to provide consistency across all communities. This should also include auditing the facilities that are available in Yalata and Oak Valley.

LOCAL ASSESSMENT OF NEEDS AND SERVICE COORDINATION

The same agency should regularly map the needs of vulnerable families and children in each APY community, with a focus on areas of unmet need and unnecessary or duplicated services. This work should be formalised in an annual Local Assessment of Needs (LAN). The LAN should inform funding decisions to ensure that communities have the services they need.

Although the agency would prepare the LAN, its success would depend on it being an ongoing, collaborative effort with input from the members of each community. The services recommended in the LAN should have the community's support and reflect their needs and aspirations. The agency should aim to build capacity in the community so that, in time, communities might take more control of the direction of their local services.

The agency should also establish processes to coordinate the services offered by different agencies in each community, including implementing stronger referral pathways, consistent referral criteria, better information sharing and integrated, multi-service responses where required. State government agencies should be directed to cooperate with these processes and it should be a condition of government funding for all not-for-profit agencies.

INFORMATION SHARING

Chapter 21 outlines the barriers that impede effective sharing of information relevant to child wellbeing. A complicating factor in the APY Lands is that some agencies do not receive state government funding and are not bound by its Information Sharing Guidelines. Chapter 21 recommends legislative amendments to require all agencies in the child protection system, irrespective of funding source, to share such information.

INTERAGENCY CODE OF PRACTICE AND THE APY CHILD PROTECTION PROTOCOLS

The APY Child Protection Protocols (the APY Protocols) were agreed between key APY Lands agencies in 2010. They were intended to promote consistent responses to allegations of child abuse and neglect, in particular sexual abuse. Among other things, the APY Protocols required that all notifications involving sexualised behaviours be upgraded to at least a Tier 2 intake and be followed by an inter-agency strategy discussion to determine the appropriate response.

Because 'sexualised behaviours' captures a broad range of conduct, the APY Protocols effectively prioritised many relatively minor matters. For example, they required a Tier 2 response to a notification that one boy was laughing and gyrating behind another while lining up with students before class. Without more evidence, this might be classified as a Notifier Only Concern elsewhere in the state. The APY Protocols required a Tier 2 intake followed by a strategy discussion. On a strict interpretation, even the children who observed the boy gyrating might give rise to a Tier 2 intake on the grounds that they were 'exposed' to sexualised behaviour. This distorted the tier rating system and tended to overwhelm practitioners, who were already struggling with high workloads and staffing shortages.

The APY Protocols were reviewed in 2015 and relevant stakeholders agreed to revoke them and be guided instead by the statewide Interagency Code of Practice (ICP). The updated ICP, due to be released in July 2016, deals more comprehensively with all forms of abuse and neglect, not just child sexual abuse. It includes an appendix that contains principles for working with Aboriginal people. It is appropriate that ICP guides inter-agency work in remote Aboriginal communities. While practitioners in these communities should be knowledgeable about Aboriginal culture and parenting practices, they should apply the same standards of risk and safety as apply elsewhere in the state.

WORKING ACROSS JURISDICTIONAL BORDERS

The Cross-Border Justice Scheme was introduced in 2009 to address serious justice challenges, particularly in relation to the abuse of women and children, in the tri-border region in the South Australian, Western Australian and the Northern Territory outback. Complementary legislation in each of the three jurisdictions gives police officers cross-jurisdictional powers to operate throughout this region.²⁹¹ It also allows magistrates, fine enforcement agencies, community corrections officers and prisons of one jurisdiction to deal with offences that occur in another jurisdiction.²⁹² The scheme allows the swift apprehension of perpetrators and has improved safety for women and children in the region.²⁹³

Many of the challenges that led to the introduction of the scheme also apply in child protection. For example²⁹⁴:

- A worker in one jurisdiction may be closest to a child in urgent need of care and protection in a remote community across the border.
- A worker may form a strong relationship with a family that then moves across the border. If the worker continues to support the family it could prevent concerns escalating.
- The most appropriate carer for a child may live across a state border. However, South Australia's carer assessments are not recognised in Western Australia or Northern Territory and vice versa, potentially requiring the process to be repeated.²⁹⁵
- Many mothers from the APY Lands give birth in Alice Springs. The Northern Territory Government must currently seek a child protection order under Northern Territory legislation, if required, even though the child may be placed with carers in South Australia and information for any investigation may be located there. The Northern Territory may then need to transfer the orders to South Australia.

In 2012 and 2013, a cross-border working group, involving representatives from each of the three jurisdictions, discussed these challenges. Western Australia agreed to develop a proposal for legislative reform to permit Northern Territory and South Australian child protection officers to conduct mandated functions under Western Australian law in the state. The other jurisdictions were to be kept informed with a view to possible reciprocal reforms. The working group also explored ways for each jurisdiction to recognise each other's carer assessments and committed to developing minimum standards for kinship care assessments across the three jurisdictions.²⁹⁶

In November 2015, the Agency told the Commission that its Executive has not endorsed these measures, that the working group's outcomes have not been implemented and that the working group has not met since 2013. The

Agency indicated it was keen for the working group to be re-established and to be involved in future cross-border meetings.²⁹⁷

The Cross-Border Justice Scheme shows that challenges to inter-jurisdictional arrangements can be overcome. The South Australian Government should work to re-establish a working group to promote collaborative practice between agencies in the tri-border region. Consideration should be given to expanding the group to include key non-government agencies that also work across this region.

The government should also pursue a cross-border legislative scheme for child protection, similar to the Cross-Border Justice Scheme. It should work to harmonise the carer registration processes used by the three jurisdictions.

YALATA AND OAK VALLEY

The remote, far west communities of Yalata and Oak Valley share strong cultural and family ties with the communities of the APY Lands and also many of the same challenges relating to remoteness and high levels of need. However, they tend to receive significantly less attention than the APY Lands. There were internal reviews of service provision in the APY Lands in 2013, 2014 and 2015²⁹⁸, but no equivalent analyses of Yalata and Oak Valley. The 2014 review specifically noted:

While the focus of this report is on child protection services on the Anangu Pitjantjatjara Yankunytjatjara Lands, the project was informed that many of the issues and recommendations made in this report are relevant to the remote Aboriginal communities of the Maralinga and Tjarutja Lands (Yalata, Oak Valley) in South Australia. Nevertheless, a further full project focused on that area still needs to be undertaken.²⁹⁹

This analysis has not occurred. The Agency continues to struggle to recruit and retain sufficient staff in Yalata, Oak Valley and Ceduna. Persistent vacancies in the Ceduna office also affect Yalata and Oak Valley, which are serviced on a drive-in drive-out basis from Ceduna.

The FIFO service model has substantially addressed staff recruitment and retention in the far north of the state. The Agency should ensure that Ceduna, Yalata and Oak Valley also have a sustainable service model that permits reliable service delivery. The Agency should commission an appropriately credentialed professional to review service provision in Ceduna, Yalata and Oak Valley and, specifically, to consider the viability of introducing a FIFO service model for these three communities. As part of this review, they should consult with the local Aboriginal communities, staff of the Agency and other relevant service providers.

RECOMMENDATIONS

The Commission recommends that the South Australian Government:	
187	Develop an Aboriginal recruitment and retention strategy in the Agency as part of a broader workforce strategy.
188	Review procedures to streamline the sources of internal cultural advice to the Agency.
189	Review practice guidance, funding arrangements and the range of declared agencies to ensure that a recognised Aboriginal agency is consulted on all placement decisions involving Aboriginal and Torres Strait Islander children, in accordance with the provisions of section 5 of the <i>Children's Protection Act 1993</i> .
190	Establish a dedicated family scoping unit.
191	Provide all practitioners in the child protection system with training, support and clinical supervision to give them the knowledge, skills and techniques to work effectively with Aboriginal children and families, including, where appropriate, the specific skills required to work effectively in remote Aboriginal communities.
192	Use the proposed Early Intervention Research Directorate to identify evidence-based service models for early intervention that meet the needs of Aboriginal children and families.
193	Outsource the services currently provided by Kanggarendi to an appropriately qualified and experienced non-government organisation.
194	Commission not-for-profit agencies to develop service models that can respond to higher risk Aboriginal families with multiple, complex needs.
195	Ensure that Local Assessments of Needs (LANs) specifically consider the needs of Aboriginal children and families and consult with local Aboriginal people and service providers.
196	Place local Aboriginal support services within child and family assessment and referral networks to promote service coordination and act as a visible point of entry.
197	Adopt a culturally appropriate assessment tool, such as Winangay, for the assessment of foster parents and kinship carers in the Aboriginal community, initially in remote communities, and more widely if the tool proves promising.
198	Require the Agency to report to the Minister and the Guardian for Children and Young People quarterly on service criteria 3.1.4.1, 3.1.4.4 and 3.1.4.6, which form part of standard 3.1.4 of the Standards of Alternative Care in South Australia.
199	Consult with each remote Aboriginal community about the implementation of the recommendations following this report, as part of ongoing engagement with communities about the strategic direction of services to improve the health, safety and wellbeing of their children.
200	Offer stable employment arrangements with competitive, ongoing retention allowances to attract and recruit six permanent Lands-based workers to support the Agency's fly-in fly-out teams.
201	Actively pursue joint training opportunities for agencies in remote communities and require operational managers from agencies to meet regularly to identify areas for collaboration and to resolve issues of concern.
202	Ensure that at least one principal Aboriginal consultant has experience and expertise in remote Aboriginal communities, including in the APY Lands.
203	Identify opportunities to develop strength in the interpreter service available in remote communities, and ensure that the Agency's practitioners use interpreters where possible. Consider the viability of interpreters accompanying the Agency's fly-in fly-out teams.
204	Ensure that the Agency's practitioners monitor children cared for in accordance with Family Care Meeting agreements to ensure the safety of the child.
205	Commission not-for-profit agencies to provide alternative care in areas close to the APY Lands, such as Alice Springs and Coober Pedy. Alternative care could include a mixture of foster care and residential care.
206	Require that full carer assessments be completed in a timely manner in remote communities.
207	Ensure that approved carers in remote communities receive the same level of support as carers elsewhere in the state, recognising the particular challenges faced by carers in these remote areas.

RECOMMENDATIONS

- 208 **Ensure that the unit tasked with investigating care concerns offers a service in remote communities equivalent to that provided elsewhere in the state.**

- 209 **Provide secure, long-term funding for playgroups in remote Aboriginal communities, administered by a single agency.**

- 210 **Establish an integrated administration information communication technology (ICT) system to allow access to a complete range of student data to children who move schools in remote Aboriginal communities.**

- 211 **Provide additional funding to meet demand for the Walytjapiti program, and ensure that the Agency keeps case files open for participants until satisfied about the child's ongoing wellbeing over a sustained period.**

- 212 **Commission an early intervention service for families in remote communities for whom the Agency has lower level concerns and who could benefit from support to prevent escalation of issues.**

- 213 **Conduct an audit of services in remote Aboriginal communities to ensure access to adequate facilities to serve as a service hub for playgroups, preschools and other services that visit the community.**

- 214 **Reform funding and structural arrangements to enable a single agency to oversee the service hub facilities across all communities. This agency should regularly map, in collaboration with the local community, the needs of children and families through an annual Local Assessment of Needs.**

- 215 **Establish a working group to promote collaborative practice between South Australian, Western Australian and Northern Territory agencies involved in the child protection system in the tri-border region, including working towards a cross-border legislative scheme for child protection across the three jurisdictions.**

- 216 **Review child protection service provision in Ceduna, Yalata and Oak Valley, including the viability of introducing a fly-in fly-out service.**

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OVERVIEW

The Commission received a number of submissions from persons and organisations in regional South Australia, including Families SA (the Agency) staff, non-government organisations and foster parents, highlighting the challenges faced in regional areas. This prompted the Commission to conduct hearings in Mount Gambier and Port Augusta. The Commission also heard evidence in Adelaide from witnesses from other regional areas, including Ceduna, Murray Bridge, Port Pirie and the Riverland.

The capacity of the child protection system to respond to the needs of vulnerable children in regional areas is compromised by limited access to services. Children and practitioners often need to travel significant distances to receive or deliver services. There are few out-of-home care placement options and this can result in children being removed from their immediate community. There is also difficulty in attracting and retaining child protection practitioners in regional areas.

This chapter does not attempt to canvass all the challenges and gaps in service provision for children in regional areas. Rather, it highlights some of the issues that are affecting children in regional areas who come into contact with the child protection system.

This chapter principally relates to the Commission's Terms of Reference 5(a), (b), (c), (d) and (h), in the context of Terms of Reference 1 to 4.

DEFINING REGIONAL

Terms such as 'regional', 'rural' and 'remote' do not have standard definitions. Population size, socioeconomic factors, and distance from goods, services and other communities may lead to differing conclusions as to whether a community is regional, rural or remote.¹

'It is very difficult to identify exactly where the city ends and the country begins'.² Accordingly, this report defines regional areas as those that are serviced by Families SA offices outside metropolitan Adelaide. Those offices, and the government regions in which they are located, are listed in Table 17.1. The regional offices are not part of the Agency's hub structure (discussed in Chapter 5). Unlike metropolitan offices, each regional office performs all functions: assessment and support, protective intervention, and case management of children under long-term guardianship. Regional offices are also expected to provide after-hours services that might, in the metropolitan area, be provided by the Agency's Crisis Care service.

South Australia also has communities in remote areas, such as the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands. The needs of children in those communities are discussed in Chapter 16.

Table 17.1: Regional Families SA offices

SOUTH AUSTRALIAN GOVERNMENT REGION ^a	OFFICE
Eyre and Western	Ceduna
	Port Lincoln
	Whyalla
Far North	Coober Pedy
	Port Augusta
Murray and Mallee	Berri (Riverland office)
	Murray Bridge (Murraylands office)
Yorke and Mid North	Kadina ^b
	Port Pirie
Adelaide Hills	Mount Barker
Fleurieu and Kangaroo Island	Victor Harbor ^c
Barossa, Light and Lower North	Gawler
Limestone Coast	Mount Gambier

^a A consistent set of boundaries used by the South Australian Government to define 12 administrative regions in the state.

^b A branch of the Port Pirie office, with limited opening hours.

^c A branch of the Mount Barker office, with limited opening hours.

Sources: Data from South Australian Government regions, www.sa.gov.au/topics/property-and-land/planning-and-land-management/land-supply-and-planning-system/south-australian-government-regions, accessed 6 June 2016, and Families SA offices, www.families.sa.gov.au/department/families-sa-offices, accessed 6 June 2016.

VAST AREAS, LONG DISTANCES

Regional offices are responsible for delivering child protection services across vast areas of the state. For example, the Port Augusta office's footprint covers Tarcoola in the west to Maree in the north to the border of South Australia and New South Wales in the east. For staff, this involves road distances of almost 400 kilometres in each direction.³ The Ceduna office, in the state's far west, covers an area from the border of South Australia and Western Australia (excluding the APY Lands) to townships around Poochera and Mount Cooper (Colley) in the east: a road distance of more than 600 km.

The office in Mount Gambier covers an area from the border of South Australia and Victoria in the south-east to the township of Keith, more than 200 km away.⁴ The Riverland office is responsible for a similar area: from the border of South Australia and Victoria to the township of Truro, about 200 km away by road.⁵

Other regional service providers, both government and non-government, told the Commission about the significant distances they travel to provide services.

CHARACTERISTICS OF REGIONAL POPULATIONS

Children and families in regional areas face different challenges to those living in metropolitan areas. 'A harsh natural climate, higher occupational risks, geographic isolation and the need for long-distance travel are part of life for many rural communities.'⁶ The resilience of individuals and communities can be tested by both economic and environmental challenges, leading to circumstances that may put at risk a child's wellbeing, such as increased family breakdown and social isolation.⁷

In terms of relative socioeconomic disadvantage, regional areas are over-represented. As shown in Table 17.2, among the 35 most disadvantaged local government areas in South Australia, all but four are regional.⁸ Children living in disadvantaged areas may be vulnerable to risk factors including poor educational engagement and unmet health and wellbeing needs.

The Australian Early Development Census (AEDC) provides a measure of early childhood development across a community. The census surveys five key areas of development (or domains) at the time children start school: physical health and wellbeing, social competence, emotional maturity, language and cognitive skills, and communication skills and general knowledge.⁹ AEDC results give an indication of the proportion of children in a community who are developmentally vulnerable.¹⁰ In 2015, across South Australia, 12.2 per cent of children were developmentally vulnerable in two or more domains when starting school. The proportion of children was higher than this state average in 21 regional local government areas.¹¹ Eighteen of these areas are also

listed as most disadvantaged in Table 17.2, reinforcing that developmental vulnerability and socioeconomic disadvantage often go hand in hand.

Poor mental health, psychological distress and drug and alcohol misuse all have a significant effect on parenting practices. While the proportion of people in country areas of South Australia with a diagnosed mental health condition is similar to that in the greater Adelaide region, they are less likely to report psychological distress. Consequently, the rate of diagnosis may not be truly representative of the prevalence of mental health conditions in regional communities.¹²

People in country areas of South Australia are more likely to consume alcohol at a level that poses health risks, both in the short and long term.¹³ People in regional South Australia are also generally more likely to have used illicit drugs in the past 12 months than people in major cities.¹⁴

Some regional areas are experiencing growth in their populations of persons with a culturally and linguistically diverse (CALD) background. Meeting the needs of new populations can stretch limited resources.¹⁵

Population characteristics, such as socioeconomic disadvantage, developmental vulnerability, mental health concerns, substance abuse and cultural diversity, demonstrate that many children in regional areas are particularly vulnerable. Understanding the demographics of a region is essential for service providers. Consideration of risk factors that may be prevalent in a particular region is important when assessing how to respond to the needs of vulnerable children.

Many of the observations in this chapter are of general relevance, but it is important to acknowledge that applying an inflexible, one-size-fits-all approach to improving service delivery in regional areas would ignore the individual strengths and weaknesses of particular regions.

17 CHILDREN IN REGIONAL AREAS

Table 17.2: Relative socioeconomic disadvantage and development vulnerability by local government area

SOCIOECONOMIC DISADVANTAGE RANKING	LOCAL GOVERNMENT AREA	SOUTH AUSTRALIAN GOVERNMENT REGION	DEVELOPMENTAL VULNERABILITY ^a OF CHILDREN ABOVE STATE AVERAGE
1	Anangu Pitjantjatjara Yankunytjatjara Lands	Far North	Yes
2	Maralinga Tjarutja Lands	Eyre and Western	N/a
3	District Council of Peterborough	Yorke and Mid North	Yes
4	District Council of Coober Pedy	Far North	N/a
5	City of Playford	Northern Adelaide	Yes
6	Port Pirie Regional Council	Yorke and Mid North	Yes
7	Rural City of Murray Bridge	Murray and Mallee	No
8	Berri Barmerra Council	Murray and Mallee	Yes
9	City of Whyalla	Eyre and Western	Yes
10	Port Augusta City Council	Far North	Yes
11	Renmark Paringa Council	Murray and Mallee	No
12	Unincorporated SA	N/a	Yes
13	City of Mount Gambier	Limestone Coast	Yes
14	District Council of the Copper Coast	Yorke and Mid North	No
15	City of Port Adelaide Enfield	Western Adelaide	Yes
16	District Council of Ceduna	Eyre and Western	Yes
17	Mid Murray Council	Murray and Mallee	Yes
18	City of Salisbury	Northern Adelaide	Yes
19	Wakefield Regional Council	Yorke and Mid North	Yes
20	Regional Council of Goyder	Yorke and Mid North	No
21	Wattle Range Council	Limestone Coast	Yes
22	District Council of Loxton Waikerie	Murray and Mallee	Yes
23	Coorong District Council	Murray and Mallee	No
24	City of Port Lincoln	Eyre and Western	No
25	Yorke Peninsula Council	Yorke and Mid North	Yes
26	District Council of Barunga West	Yorke and Mid North	Yes
27	The Flinders Ranges Council	Far North	No
28	Town of Gawler	Barossa, Light and Lower North	Yes
29	City of Victor Harbor	Fleurieu and Kangaroo Island	No
30	District Council of Yankalilla	Fleurieu and Kangaroo Island	No
31	Kingston District Council	Limestone Coast	Yes
32	District Council of Franklin Harbour	Eyre and Western	Yes
33	City of Charles Sturt	Western Adelaide	No
34	District Council of Tumby Bay	Eyre and Western	No
35	District Council of Mallala	Barossa, Light and Lower North	No

^a Developmentally vulnerable in two or more domains of the Australian Early Development Census when starting school.

Note: Shaded rows signify metropolitan areas.

Sources: Data from Australian Bureau of Statistics, *Socio-economic indexes for areas (SEIFA)*, cat. no. 2033.0.55.001, ABS, Canberra, 2011; Australian Early Development Census, *Public table by local government area (LGA) 2009–2015*, AEDC, Australian Government, 2016.

STAFFING IN REGIONAL AREAS

Contributors to the Commission emphasised that the challenges of attracting, recruiting and retaining child protection staff (discussed in Chapter 6) are of particular concern in regional areas. The capacity of the workforce directly affects the quality of service delivery. A workforce that is under-resourced or given limited professional support will struggle to respond adequately to the needs of vulnerable children.

CONFRONTING CHALLENGES

Working in human services and statutory roles in regional areas presents distinct and confronting challenges, which increase the demands on child protection practitioners. Practitioners may undertake multiple roles in their community that straddle their professional and personal lives. In small communities in particular there is potential for their two lives to collide. Regional practitioners have to guard against undermining confidentiality¹⁶, and must manage potentially volatile relationships between children, birth families and carers, whose paths are more likely to cross in small communities.

Practitioners in regional communities may also be highly visible and lack anonymity. Their practices may be subject to greater scrutiny from other professionals and the community generally.¹⁷ It may be difficult for them to ever be fully off-duty. There may be an expectation that they will fill service gaps, particularly where there is limited assistance available through other services.¹⁸

The demands of covering large geographical areas mean that regional practitioners are able to manage fewer cases than their metropolitan colleagues. Travel commitments may not only limit the time available to properly manage cases, but also lead to fatigue.¹⁹

Organisations should recognise the demands on regional practitioners as they try to work within organisational, ethical and legislative parameters.²⁰

ATTRACTING AND RETAINING STAFF TO IMPROVE SERVICE DELIVERY

High vacancy levels in regional offices and the difficulties of recruiting practitioners to these locations were consistent themes in evidence to the Commission.²¹ The proportion of vacant positions left managers struggling to stretch resources to meet the needs of children across their service areas, let alone develop initiatives to improve service delivery.²²

In 2014/15, one regional office received more than 500 intakes, of which more than 80 per cent had a Tier 1 or Tier 2 response priority.²³ Apart from the supervisors in the office and one senior practitioner (who are generally not expected to carry caseloads), only one

social worker was considered sufficiently experienced to be the primary investigator on intakes. Further, the lack of experienced social workers to work with newer practitioners in this office was an obstacle to the development of their knowledge and skills. The Commission was also told of the 'risk' at one time in this office when it had about six new social workers, but lacked the ability to train them.²⁴

Training usually necessitates travel to Adelaide. This can be a significant expenditure for regional offices. Staff in regional offices told the Commission that insufficient funds were allocated to training, and they expressed frustration that the Agency's Learning and Practice Development Unit rarely travelled to regional areas to deliver training. Professional development and quality of practice should not be compromised because staff work in a regional area. In most circumstances, it would be an efficient use of resources to deliver training locally. The Agency should also make better use of videoconferencing facilities to improve access to training, and support regional staff to engage in external professional development opportunities comparable to those offered to staff in the metropolitan area.²⁵

Workforce sustainability is a key concern. Organisations often overlook the potential of staff attraction and retention initiatives to improve service deficiencies in regional areas.²⁶ To build a sustainable regional workforce, the Agency's attraction and retention strategies could consider employee incentives, such as regional retention allowances. Non-monetary initiatives, including developing better support networks for staff, could also be considered.²⁷

For some practitioners working in a regional area can lead to disconnection and isolation. Professional and personal support networks may be limited or even non-existent. The greater pressures on regional practitioners make it incumbent on employers to ensure that staff are surrounded by robust professional support structures, in particular that they are provided with supportive supervision, that goes beyond simply matters of professional competence.

In Mount Gambier and Whyalla, students can undertake a degree in social work through local campuses of the University of South Australia. Developing positive relationships with the tertiary education sector locally and providing input into the training of students may lead to attracting graduates to the child protection workforce who already have ties to the region.²⁸ The Agency should encourage its regional staff to engage with the universities and promote careers in child protection at a local level.²⁹ Workloads should be managed to allow staff to take these opportunities.

THE EFFECT OF DISTANCE ON SERVICE DELIVERY

Service delivery to children in care is compromised by distance. A child's care team may be geographically dispersed, and have less interaction with the child and each other. The distances caseworkers have to travel to visit children in their placements can lead to fewer visits, fewer opportunities for engagement and relationship building, and irregular oversight and monitoring of placements. Because of travelling time, caseworkers may find it difficult to attend appointments with children, or participate in meetings when children need someone to advocate on their behalf.

Distance can similarly be a challenge for non-government organisations that support foster parents or provide in-home intervention services to families. The Commission was told about non-government workers having to undertake a six-hour round trip to work with a family participating in the Stronger Families Safer Children program. Because of the distance, the workers were able to engage with the family only once a week, for a couple of hours.³⁰

In Chapter 5, the Commission proposes a pilot program for remote access to C3MS in country regions. More innovative use of technology should help to create efficiencies for regional practitioners, and assist in managing their caseloads.

OUT-OF-HOME CARE

Finding appropriate home-based placements for children in care is a significant challenge for the child protection system across the state. However, the issue is even more dire in regional areas.

Families SA regional staff told the Commission that at times they would plan removals of children with 'no idea where they will be cared for'.³¹ When trying to arrange a placement for a child through the Agency's Placement Services Unit, it is common for staff in regional areas to be told there are 'no placements at all'.³² Decision making on the safety of a child should not be based on the availability of an alternative placement. However, with few other options, regional staff can be left asking themselves, 'Are they better where they are than where we're going to put them?'³³

In 2014, the Guardian for Children and Young People (GCYP) reported on the experiences of children in care in regional areas: 'one child from Ceduna placed in Murray Bridge, one family of six children in five different placements in a 100 km radius, and several moved to Adelaide for emergency placement'.³⁴ The evidence before the Commission suggests that these problems persist. Children will be taken from the region in which they have been living and placed in a community that is hours away.³⁵ The local Families SA office has little

control over the location of the placement. If a placement cannot be secured in a *relatively* nearby region, children are placed in Adelaide.³⁶ Some regions have more difficulty finding local placements than others. In some cases it proves impossible.

For the child, being placed in another region can add to the stress of out-of-home care. Relationships in the local community that could have provided much-needed support may be lost, along with the reassurance of familiar surroundings. It can also affect continuity of education.³⁷

'Are children better where they are than where we're going to put them?'

The lack of placements in one region can affect service delivery in other regions. The Mount Barker office covers a vast area across the Adelaide Hills, Fleurieu Peninsula and Kangaroo Island that has proved a fertile recruiting ground for foster parents. Children from the metropolitan area have been placed in this region, as have children from regions further afield, such as Ceduna, Coober Pedy, Mount Gambier, Port Augusta and the Riverland. The movement of children into particular regions can result in some offices trying to case manage the care of more children than their resourcing allows for.³⁸

There are also inconsistent practices as to whether a child will change caseworkers when they move regions. As discussed in Chapter 10, this decision requires flexibility and should be made in the best interests of the child. Finding safe and stable home-based placements for children is of critical importance. However, the Agency must be able to support a child if they are transferred to a different region. The Agency should consider whether the staffing complement and team structures in offices such as Mount Barker that are affected by the movement of children into their region are appropriate to meet the needs of all children in care.

FACILITATING CONTACT

Placing children at a distance from their caseworkers and birth families can lead to logistical difficulties in facilitating contact, including with siblings, and reunification efforts. It can also have a detrimental effect on children in care. Some children are being driven for hours more than once a week to have contact with birth parents and siblings. When arrangements are made to facilitate contact outside school hours, children can be required to travel long distances in the evenings. These difficulties can compromise placement decisions being made in the best interests of the child. For example, a less stable, rotational care placement near to a child's parents may be chosen over a home-based placement that is further away.³⁹

Sometimes reunification is attempted with a child who is residing some distance from their birth parents. Often Families SA staff will transport the child to the parents' location, which may require staff to work on weekends. The Commission was told of occasions when a regional office had put a lot of time and effort into contact but was not able to approve overtime for travel, even though staff spent 'copious amounts' of time on the road.⁴⁰ The Commission also heard of frustration due to simple issues such as staff not having a suitable vehicle in which to transport children.⁴¹ The resources required to facilitate such contact have the potential to sway decision making. The Commission was told:

*there's a fine line ... do you do it too quickly simply because it takes up so much resources, are you reunifying too quickly, but that's an assessment and a judgment you make at the time.*⁴²

In most circumstances, requiring children to travel long distances for contact will not be in their best interests. Placement, and other case management decisions, should not be influenced by a parent's convenience. Normally parents should undertake the travel to have contact with their children. This should be less disruptive for the child and should relieve some of the pressure on the resources of regional offices.

ROTATIONAL CARE

In many regional areas, the limited number of foster care placements is compounded by there being no, or very few, residential care facilities.

Families SA operates two small residential care facilities in regional areas: one in Whyalla and one in Mount Gambier. Each has the capacity to care for three children. Non-government organisations operate another five facilities: in Ceduna, Murray Bridge, Port Augusta, Port Lincoln and Port Pirie. However, the care environment of some of the facilities has been questioned. A Families SA caseworker described one as 'the most depressing, awful, horrible place, and if I was placed there, I would run away ... the children deserve somewhere nice to live'.⁴³

Families SA also has contracts with non-government organisations to provide emergency care in regional areas. The use of this form of care in the Barossa, Light and Lower North region from 2011/12 to 2014/15 (see Figure 17.1) far outweighs its use in other regional areas, with children in these areas spending on average 9457 nights in emergency care each year. This is mostly due to the extensive use of holiday house accommodation in Gawler to house children from many areas of the state.⁴⁴ The numbers of emergency care nights in the region peaked at 11,060 nights in 2014/15, reversing a three-year downward trend. Similarly, Figure 17.2 shows that the use

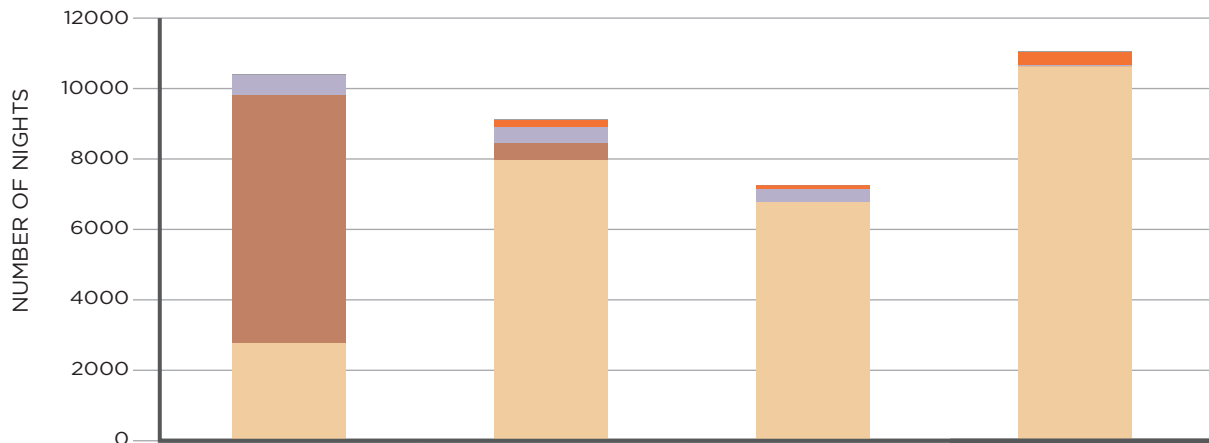
of emergency care was more prevalent in 2014/15 in all regional areas (except the Murray and Mallee) than it was in 2011/12.

Figure 17.2 also shows that some regions rely more on emergency care than others. A number of factors may contribute to this reliance, including more children requiring out-of-home care in a particular region, fewer options for home-based care, and children being moved into regions where emergency care is more readily available.

To accommodate children in emergency care, most regions make use of bed and breakfast style accommodation, apartments and holiday houses or units. In some regions caravan parks have been used. From 2011/12 to 2014/15, children in care in the Yorke and Mid North region spent 2119 emergency care nights of a total of 2138 nights (99 per cent) in caravan parks. In the same period, children in the Far North region spent 744 emergency care nights of a total of 1655 (45 per cent) in caravan parks. Caravan parks are also used to accommodate children in the Eyre and Western region and the Limestone Coast. This is a particularly undesirable form of accommodation for children in care, and demonstrates the need for the Agency to develop strategies to improve the out-of-home options in some regions.

The unpredictability and inappropriateness of the rotational care environment in the regions can be compounded by a paucity of supervision and the need to source carers from the metropolitan area. Such carers may work in the regional location only for a brief time before being replaced by another carer who covers shifts for an equally short period. The service provider supervises the carers from afar. Local Families SA staff try to organise the basic care needs of children, such as medical appointments or after-school activities, through a conduit in Adelaide. This requirement for layers of communication affects relationship building between members of the care team and fragments service delivery.⁴⁵ Direct engagement between local staff and service providers in the community should be encouraged, and not constrained by prescriptive contractual arrangements. These relationships should be collaborative, with practitioners and carers engaging in the best interests of children. They should not be seen as a mechanism for local Agency staff to supervise non-government staff.

17 CHILDREN IN REGIONAL AREAS



	2011/12	2012/13	2013/14	2014/15
MOTEL	0	1	0	3
HOLIDAY UNIT	0	196	107	375
BED AND BREAKFAST	577	453	365	44
APARTMENT	7026	481	4	0
HOLIDAY HOUSE	2796	7981	6780	10,638
TOTAL	10,399	9112	7256	11,060

Figure 17.1: Number of nights children in care have been accommodated in emergency care in the Barossa, Light and Lower North region, 2011/12 to 2014/15

Source: Data from Families SA.

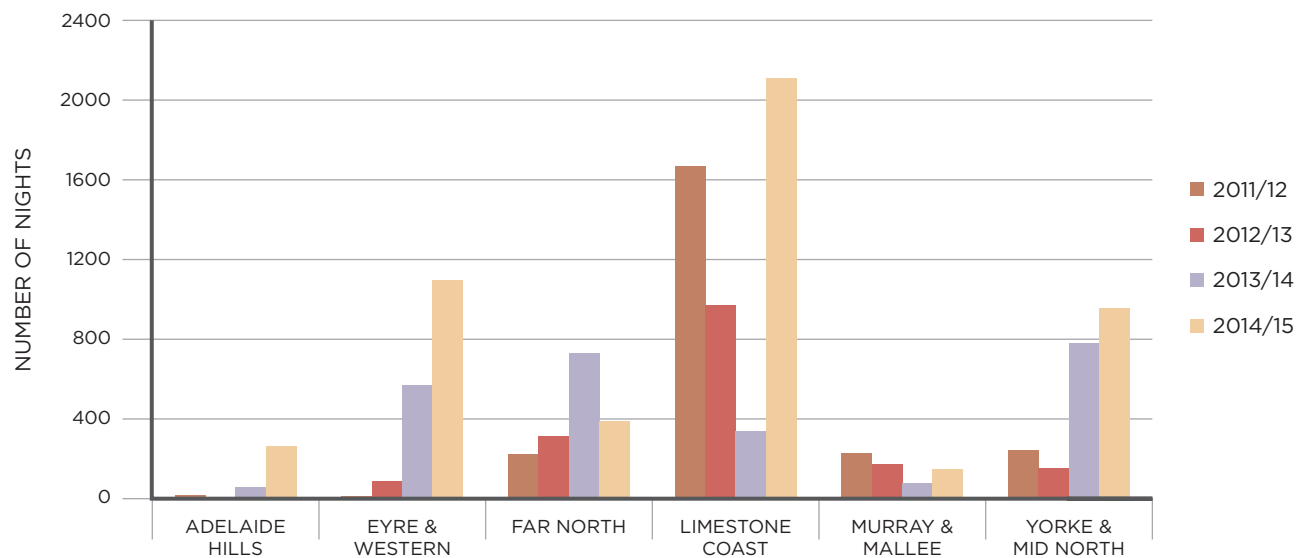


Figure 17.2: Number of nights children in care have been accommodated in emergency care by region, 2011/12 to 2014/15

Source: Data from Families SA.

IMPROVING THE AVAILABILITY OF OUT-OF-HOME CARE

Strategies to increase the number of foster care placements in South Australia are discussed in Chapter 11. This is a particular challenge in regional areas, where there is a narrower pool of potential carers. The Agency should identify the areas of greatest need and collaborate with local service providers to invest in targeted recruitment drives that are tailored to the characteristics of the region.

For some children, small residential facilities will be the most suitable type of care to meet their therapeutic needs. They may also be appropriate for accommodating larger sibling groups together in the same region. The Agency should identify regional areas where there is a particular demand for residential care placements and work towards developing facilities in those areas.

REGIONAL ACCESS TO SERVICES

Difficulty in accessing specialist services, and limited services, in regional areas hampers the ability of the child protection system to respond effectively to children.

THERAPEUTIC AND SUPPORT SERVICES

In some regional areas, risk factors in families, such as domestic violence and mental health issues, were said to be becoming prevalent.⁴⁶ Some regional areas were described as having a 'growing reputation around drug use', yet support services that could contribute to addressing this risk factor had very limited capacity and were not highly visible.⁴⁷

Specialist therapeutic services necessary to respond to children who have experienced abuse and neglect are also limited in most regions.

PSYCHOLOGICAL SERVICES

The lack of access to psychological services for children in care in regional areas was a consistent theme in the evidence before the Commission. Practitioners described long waiting lists, sometimes up to six or 12 months, for a child to engage in therapy. In regions where services are not available, children travel long distances for appointments. The Commission heard an example of an eight-year-old child in care who was self-harming and who would have had to travel about three hours one-way to receive psychological treatment.⁴⁸

The Commission also heard that insufficient resources to transport children were a barrier to children attending appointments for therapeutic services at the metropolitan-based Child Protection Services. In areas that have services based locally, concerns were raised about their quality: for example, some therapeutic mental health services were staffed by youth workers or social workers, rather than clinical psychologists. In regions where private psychological services were a suitable option, obtaining funding to cover the cost was contentious and obstacles were raised even when a foster parent was willing to cover the cost.⁴⁹

'I can do the reassurance, I can do the love, but I'm not a skilled therapist'

One foster parent in a regional area told the Commission that she alerted Families SA that her foster child's trauma-related behaviours were having a significant effect on his life, and were stopping him 'from growing in other ways'. The child was remembering earlier violence he had witnessed, and was having dreams associated with hurting his birth mother. Families SA suggested that a local government mental health service would be the 'best bet'. However, the service did not consider they had sufficiently qualified or experienced staff to provide therapy to particularly traumatised children in care. The foster parent waited for Families SA to respond, but nothing happened. She felt the Agency was not concerned with the child's emotional wellbeing. She said: 'I can do the reassurance, I can do the love, but I'm not a skilled therapist ... I don't think I should be the only person dealing with that'. Finally, the foster parent decided she had no choice but to act, and she contacted a metropolitan-based psychological service. She was willing to pay for the service and provide transport. Her actions caused disquiet in Families SA. The Agency told her she should not have done this without its permission.

Ensuring children in care have access to qualified and experienced psychological services is a critical element of the state's duty of care. The evidence suggests that Families SA's Psychological Services unit has a very limited presence in regional areas, particularly with respect to therapeutic work. Regional staff expressed a need for the Agency's psychologists to be more involved in regional areas, doing more one-on-one work with children and care teams.⁵⁰ The Commission has already noted that the Agency's Psychological Services unit needs a greater focus on therapeutic services. Further to this, the unit needs a greater presence in regional areas, including a dedicated team to deliver services.

OTHER SPECIALIST SERVICES

Access to other specialist health services is also limited in regional areas. For example, the Commission was told of a nine-year-old child in care with physical disabilities, including vision impairment. At the age of seven, due to service limitations, the child was no longer able to access support through a local community health service. There was no local private therapist. To continue therapy the child needed to travel to Adelaide regularly—about five hours return—either with her carers or Families SA staff.⁵¹

The Commission supports improvements to disability and health service provision in regional South Australia, but recognises that resources, including staffing, are barriers. There is the potential for the National Disability Insurance Scheme (discussed in Chapter 18) to expand service provision in South Australia through identifying areas where there is a chronic lack of services and assisting service providers to extend their geographical coverage.⁵² The scheme presents an opportunity for service delivery for children to be improved by attracting providers to regional areas or funding travel to metropolitan areas.

REGIONAL COURT SERVICES

The Commission understands that at present judicial officers of the Youth Court do not personally attend hearings in regional areas. If parties live outside metropolitan Adelaide, the court offers a telephone link to the nearest regional court. However, in recent years, the number of regional courts available for Youth Court matters has reduced but the Court permits landline telephone links to a 'state government office, or other appropriate facility'.⁵³

Telephone link facilities in one regional court were described to the Commission:

We sit around a telephone in a little room ... It cuts in and out, we can't hear all the time what's being said. Parents have no idea who the person is on the end of the phone ... the door on the room doesn't lock, so we have to put a bin against it to make sure it doesn't come open ... the vent between the two rooms for heating and cooling purposes is open and that means we can hear the discussions [next door] and they can hear us.⁵⁴

The Commission's inspection of available facilities in a regional court building confirmed their unsatisfactory nature. Gathered into a small crowded room were Families SA workers, parents, parents' lawyers or support people, and the child's lawyer.⁵⁵ Regional courts use videoconferencing facilities for some criminal proceedings, but not for child protection proceedings.⁵⁶

A sheriff's officer attends hearings in the Adelaide Youth Court to maintain security and organise the parties. Sheriff's officers also attend criminal hearings in regional courts. However, where parties attend a regional court for a telephone link in a child protection matter, a sheriff's officer attends only if notified in advance of a specific risk. If the parties are not well known, the risks posed by them would also be unknown. In the absence of court staff, the child's lawyer is left to organise the parties, including advising who can be present. In the course of the hearing, the child's lawyer is frequently left to explain the procedure and the effect of orders made. At times, this can lead to the lawyer feeling physically unsafe.⁵⁷

This is the standard of facility used at all stages before trial, including status and pre-trial conferences. Negotiating contentious matters is made more difficult because parties are not face to face (the lawyer representing the Agency is in Adelaide).⁵⁸

It would appear that children in regional areas have more barriers to accessing the justice system than those in Adelaide: 'They're being told they're unimportant'

In the past, trials were held at the nearest regional court if the parties resided outside metropolitan Adelaide. Recent practice is that all trials are held in Adelaide and parties must attend throughout. Commonly parents, their lawyers, the child's representative, the Families SA workers and other witnesses are all required to travel. The Legal Services Commission (LSC) pays travel and accommodation expenses for the child's representative, and for the parents' lawyers if they are funded by the LSC. Parents must pay for their own travel and accommodation. There is a concern that some parents consent to orders simply because they do not have the resources to travel.⁵⁹

Leaving aside the experience of parents, it would appear that children in regional areas have more barriers to accessing the justice system than children in Adelaide: 'They're being told they're unimportant'.⁶⁰

Child protection proceedings are important. In some cases they determine a child's care arrangements for many years. Even investigation and assessment proceedings can significantly alter a child's experience of childhood. It is unacceptable that child protection proceedings have less access to court facilities than many summary criminal matters.

Videoconferencing (as opposed to teleconferencing) facilities should be used to connect parties from regional court locations to the Adelaide Youth Court for all hearings of investigation and assessment proceedings and all pre-trial hearings of care and protection proceedings. All care and protection trials should be held at the court location most convenient to the parties. A sheriff's officer should attend all videoconferences at regional courts when a person other than a lawyer or a public servant will be present. It is not appropriate for the lawyer representing the child to be expected to organise parties and to maintain security in proceedings that involve allegations of child abuse or neglect and determine a child's care arrangements.

The Commission appreciates that some of these practices may have developed as a result of resource constraints. However, the Commission trusts that the appropriate court authorities will have regard to the issues discussed in this chapter and endeavour to improve current procedures.

RESPONDING TO THE NEEDS OF A REGION

Restricted access to services is a chronic problem in regional South Australia, for which there is no simple solution. As a start towards improving access, the state government should put in place strategies to better identify and respond to the needs of local communities, and target funding appropriately.

It is important to recognise that Agency staff in regional areas are likely to have more awareness of local needs than metropolitan-based staff, who may be responsible for allocating resources to services.⁶¹ For example, when contract arrangements with service providers are being renewed, the Agency's regional leaders could provide valuable local knowledge, including how service delivery could be improved.⁶²

Local planning, involving close collaboration with local staff and communities, supports the development of local solutions. There is a proposal in Chapter 8 for the establishment of child and family assessment and referral networks, including one each in the state's two largest regional areas (Mount Gambier and either Port Augusta or Whyalla). The networks would be expected to regularly map the needs of vulnerable families and children in their region, and formalise this in an annual Local Assessment of Needs (LAN). A mechanism should be established in the regional areas not serviced by an assessment and referral network for the preparation of a LAN. This could be achieved by engaging an appropriately qualified consultant to collaborate with local service providers to assess current needs, or through contracting with a local service provider who could work in partnership with other services to develop the LAN.

This process should support the development of different modes of service delivery, accounting for differing needs as well as differences of scale and infrastructure in each region.

THE BENEFITS OF LOCAL COLLABORATION

The Commission was encouraged to hear evidence that Families SA was developing strong collaborative practices with other service providers in some regional areas.

Effective links have been established between the Families SA office in Mount Gambier and the local Children's Centre (the role of Children's Centres is discussed in Chapter 8). The Children's Centre developed the Patchwork Program in collaboration with practitioners from Families SA and other stakeholders. It runs the program for parents who are working towards being reunified with their children, and helps participants to learn how to parent safely. The Commission was told that the program could give parents 'really powerful' insight, as they are encouraged to reflect on aspects of their behaviour and lifestyle choices that may affect their children, and create barriers to effective parenting.⁶³

While remaining child-focused, the Patchwork Program also is a source of support for parents and, where necessary, can give them a frank account of their progress. Parents are often more willing to engage with the program's facilitators and listen to their views on progress than they are with practitioners from the statutory agency.⁶⁴

The program has led to regular partnership meetings between local service providers, which in turn have led to collaboration on more initiatives for children at risk. For example, the establishment of a supported playgroup to run alongside the Patchwork Program, which gives parents an opportunity to put what they have learned into practice. The partnership meetings have assisted the Children's Centre to tailor its services to meet the needs of local children and families. The centre has been enthusiastic in its endeavours to work with Families SA and run programs that are going to be of most benefit to children who are coming into contact with the child protection system.⁶⁵

17 CHILDREN IN REGIONAL AREAS

One Families SA practitioner concluded that the Agency would 'be lost without the Children's Centre' in Mount Gambier. Not only was the centre running programs for clients of Families SA, the Agency was able to use its child-focused facilities to meet with families. The practitioner highlighted the importance of this:

if parents have a real issue with our office, and I think about those parents that were under guardianship themselves who now have children in care, just our office is a source of trauma for them ... so we often use the Children's Centre as a place to meet with them.⁶⁶

In Whyalla, the Families SA office has a practical working relationship with the Gabmididi Manoo Children and Family Centre. The centre recognised that Families SA was working in crisis mode and could not prioritise building a collaborative relationship. The centre considered it had an important role to play in alleviating some of the pressures on Families SA by proactively engaging with families who were the subject of child protection notifications. To achieve this, the centre's family services coordinator worked directly with the Agency's local supervisors to identify potential clients. They focused on children in families they considered would benefit from early intervention through engaging with the centre's services. To support these collaborative practices, the family services coordinator worked in the local Families SA office one afternoon a week. While the importance of this relationship was recognised, there was concern that the centre did not have the capacity to keep up with the growing number of referrals from Families SA.⁶⁷

Collaborative practices such as those occurring in Mount Gambier and Whyalla can build capacity in local service providers, and be of significant benefit for at-risk children. They appear to be effective service models in regional areas. There would be merit in replicating them in other regions.

RECOMMENDATIONS

The Commission recommends that the South Australian Government:

- 217 **Develop strategies to improve out-of-home care options in regional areas including:**
 - a **focusing attention on the recruitment of foster parents, particularly in areas of need; and**
 - b **identifying areas where there is a demand for residential care placements and develop facilities in those areas.**
- 218 **Require the Agency to develop a dedicated psychological service to deliver therapeutic services to children in care in regional areas.**
- 219 **Collaborate with the Courts Administration Authority to improve access to justice for children in need of care in regional areas, including providing appropriate technology with respect to hearings in remote locations.**
- 220 **Prepare an annual Local Assessment of Needs for each regional area.**
- 221 **Ensure that the Agency's practitioners in regional areas have access to ongoing professional development, through locally delivered training and videoconferencing.**
- 222 **Require the Agency to develop attraction and retention strategies specific to building workforce sustainability in regional areas, including the use of financial incentives for staff.**

NOTES

- 1 L Roufeil & K Battye, *Effective regional, rural and remote family and relationship service delivery*, Australian Family Relationships Clearinghouse Briefing no. 10, Australian Institute of Family Studies (AIFS), Australian Government, 2008, p. 3; P Munn, 'Rural community context of service coordination', *Rural Society* 13, no. 2, 2003, pp. 49–50; Australian Institute of Health and Welfare (AIHW), *Rural, regional and remote health: A guide to remoteness classifications*, Rural Health Series no. 4, cat. no. PHE 53, AIHW, Canberra, March 2004, pp. 1–12.
- 2 J Baxter, M Gray & A Hayes, 'Families in regional, rural and remote Australia', Fact sheet, AIFS, 2011, p. 2.
- 3 Oral evidence: Name withheld (W73).
- 4 Oral evidence: Name withheld (W23).
- 5 Oral evidence: J Caputo.
- 6 Health Performance Council (HPC), *Mental health in rural and remote South Australian communities*, Government of South Australia, August 2013, p. 9.
- 7 *ibid.*
- 8 Thirty-five local government areas (LGAs) represent about half of all LGAs in South Australia. While there are fewer LGAs in metropolitan Adelaide than in regional areas, for equal representation of advantage there should be about nine metropolitan areas in the 35 most disadvantaged.
- 9 Australian Early Development Census (AEDC), 'FAQs for early childhood educators', website, www.aedc.gov.au/early-childhood/early-childhood-educator-faqs, accessed 6 July 2016.
- 10 AEDC, 'AEDC: Understanding the results fact sheet', website www.aedc.gov.au/resources/detail/understanding-the-results, accessed 6 July 2016.
- 11 AEDC, *Public table by local government area 2009–2015*, website, [www.aedc.gov.au/resources/detail/public-table-by-local-government-area-\(lga\)-2009-2015](http://www.aedc.gov.au/resources/detail/public-table-by-local-government-area-(lga)-2009-2015), accessed 6 July 2016.
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- 13 *ibid.*
- 14 AIHW, *National drug strategy household survey detailed report 2013*, Drug statistics series no.28, cat. no. PHE 183, Canberra, 2013, p. 89.
- 15 K McDougall & G Tan, *Dynamics of South Australia's population*, Australian Population & Migration Research Centre (APRMRC) Policy Brief 1, no. 9, September 2013; HPC, *Mental health in rural and remote South Australian communities*, p. 10.
- 16 P Jervis-Tracey et al., 'Managing tensions in statutory professional practice: Living and working in rural and remote communities', *Australian and International Journal of Rural Education* 22, no. 2, 2012, pp. 97–100; L Roufeil & K Battye, *Effective regional, rural and remote family and relationship service delivery*, p. 3; P Munn, 'Rural community context of service coordination', pp. 55–56.
- 17 P Munn, 'Rural community context of service coordination', p. 60.
- 18 L Roufeil & K Battye, *Effective regional, rural and remote family and relationship service delivery*, p. 3.
- 19 *ibid.*
- 20 P Jervis-Tracey et al., 'Managing tensions in statutory professional practice', pp. 97–100.
- 21 Oral evidence: J Caputo; name withheld (W23); name withheld (W73). Submission: Centacare Catholic Family Services, Country SA.
- 22 Oral evidence: Name withheld (W73).
- 23 Data from Families SA.
- 24 Oral evidence: Name withheld (W73).
- 25 Oral evidence: Name withheld (W23); name withheld (W58). Submission: Name withheld (S90).
- 26 L Roufeil & K Battye, *Effective regional, rural and remote family and relationship service delivery*, p. 4.
- 27 Oral evidence: M Pamminger.
- 28 Submission: Centacare Catholic Family Services, Country SA.
- 29 Oral evidence: Name withheld (W36).
- 30 Oral evidence: P Munn & E Ward.
- 31 Oral evidence: Name withheld (W18).
- 32 Submission: J Caputo.
- 33 Oral evidence: J Caputo.
- 34 Office of the Guardian for Children and Young People (GCYP), 'Guardian's 2014 consultation with service providers', website, Government of South Australia, p. 1, www.gcyp.sa.gov.au/2014/10/the-guardians-2014-field-consultation/
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- 38 Oral evidence: G Kakoschke.
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- 40 Oral evidence: J Caputo; name withheld (W18).
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- 42 Oral evidence: J Caputo.
- 43 Oral evidence: Name withheld (W49).
- 44 Oral evidence: Name withheld (W5); L Kelly; G Matschoss; A Wiederkehr.
- 45 Oral evidence: Name withheld (W18).
- 46 Oral evidence: J Kranz.
- 47 Oral evidence: Name withheld, (W73).
- 48 Oral evidence: C Brooks; J Caputo; name withheld (W73).
- 49 *ibid.*
- 50 Oral evidence: Name withheld (W73).
- 51 Oral evidence: Name withheld (W170).
- 52 Oral evidence: Z Nowak & K McAuley.
- 53 Youth Court (Children's Protection) Rules 2012, r. 17.
- 54 Oral evidence: Name withheld (W4).
- 55 Oral evidence: Name withheld (W4); name withheld (W20).
- 56 *ibid.*
- 57 *ibid.*
- 58 Oral evidence: Name withheld (W4).
- 59 Oral evidence: Name withheld (W4); name withheld (W20).
- 60 Oral evidence: Name withheld: (W4).
- 61 P Munn, 'Rural community context of service coordination', p. 58.
- 62 Submission: J Caputo.

Some oral evidence, witness statements and submissions were received on a confidential basis. The source is known to the Commission, and is identified by a number in the endnotes.

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- 63** Oral evidence: Name withheld (W36); K Williams. Children's Centre for Early Childhood Development and Parenting, *Mount Gambier Children's Centre annual report 2015*, Department for Education and Child Development, Government of South Australia, 2015, p. 1.
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- 65** *ibid.*
- 66** *ibid.*
- 67** Oral evidence: J Kranz.

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OVERVIEW

Children with disabilities are more vulnerable than their peers. They are at greater risk of harm and neglect. They are at greater risk of the child protection system not recognising, responding to and caring for them.

Disability may not be immediately apparent to the untrained eye. It may not be observably physical or intellectual. It may be developmental or related to a psychiatric condition. The child protection system must account for the fact that for some children their disability is a product of their care environment. In other words, disability may be the product of trauma, stemming from abuse or neglect.

Against that background, this chapter outlines how the child protection system could better protect children with disabilities and improve outcomes for such children who come into the care of the state. It identifies particular risk factors for these children, along with the acute challenges faced by parents who are trying to care for and protect them. Parents caring for a child with disabilities may need intensive and specialist support to reduce the risks to their child. The child protection system must acknowledge and react to this need.

When a child comes into care, a prompt and expert assessment should identify any disability and the extent of any impairment attributable to it. This assessment should provide the information to identify, source and deliver appropriate specialist support for the child.

The recent launch of the Australian Government's National Disability Insurance Scheme (NDIS) provides opportunities for the improved care of children with disabilities, whether that care is by their birth family, a disability service provider or, in the case of children in care, the relevant Minister. This chapter will consider whether opportunities associated with NDIS could be better exploited by South Australia's child protection system, particularly with respect to early intervention. It identifies potential gaps in service delivery created by NDIS, which need to be filled to ensure that children with disabilities are protected.

The observations made in this chapter are not intended to encompass all the challenges faced by children with disabilities or to identify all gaps in service provision. The Commission has simply tried to address the most current issues raised in evidence that come within its Terms of Reference.

The chapter principally relates to the Commission's Terms of Reference 5(a) to 5(d), 5(f) and 5(h), in the context of 1 to 4.

DEFINING DISABILITY

The United Nations Convention on the Rights of Persons with Disabilities recognises that 'disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others'.¹ Attempting to define disability brings with it a tension between an objective, impairment-focused 'medical model' and a subjective consideration of barriers to the child's participation in their community created through unequal social relationships arising from negative perceptions of the child's functioning (the 'social model').²

While reflecting on disability from a social perspective is important, the practical question for this Commission is, What is the legal definition of 'disability' that provides the pathway for children with specialist needs to access services and to protect them from harm? That is, for the purpose of responding appropriately to children with disabilities, it is necessary for Families SA (the Agency) and other stakeholders to consider how they will align their services to existing legislation.

The legislative definition of disability is in a state of flux as a result of the staged implementation of NDIS. Children may gain access to NDIS by satisfying either the disability criteria in section 24 of the Commonwealth's *National Disability Insurance Scheme Act 2013* (the NDIS Act) or the early intervention criteria in section 25 of the Act. The eligibility criteria are discussed in this chapter. The state has a similar but less expansive definition in the *Disability Services Act 1993* (SA).³

This chapter considers those children whose impairments are likely to fit within either definition. Services for children with higher therapeutic needs or other impairments that do not meet a legislative definition are considered in Chapter 10.

GREATER RISK, GREATER VULNERABILITY

Whether children with disabilities are in the care of their parents, a disability service provider or under the guardianship of the Minister, they are at greater risk of harm and are more vulnerable than their peers.⁴ Children with physical, intellectual or sensory disabilities experience abuse and neglect at 'rates considerably higher than their peers who do not have disability'.⁵

There are many explanations for this heightened vulnerability. At the earliest stages of an infant's life, parent-infant attachment may be disrupted by a parent's adverse reaction to the birth of a child with a disability. Prolonged stress associated with caring for a child with a disability may lead to frustration which, in turn, increases

the risk of a parent resorting to physical abuse. Children's disabilities may hamper their ability to defend themselves from assault or, even more fundamentally, be aware that they are being abused. Disabilities that manifest in communication impairments may render a child unable to report incidents of maltreatment.⁶ Children coming into care in South Australia commonly have speech delays associated with developmental issues, rendering them more vulnerable because of their limited communication skills.⁷ Even in circumstances in which an injury is observed or reported, there can be difficulty in distinguishing between an accidental injury resulting from a child's impairments and injury inflicted as a result of abuse.⁸

More specifically, a range of factors contributes to children with disabilities being more vulnerable to sexual assault than other children. This includes living in out-of-home care, deficits in communication skills, physical limitations and an impaired understanding of sexuality. In particular, the risk of extra-familial sexual abuse is higher because of their greater exposure to persons outside their family for day-to-day support. Among children with disabilities who are sexually abused, the perpetrator is often someone responsible for 'the most intimate aspects of their daily care'.⁹

Because children with disabilities are more likely to experience abuse and neglect compared to their peers, they are at greater risk of entering the child protection system. As outlined in Chapter 3, abuse and neglect can affect a child's physical, psychological, emotional, behavioural and social development. Prolonged abuse and neglect can result in developmental delays and other disabilities.¹⁰ The child protection system must consistently identify and respond to not only children who have obvious physical or intellectual disabilities, but also children whose disabilities may be more subtle or masked by behavioural complexities.

The greater vulnerability of children with disabilities means that they must receive a higher standard of care than their peers. That higher standard is required from the children's parents, the professionals who support the children and their parents, the people who provide care environments, and the Minister when a child is in the care of the state.

STANDARD OF CARE

The standard of care required of parents who are caring for a child with high needs is inevitably higher than that required in caring for a child with lower care demands. What may be an adequate level of parenting for a child without a disability may amount to neglect of a child with a disability. The critical issue is whether the level of care provided meets the child's needs. Just as a child has greater support needs, so does their family. To prevent children with disabilities coming into care, the child protection system must have the capacity to identify and respond appropriately to families who are caring for children with high needs.¹¹

With appropriate support, parents who are struggling to care for a high-needs child may have the capacity and determination to provide an adequate level of care. Support can take many forms. It may be the provision of equipment or aids to improve the child's experiences. It may be therapeutic, working towards improving the child's functioning or capacity. It may be practical in-home support to assist the child to perform everyday tasks. It may be targeted at addressing challenging behaviours related to developmental disabilities. It may be focused on building a parent's capacity to respond to the needs of their child. It may be providing some respite care.¹²

Because of their high care needs, children with disabilities are also at greater risk of entering the system through being relinquished by their parents into the care of the Minister. Where a child has profound or severe disabilities, or complex and challenging behaviours associated with disabilities, parents may reach a point where they are unable or unwilling to continue to care for their child. If support is too little or too late, even the most determined and capable family may reach the end of their tether.¹³

Until now, the options for state-funded support for children with disabilities and their families have been limited. There was little evidence before the Commission of child protection services, disability services and other stakeholders working in partnership to foster robust early intervention services for such families. However, this is an opportune time 'to improve outcomes for children and families with disability by "breaking down the silos" between child protection and disability services'.¹⁴ NDIS brings with it opportunities to provide better early intervention support for children. Support available through NDIS can assist in building capacity in carers, rather than merely being directed towards improving the child's functioning. Ensuring that children have full access to NDIS has the potential to assist parents to meet the higher standard of care required of them.

THE NATIONAL DISABILITY INSURANCE SCHEME (NDIS)

The structure of disability services in Australia is undergoing significant reform. Before the staged rollout of NDIS, state-funded disability services for children were largely provided by Child and Youth Services (CYS) in the Department for Communities and Social Inclusion (DCSI).¹⁵ The relationship between Families SA and CYS is reflected in a Protocol for Collaboration that covers assessment, planning and service provision for children living with their families, in out-of-home care and transitioning from care.¹⁶ The protocol applies to children aged up to 18 years who are case managed by Families SA and who receive state-funded disability services.¹⁷ Families SA is responsible for the case management of children with disabilities in care, including case planning intended to be based on a comprehensive analysis of individual needs.¹⁸ CYS is responsible for contributing specialist knowledge and expertise to case planning and review processes.¹⁹

HOW NDIS CHANGES SERVICE DELIVERY

The introduction of NDIS has required a restructure of state-funded disability services. The state government will now channel funding for disability services to the federal government, which will fund local registered service providers to deliver services to NDIS participants. A state government agency may be registered as a service provider. At the time of writing, disability service provision in South Australia had not been completely reformed due to the staged rollout of NDIS. Some funding had been transferred to the federal government, while some services were still being funded directly by the state.

The unforeseen number of children in South Australia with autism spectrum disorder and global development delay has slowed the rollout of NDIS. The full scheme is now expected to start on 1 July 2018.²⁰

PARTICIPATION IN THE SCHEME

The federal government's National Disability Insurance Agency (NDIA) has statutory responsibility for delivering NDIS.²¹ NDIS intends to provide sustainable funding and lifelong support to people with a permanent and significant disability.²² The scheme will fund 'reasonable and necessary supports', including early interventions such as therapeutic treatment, mobility or other equipment, home modifications and assistance to take part in activities.²³ A participant's plan will identify and outline the support to be funded.²⁴ It will be developed by NDIA planners in conjunction with participants and, if they choose, their family or carers. An individual funding package is provided in accordance with this plan to support the achievement of their short- and long-term goals. A participant can either manage this funding

package or receive help to manage it through NDIA or another case management service provider. A participant's plan can be reviewed over time.

NDIS is a significant opportunity to improve service delivery to children with disabilities who are at risk of entering the child protection system or who are already in care. Rather than disability services funding being held by a state government agency or another service provider or organisation, NDIS allocates funding to an individual child. The child and their carer can use this funding to decide what services and support will be sought.²⁵

NDIS has a significant focus on early intervention to reduce the cost of disability over a person's lifetime.²⁶ For a child participating in NDIS, funding can be allocated for 'early intervention supports that improve a child's functional capacity, or prevent deterioration of functioning'.²⁷ This support may include speech pathology, physiotherapy, audiology, occupational therapy, podiatry and behavioural services.²⁸

ELIGIBILITY

A child may be eligible to participate in NDIS either through the disability requirements or the early intervention requirements. According to section 24 of the NDIS Act, a child will meet the disability requirements if²⁹:

- the child has a disability that is attributable to one or more intellectual, cognitive, neurological, sensory or physical impairments, or to one or more impairments attributable to a psychiatric condition; and
- the impairment or impairments:
 - are, or are likely to be, permanent; and
 - result in substantially reduced functional capacity to undertake, or psychosocial functioning in undertaking, communication, social interaction, learning, mobility, self-care or self-management activities; and
 - affect the child's capacity for social and economic participation; and
- the child is likely to require support under NDIS for their lifetime.

A child may meet the early intervention eligibility criteria if they have a developmental delay or an identified impairment across their intellectual, cognitive, neurological, sensory or physical domains or one that is attributable to a psychiatric condition. The identified impairment must be permanent or likely to be permanent. It must be established that early intervention support would be likely to benefit the child. This includes improving, or preventing deterioration of, the child's functional capacity, reducing the level of support the child needs in the future or 'strengthening

the sustainability of informal supports available to [the child], including through building the capacity of [the child's] carer'.³⁰

Developmental delay is defined in the NDIS Act as:

[A] delay in the development of a child under 6 years of age that:

- (a) is attributable to a mental or physical impairment or a combination of mental and physical impairments; and*
- (b) results in substantial reduction in functional capacity in one or more of the following areas of major life activity:*
 - (i) self-care;*
 - (ii) receptive and expressive language;*
 - (iii) cognitive development;*
 - (iv) motor development; and*
- (c) results in the need for a combination and sequence of special interdisciplinary or generic care, treatment or other services that are of extended duration and are individually planned and coordinated.*³¹

It is important to note that a child will not meet the early intervention requirements if it is determined that the support would be more appropriately funded and provided through another service system. For example, this could be the education system adapting programs to meet the needs of a child with a disability, or the health system providing appointments with general practitioners, in-hospital care or pharmaceuticals.³²

NDIS early intervention eligibility requirements are, however, more expansive than those applied by the state. NDIS requires that developmental delay must affect one of the major activity domains. South Australia's eligibility criteria relating to global development delay requires significant delay in three or more domains.³³

EARLY INTERVENTION OPPORTUNITIES

Early intervention is a key to improving outcomes for children in families who need support and reducing pressure on the statutory child protection agency. Early intervention is also critical for parents who are caring for children with disabilities. Access to support services can 'make the difference between a child with a disability being able to remain at home or having to be placed in permanent care'.³⁴

Early intervention funding packages under NDIS can be considerably more generous than those previously provided by the state. Children are able to use their funding to access a 'trans-disciplinary package of services in the early intervention space'³⁵, incorporating a lead therapist and other practitioners such as

occupational therapists, speech pathologists and physiotherapists working in collaboration.³⁶ The funding amount may also be reviewed if service providers discover broader complexities not initially identified. Additional funding may be sought to support the coordination of agencies beyond the registered service provider in areas such as education, child protection and mental health. The packages under NDIS allow for a 'much more intensive level of therapy'.³⁷

Funded early intervention support services may include building the capacity of the parents.³⁸ However, the role of NDIS is not to assertively engage families who are struggling to care for a child who may be eligible for the scheme.³⁹ NDIS assumes that parents will be proactive about investigating eligibility and accessing services on behalf their children. Because this is not always the case, practitioners working across the child protection system, including child and family access and referral network staff (discussed in Chapter 8), should support families to investigate NDIS eligibility where appropriate. To do this, workers need to be aware of what is available and how to access it. Families SA could lead training and education about these opportunities.

Accessing early intervention supports for a child with high needs may contribute to better family functioning, better care for a child and the chance to prevent that child from entering the child protection system.

LINKING CHILDREN IN CARE TO NDIS

For children in care, the Minister bears the parental responsibility to request access to NDIS, develop plans and advocate for support services required by the child.⁴⁰ Where the child is in a home-based placement, the carer should also be part of the decision-making and advocacy process.⁴¹

Families SA caseworkers, on behalf of the Minister, are responsible for linking children with disabilities in care to NDIS. To coordinate this process, Families SA has developed a working arrangement with NDIA.⁴² It is intended that caseworkers will have access to specialist disability support staff in Families SA, to provide advice, consultation and assistance to link children with disabilities in care to NDIS.⁴³

Given the benefits that may flow from accessing NDIS, in particular through the more expansive definition under the early intervention requirements, it is imperative that caseworkers pay close attention to the age criteria attached to the definition of developmental delay. Children seeking access to funds on this path must be aged less than six years. Allowing children in care to drift beyond that limit will result in missed opportunities to access early intervention services.

As discussed in Chapter 3, abuse, neglect or trauma experiences may cause, or aggravate, attachment disorders. Children with attachment disorders may, in some circumstances, be able to access NDIS, particularly under the early intervention requirements. However, the diagnosis alone will be insufficient to establish eligibility. What is important is the effect of the disorder on the child's functioning. If a disorder contributes to a relevant impairment, for example, impaired communication skills resulting from developmental delay, services may be funded.⁴⁴

To access NDIS effectively, knowledge of disability support services is required, along with a high level of planning and advocacy on the part of the child's guardian.⁴⁵

CHILDREN WITH DISABILITIES IN CARE

It was not possible for the Commission to accurately identify how many of the 2838 children in care at 30 June 2015⁴⁶ had a disability. At 1 July 2015, approximately 40 children in care in South Australia were registered with NDIS.⁴⁷ It is not known how many more children in care may be eligible.

Families SA does not track children according to their eligibility for NDIS. The Agency's electronic case management system C3MS requires that children in care be identified if they have a 'disability or health condition'. No distinction is drawn in the applicable recording field between a child who has a health condition such as diabetes, which does not manifest as a disability, and a child with a profound intellectual disability. A child with a health condition may not have a disability, but this difference is not recognised in a systematic way in Families SA's data management.

In June 2015, 250 children in care were accessing, or had accessed, disability services through the state system. This included children who had already registered with NDIS, and had returned with their funding to receive disability services.

Using C3MS, Families SA identified a further 792 children in care as having a disability or health condition.⁴⁸ Families SA analysed this information against the access requirements for NDIS and found that of these children:

- 109 were likely to meet the access requirements for NDIS;
- 190 might be eligible to access NDIS, but would first require further assessment by Families SA;
- 177 did not have enough information recorded to determine whether they would meet NDIS requirements; and
- 316 did not appear to meet NDIS requirements based on the available information.

The Commission is therefore unable to identify how many children in care in South Australia have a disability that could make them eligible for NDIS. It is likely, however, that children with disabilities are over-represented in the South Australian out-of-home care system.⁴⁹ Rather than recording on C3MS the existence of a 'disability or health condition', caseworkers should specifically indicate whether the child potentially meets NDIS eligibility criteria. This requirement would remind workers to request and arrange assessments, applications and planning for what are likely to be beneficial services for children with disabilities in care. Consistent reporting against this measure would also enable Families SA to track trends and develop appropriate system-wide strategies to provide better care for this vulnerable group.

IDENTIFYING ELIGIBLE CHILDREN

Comprehensive health and psychosocial assessments (discussed in Chapter 10) at the point of the child's entry into care, particularly for those children who are suspected of having a disability, are critical to early detection. Early detection provides the best opportunity to ensure children in care will receive the support they need. This is especially important for children with less obvious conditions, including psychological impairments resulting from abuse or neglect, which may, if accurately identified and assessed, be properly described as a disability for NDIS purposes. As noted, the age criteria for early intervention requirements highlight the need for timely and comprehensive assessments when children enter care.

A comprehensive health assessment may not of itself diagnose a disability. However, in appropriate cases it will trigger specific assessments that lead to diagnoses and eligibility for NDIS services.

Caseworkers must ensure an application is made for every child who is potentially eligible to participate in NDIS. For children already in care, this should occur by 31 March 2017.

Caseworkers must become highly engaged in the process of comprehensive health assessments and other more specific assessments to fulfill their role in advocating for services on behalf of a child. In particular, engagement with medical practitioners will arm caseworkers with the required knowledge to negotiate with NDIA and NDIS service providers for the best outcomes for children.⁵⁰

Given the significance of the reform and the opportunities it brings for children, child protection practitioners should be trained in understanding and accessing NDIS. It is critical that those tasked with case managing children in care can navigate the scheme to obtain the best results. Caseworkers must be able to recognise disability and understand what support services should be put in place to improve children's experiences. If children with disabilities who come into

contact with the child protection system have access to the right support services, there is significant potential for NDIS to improve their outcomes.⁵¹

The consequences of a slow response

A young child was taken into care on a short-term order after her birth mother was unable to care for her safely. Before being taken into care, the child was diagnosed with hemiplegia (paralysis of one side of the body), the likely consequence of a stroke before birth. The child was walking with a limp, and early therapeutic intervention was required. When the child entered care, no assessment of the limp was arranged and nothing was done to provide the child with the necessary therapeutic intervention.

A comprehensive medical assessment was arranged about nine months later. By this time the child had developed significant spasticity of her calf and upper limb. This required extensive medical intervention, which could have been avoided had early physiotherapy and splinting been provided.

A closer attention to her disability would have enabled the child's medical condition to be given greater significance in the processes that accompanied her entry into care.

Consistent with international human rights obligations provided in the United Nations Convention on the Rights of the Child, children in care with disabilities must be afforded the right to enjoy a full and decent life. This includes having access to and receiving education, health care, rehabilitation services, preparation for employment and recreation opportunities to support them to achieve the fullest possible social integration and individual development. The state carries a significant burden of providing the best possible care for children with disabilities who are under the guardianship of the Minister.

Attentive case management and planning on the part of Families SA, as discussed in Chapter 10, will contribute to improving service delivery for children with disabilities in care. The Agency must also develop robust systems to ensure children in care who may be eligible for NDIS are identified. As a psychologist from the Women's and Children's Hospital told the Commission, 'If you don't even register with the NDIS then you're going to get nothing and that's my concern'.⁵²

NDIS EARLY INTERVENTION IN PRACTICE

'James' is a young boy who was so severely abused and neglected by his parents that his development was significantly delayed, leaving him with physical and developmental disabilities and in need of high-level care and support (see Volume 2, Case Study 1: James). After James was placed in foster care, he was referred to NDIS for early intervention support services. Accessing these is critical to his long-term development and quality of life. Families SA initiated the referral to NDIS, with necessary information provided by health practitioners who had been working closely with James.

James met the access requirements for early intervention under the NDIS Act on the basis that he required assistance with daily tasks, including communication, social interactions, mobility and skills development. The early intervention services concentrate on these areas, with the intention of reducing the level of support that James will require in later years.

James's initial NDIS package was for more than \$47,000. An NDIS plan was developed to set out how the package could be used effectively to meet James's goals and developmental needs. James's foster parents, his Families SA caseworker, his paediatric social worker (and NDIS lead planner), and an NDIS plan and support coordinator were involved in developing the plan. The involvement of key people in a child's care team is critical to ensuring that the plan reflects the goals and needs of the child, and that appropriate services and supports are identified.

The therapeutic services in James's plan included speech therapy, podiatry therapy, hydrotherapy, physiotherapy, play therapy and assistance to school staff. These services reflect his areas of developmental delay and aim to provide holistic care to improve his quality of life and wellbeing.

James's participation in NDIS is a leading example of the opportunities available through the scheme for children whose traumatic backgrounds have led to disability. It is imperative that children with disabilities who come to Families SA's attention are referred to NDIS at the earliest opportunity to ensure they experience the greatest possible benefit from early intervention.⁵³

SPECIFIC PROGRAMS FUNDED BY FAMILIES SA

It has been Families SA's practice to dedicate financial resources to providing specific support services and programs to assist children with disabilities who are in care and their carers. The Commission understands that in future the funding for these programs will be provided to the federal government for NDIA to administer service provision through registered providers.

ALTERNATIVE CARE THERAPEUTIC TEAM

Families SA currently funds CYS to provide the Alternative Care Therapeutic Team (ACTT) program. Funding for the 2015/16 financial year was \$281,548.⁵⁴ The ACTT program is available to children from birth to school leaving age who are under the guardianship of the Minister, placed in home-based care and registered with a disability agency (an eligibility criteria that predates, and is separate to, NDIS).⁵⁵

The challenges experienced by foster parents and relative carers in meeting the high needs of children with disabilities may be amplified by the development of trauma-related behavioural issues. The ACTT program is primarily delivered by three psychologists who are specialists in disability and trauma. They support and work with children and carers, often conducting home visits, to build capacity in carers and to enhance the safety and wellbeing of children in their placements. For example, given the close relationship between communication and behaviour, the psychologists may focus on establishing a form of communication between the child and the foster parent as a first step to address challenging behaviours. They may then go on to develop a behaviour plan that encompasses specific strategies.⁵⁶

ACTT works with 11 to 20 children a year, remaining involved with a family for about six months.

Families SA has nominated to transfer the ACTT funding to the federal government, which will fund registered NDIS service providers to provide comparable services in South Australia.⁵⁷ If the funding is transferred, Families SA expects that NDIS will meet the need and continue to fund the program for as many children as necessary. Children in care who are receiving support through ACTT must acknowledge this during their NDIS planning process.⁵⁸ The opportunity for ACTT funding to be bolstered through NDIS has the potential to expand the program to serve more children.

ACTT provides an important service to children with developmental delays associated with attachment disorders.⁵⁹ These disorders cause significant stress for carers struggling with children's complex and challenging behaviours.⁶⁰ The specificity of the program is significant, and must be retained.

While it is efficient for all services to be accessible through one scheme, Families SA must ensure the funding channelled to NDIA is not consumed by more generalised early intervention or therapeutic services. The specialist services provided by ACTT should be maintained and expanded, given their focus on supporting challenging care placements. When considered appropriate to meet the therapeutic needs of a child in care, Families SA caseworkers should ensure the child's NDIS plan includes services provided by ACTT.

HOME MODIFICATIONS PROGRAM

The Families SA Home Modifications Program funds modifications, extensions or renovations to the homes of people who care for children with disabilities. It is anticipated that funding for this program will also be transferred to NDIA. The program would then be delivered through registered service providers, with home modifications incorporated in the child's NDIS plan.⁶¹

For children who are eligible for NDIS, consolidation of service provision is beneficial. However, Families SA needs to acknowledge there may be children who are not eligible for NDIS, or who are not yet accessing NDIS, whose placements would be improved through home modifications. Funding outside NDIS must be retained to provide this service to these children.

ONGOING ISSUES POST-NDIS

While NDIS has the potential to assist children who are coming into contact with the child protection system and improve service delivery for many children with disabilities in care, the Commission's inquiries have revealed a number of issues that will persist despite NDIS. The scope of what can be funded through NDIS is restricted by legislation. The legislation requires that consideration be given to whether support services would be more appropriately funded or provided through another service system.⁶² For example, NDIS will not provide out-of-home care for children with disabilities who are under the guardianship of the Minister.⁶³ This leaves Families SA as the agency responsible for locating suitable placements for this group of children, who have high care needs.

FOSTER CARE

South Australia has limited specialist disability foster care placements available. For example, Uniting Communities' Homelink SA for Children program provides specialist foster care for children with disabilities who are aged from five to 17 years.⁶⁴ The target group includes children and young people with complex behaviours and special needs who have a high overall complexity rating on Families SA's complexity assessment tool (see Chapter 10). The program provides five long-term placements and 15 respite placements. Beyond core training, foster parents receive training specific to the needs of the child. All placements are supported by qualified disability coordinators.

Demand for the Homelink SA program is high, but the agency has difficulty in recruiting suitable carers. This led to the funding and size of the program being reduced in 2014. Uniting Communities informed the Commission:

*The amount of skill, knowledge and expertise required for this particular cohort of young people can make it difficult to attract foster carers. Experience has shown us that the amount of reimbursement can act as a barrier as the amount of stress and responsibility are not met fairly with the current monetary reimbursement. This is repeatedly said by potential foster carers as we are attempting to bring them into the program.*⁶⁵

As discussed in Chapter 11, other agencies, in particular Life Without Barriers and Key Assets, also provide a limited number of specialist foster care placements for children with high needs, as indicated by their overall rating on the Complexity Assessment Tool.

The information recorded for children in care who are assessed as eligible for NDIS should be carefully analysed to determine the extent of the need for specialist foster care placements. Further foster care placements should be provided consistent with that analysis.

It is also important to recognise that specialist foster parents may experience the same challenges as birth parents in meeting the everyday needs of a child with a disability. Intensive support services, including regular respite, must be provided to such foster parents to prevent placement breakdown. Placements must be closely monitored and comprehensively supported. The thorough and systematic employment of NDIS for children with disabilities in care could also increase the support services available to foster parents, which could have the benefits of preserving placements and potentially attracting more carers to this very difficult role.

VOLUNTARY OUT-OF-HOME CARE

The Children's Protection Act 1993 (SA) provides for the court to shift guardianship of a child to the Minister, or other suitable persons, when parents do not have the capacity, or are unwilling, to continue to safely care for the child. The court must be satisfied that there is genuinely no parent 'able, willing and available to provide adequate care and protection'.⁶⁶

There will also be circumstances where a parent does not want to abandon or relinquish their child, but support services have failed to alleviate the stresses associated with meeting the child's high care needs. In these cases, an alternative care option becomes necessary in the best interests of the child.

However, there is no legislative basis for the custody or care of children to be transferred to the Minister without the transfer of guardianship, and voluntary custody agreements between parents and the Minister are restricted in their operation to no more than six months.⁶⁷

For parents wanting out-of-home assistance to care for children with very high needs, there is another option: a voluntary out-of-home care (VOOHC) agreement. This option is made without any statutory power or court order and does not involve surrendering guardianship. Parents therefore retain decision-making power on behalf of their child. The service provider is arranged through DCSI and parents are required to make a financial contribution. The parents, in effect, share the care of their child with the service provider and DCSI.⁶⁸

The Commission heard evidence that the NDIS reforms may leave a service gap with respect to VOOHC. While NDIS may fund short-term, temporary out-of-home care for child participants, with some financial contributions from parents, state-funded services remain responsible for long-term or ongoing VOOHC arrangements. It has been suggested that the management of VOOHC is a child protection responsibility and therefore Families SA should provide such placements and care.⁶⁹ The question of who manages VOOHC is important. While the Commission does not have sufficient information to make firm recommendations in this regard, the following observations are relevant.

VOOHC is frequently a cry for help and a last resort for capable and willing parents to access much-needed services. Generally those wanting to access VOOHC are not abandoning their child. They are requesting assistance because they are unable to continue to provide around-the-clock care.⁷⁰ It is in the best interests of these children to remain connected to their parents, both legally and emotionally.

In July 2015 there were 37 children in VOOHC in South Australia.⁷¹ It would not be in the best interests of this group of children to be placed in the care of the Agency. The provision of specialised disability services is not its core business. To suggest otherwise has the potential to undermine the high standard of care that these children need and to divert the Agency's focus and resources from other critical roles it performs for children in care.

18 CHILDREN WITH DISABILITIES

Through access to NDIS, parents who would otherwise need VOOHC arrangements can be better supported. The child protection system, service providers and NDIA planners must ensure that services support capable and willing parents to care for their children, without the need to resort to VOOHC. Where there are genuine child protection concerns for a child with disabilities (including genuine circumstances of relinquishment or abandonment), the statutory agency must respond appropriately.

The Commission recognises that for a small number of children with very complex disabilities, VOOHC is an essential option. If NDIS will not fund VOOHC, the Commission considers that the service should remain the responsibility of disability services in South Australia.

Due to the involvement of federal government agencies, the tensions surrounding the ongoing funding and management of VOOHC cannot be resolved by this Commission. However, it is hoped the relevant federal and state government agencies will facilitate the continuation of VOOHC as a disability service for children with complex disabilities, whose parents are not able to meet their high needs at home.

RECOMMENDATIONS

The Commission recommends that the South Australian Government:

- 223 Ensure that every child in care, or who enters care, and who is potentially eligible, applies to participate in the National Disability Insurance Scheme (NDIS). For children already in care, this must occur by 31 March 2017.
- 224 Develop the function in C3MS to require caseworkers to input information when a child enters care, and for those children already in care, as to their potential eligibility for NDIS. This data should be extractable for analysis.
- 225 Determine and fund demand for specialist disability foster care placements in accordance with the available data about children in care who are eligible for NDIS.
- 226 Employ specialist disability workers to consult across the Agency in matters involving children with disabilities.
- 227 Train Agency caseworkers to recognise and respond to the needs of children with disabilities, particularly in accessing and maximising support services offered by NDIS.
- 228 Ensure Agency caseworkers, when participating in NDIS planning, prioritise the use of the Alternative Care Therapeutic Team program when appropriate to meet the therapeutic needs of a child in care.
- 229 Develop clear guidelines on the role of home-based carers in planning and decision making in NDIS for children in their care.
- 230 Require child and family assessment and referral network members to provide support for families who are caring for children with disabilities, to enable them to engage with NDIS.

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- 12 A Tomison, *Child maltreatment and disability*, p. 13.
- 13 SCARC, *Out of home care*, p. 263.
- 14 *ibid.*, p. 271.
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- 16 Government of South Australia, *Protocol for collaboration*, p.4.
- 17 *ibid.*, p. 5.
- 18 *ibid.*, p. 12.
- 19 *ibid.*
- 20 Oral evidence: Z Nowak & K McAuley. The Council for the Care of Children, *The National Disability Insurance Scheme — Highlights, hurdles and hopes: Hearing from children and young people with disability, and their families, in connection with the National Disability Insurance Scheme (NDIS) Trial in South Australia*, Government of South Australia, September 2015, p. 8.
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- 22 Carers Victoria, 'The National Disability Insurance Scheme explained', web page, no date, www.carersvictoria.org.au/Assets/Files/Carers%20Victoria%20-%20NDIS.pdf
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- 24 A person who is eligible to receive support and assistance through NDIS and who is accessing those supports and assistance is referred to as a participant, NDIS Act, ss. 8, 9. See also Chapter 3, Part 1.
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- 69 *ibid.*, pp. 8, 10.
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19 CHILDREN FROM CULTURALLY AND LINGUISTICALLY DIVERSE BACKGROUNDS

OVERVIEW

The challenges associated with keeping children from culturally and linguistically diverse (CALD) backgrounds safe, and how the child protection system responds to their needs, were not strong themes in the evidence before the Commission. A small number of submissions highlighted the need for system reforms to capture the current and emerging dynamics of our population.¹ Beyond this, changes to improve service delivery and outcomes for children who have CALD backgrounds were seldom proposed.

It is, however, important to recognise the challenges for the system in being culturally responsive, with services delivered by staff who can competently employ culturally informed practices. This is particularly so given South Australia's growing multicultural population.

The Commission's inquiries revealed that the prevalence of childhood abuse and neglect in CALD communities is unknown. Tracking occasions on which CALD children come into contact with the child protection system in this state will be an essential step in building an evidence base for a culturally competent system.

In this chapter the Commission seeks to address, within its Terms of Reference, some aspects of the system that should be improved to better respond to the needs of children from CALD backgrounds. However, this discussion is not intended to examine all challenges faced by this group of children nor address all the areas of service provision that are deficient.

The chapter principally relates to the Commission's Terms of Reference 5(a) to 5(d), 5(f) and 5(h), in the context of Terms of Reference 1 to 4.

DEFINING CULTURAL AND LINGUISTIC DIVERSITY

There are difficulties associated with defining the term CALD and for the purposes of this report it is unnecessary to be categorical in the use of the term. In research and practice CALD is often used to 'distinguish the mainstream community from those in which English is not the main language and/or cultural norms and values differ'.² It may describe whole populations or communities, or subgroups within a population or community. Statistically it may be used to define a person who was born in a country where English is not the main language spoken, or a person who has one parent born in such a country.³

This chapter focuses on those children who have, or whose families have, migrated to Australia. Many Aboriginal and Torres Strait Islander children will also identify as having a CALD background. The needs of,

and system response to, Aboriginal and Torres Strait Islander children are examined in Chapter 16. At a macro level, it is likely there will be parallels between culturally appropriate and informed service delivery for both Aboriginal and CALD children and families.

The Commission focused its inquiries more on refugee arrivals than on children and families who have joined our community through planned migration. This is not to minimise the challenges associated with planned migration. However, the challenges of keeping refugee children safe will often be more acute. The Commission's observations could be applied more broadly to all CALD children and families.

The Commission has not given specific attention to unaccompanied humanitarian minors. However, some observations in this chapter may be relevant to how the system responds to the needs of this vulnerable group of young people.

A POPULATION GROWING IN DIVERSITY

The proportion of Australians who were born overseas is at its highest in more than 120 years. At 30 June 2015, 28.2 per cent of Australia's estimated resident population was born overseas. The percentage of residents who were born overseas has increased every year since 2000.⁴

In South Australia, 24 per cent of the population was born overseas, and 9 per cent of the overseas-born population is aged 0 to 19 years.⁵ Forty-one per cent of South Australia's population has at least one parent who was born overseas.⁶

Australian-born children whose family members are refugees or planned migrants also contribute to the population of CALD children. In the past 10 years, there have been about 127,000 permanent arrivals to South Australia. Over the past decade, children from about 170 countries have arrived in South Australia, with a large proportion from the United Kingdom. Across all ages, arrivals to South Australia from Southern Asia (including Afghanistan, Bangladesh, Bhutan, India, Nepal and Pakistan) increased significantly in the late 2000s and now cumulatively far outweigh arrivals from the United Kingdom. Almost three-quarters of all arrivals have been from Africa, Asia or the Middle East.⁷

Figure 19.1 shows arrivals to South Australia by migration stream. By far the greatest numbers of arrivals are skilled migrants. During the past 10 years, about 11 per cent of arrivals to South Australia (approximately 14,000) have arrived under the humanitarian migration stream, peaking at 1802 in 2011 and falling to less than 1000 in 2015.

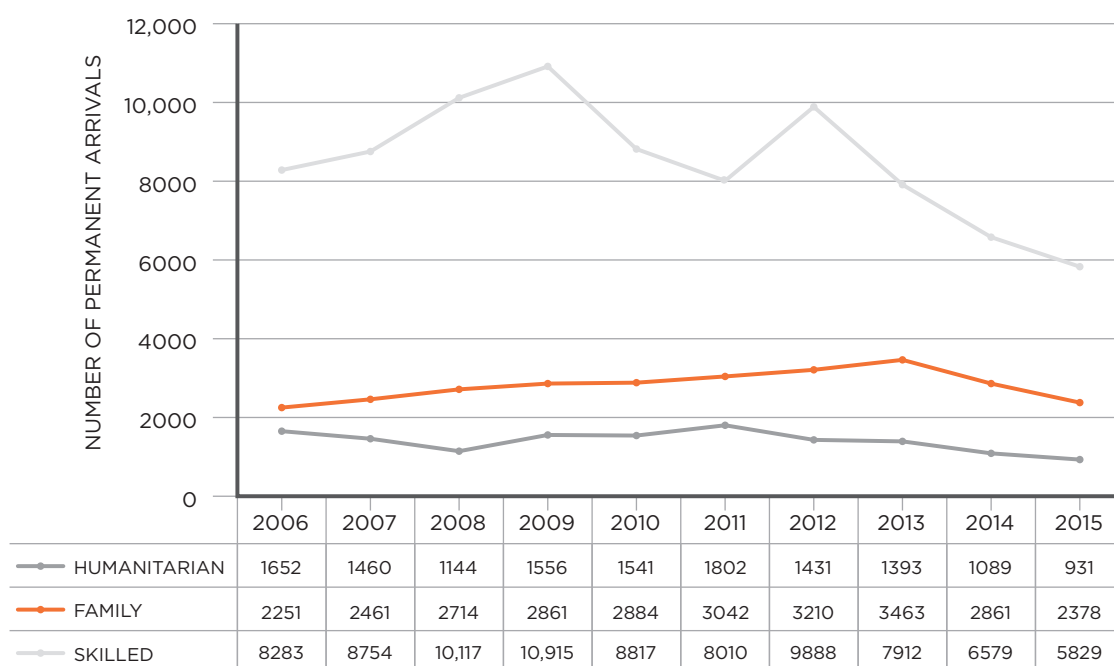


Figure 19.1: Permanent arrivals to South Australia by migration stream, 2006–15

Note: Excludes arrivals whose migration stream is 'Other/Unknown', of which there were less than 20.

Source: Data from *Settlement reporting*, Department of Immigration and Border Protection, Australian Government.

Almost 30 per cent (more than 4000) of the humanitarian arrivals first settled in the City of Salisbury local government area. About 20 per cent settled in the City of Port Adelaide Enfield and a further 14 per cent in the City of Playford.⁸ These local government areas are among the most socioeconomically disadvantaged in the metropolitan region.⁹ Statistical information such as this may be used to guide and focus service provision to improve outcomes for CALD children and families. It is also important for practitioners to be aware of a person's migration stream as this will be relevant to their eligibility for services.¹⁰

The child protection system needs to respond to the changing demographics of South Australia's population. As the cultural diversity of the population grows, so, too, must the system's cultural competency. Having an understanding of the representation of CALD children in the system is of fundamental importance, as is grasping how they interact with the system and how to deliver culturally sensitive services. These issues are as significant for CALD children as they are for Aboriginal children. Given the vulnerabilities of CALD children discussed below, a failure of the system to develop cultural competency has the potential to lead to their over-representation in the system.¹¹ This is clear when it is recognised that the population of children identifying with a CALD background is likely to be greater than the state's population of Aboriginal children.¹²

PRE-MIGRATION EXPERIENCES AND POST-MIGRATION CHALLENGES

The wellbeing and safety of CALD children can be compromised by risk factors common to many families who interact with the child protection system, including socioeconomic disadvantage, social isolation, domestic violence, substance abuse and mental illness. However, their families may face additional challenges and stress as a result of experiences both before and after migration.¹³ Challenges associated with adapting to life in Australia may include¹⁴:

- cultural dislocation or acculturative stress;
- social isolation stemming from limited familial, social and communal support and lack of awareness of, or reluctance to seek, formal support;
- discrimination and marginalisation;
- language deficiencies and communication barriers, limiting the capacity for social and economic integration; and
- financial difficulties and poverty, potentially associated with poor employment opportunities and other socioeconomic factors.

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These challenges may exacerbate pre-migration experiences. For example, mental health problems associated with torture and trauma may intensify for people who do not have support networks of extended family and professionals.

Challenges and stress can exert considerable pressure on children and families, affect a parent's ability to respond to the needs of the child and encourage dysfunctional parenting patterns.¹⁵ The many challenges lead to the conclusion that CALD children should be recognised as a particularly vulnerable group in our community.

Further, post-migration inter-generational tensions can evolve and compromise the safety of CALD children. Children may more readily adapt and become accustomed to Australian culture than their parents, leading them to reject some traditional cultural values. They may see the Australian culture as less conservative and providing greater freedoms. They may break down communication barriers more readily than their parents. They may be caught between the pressures of familial acceptance and abiding by cultural norms, and a desire to be safe from harm when they see aspects of their birth culture as endangering their safety.¹⁶

CULTURAL VARIANCES IN PARENTING PRACTICES

Cultural variances in parenting styles can obscure the identification of abuse and neglect of CALD children. This can make it difficult for practitioners to assess and intervene in CALD families.

The Working with Refugee Families Project completed in 2009 (discussed below) found that the most common types of incidents that resulted in notifications of refugees to the South Australian child protection system were¹⁷:

- physical abuse, a number of which related to physical discipline by parents;
- neglect, primarily arising from children being left without adult supervision and primarily occurring in large, single-mother households; and
- exposure to domestic violence.

Fundamentally, the goals of parenting are consistent regardless of culture. However, culture may influence how a parent goes about achieving those goals. Parenting styles that were customary in a parent's birth country may not be endorsed or even legally acceptable in Australia.¹⁸

Patriarchal family structures may, for example, be the norm in a birth country, but lead to parenting practices that are inappropriate when measured against Australian standards. Authority may be demonstrated through

family violence. Discipline and punishment may be pursued through unacceptable levels of physical violence.¹⁹

In collectivist cultures communal parenting may be the norm, with birth mothers and fathers not being primarily responsible for care giving. Rather, this responsibility is shared across siblings, extended family members and unrelated community members. In circumstances where a community is not available to share responsibility for child rearing, less attentive parenting practices may be a cause for concern. Siblings who are themselves young children may be expected to take on some care-giving responsibilities and children may be left without adult supervision. Practitioners in Australia may view this as supervisory neglect.²⁰

While culture is not an excuse for inappropriate behaviour or the abuse or neglect of children, practitioners must recognise that cultural norms can strongly influence parents' determination as to what is in the best interests of their children.²¹ Practitioners need to be mindful of misinterpreting diverse child-rearing practices, and making uninformed assumptions about their appropriateness or otherwise.²² There is a danger that practitioners, or other responsible adults, will fail to recognise abusive or neglectful parenting practices if cultural norms are given too much weight.²³

Competent and confident practitioners should be supported by assessment frameworks that are sufficiently culturally sensitive to guide them away from misinterpretation and towards evidence-based determinations.

A CULTURALLY COMPETENT SYSTEM

Child protection practitioners must provide CALD children with the same level of safety as other children in the community. Those practitioners who lack an understanding of working with persons from CALD backgrounds may be ill-equipped to look beyond common, readily identifiable risk factors for those that are related to culture or migration. It is important that practitioners take a holistic approach to service delivery for CALD children. Risk factors must not be viewed in isolation.²⁴ Whether a child can remain safely at home or should be cared for by a culturally appropriate alternative caregiver can only be determined by a thorough assessment of the child's needs and the parent's capacity, in the context of their cultural background.²⁵

Further, practitioners need to understand that culture will not be static or tangible. It is 'fluid, flexible and dynamic'.²⁶ Practitioners must be capable of being equally flexible in how they respond to CALD children and their families.

Identifying and responding to the abuse or neglect of CALD children is beset with complexities. A culturally competent workforce would provide a sound foundation for contending with these complexities. Cultural competence requires an awareness of cultural diversity and knowledge of how cultural norms may be relevant to parenting practices and the safety of children. It also requires practitioners to have the skills to confidently apply this awareness and knowledge to practice.²⁷

A culturally competent system is one that:

*acknowledges and incorporates—at all levels—the importance of culture, the assessment of cross-cultural relations, vigilance towards the dynamics that result from cultural differences, the expansion of cultural knowledge, and the adaption of services to meet culturally unique needs.*²⁸

Building a culturally competent system requires commitment from both individual practitioners and organisation leaders, who can influence approaches to practice and create learning and development opportunities. It requires an acknowledgment that:

*becoming culturally competent is a development process for the individual and for the system. It is not something that happens because one reads a book, or attends a workshop, or happens to be a member of a minority group. It is a process born of a commitment to provide quality services to all.*²⁹

THE PREVALENCE OF ABUSE AND NEGLECT REMAINS UNKNOWN

In 2003 the Layton Review reported that children from CALD backgrounds are generally considered under-represented in some areas of the child protection system. The review suggested that, on one view, this was a result of CALD children being invisible to the system for reasons including³⁰:

- CALD families may be fearful of using services, in particular those offered by the government, or their awareness of services may be limited.
- Service providers may not readily identify safety or wellbeing concerns for CALD children.
- People may be reluctant to report concerns because of uncertainty about how the system will respond or the effect reporting may have on relationships across the wider CALD community.

CALD children may be as invisible now as they were in 2003. The lack of prominence given to this vulnerable group of children in submissions to the Commission is telling. Although the evidence to the Commission

highlighted some CALD-specific services that appear at face value to be purposeful and meaningful, in the main it seems the child protection system is still in the embryonic stages of structuring itself to respond to the protective needs of CALD children.

Empirical research examining the involvement of CALD children and families in child protection systems in Australia is minimal and that which does exist has had difficulty in gathering evidence. For example, a review of 120 child protection case files across six cultural groups (including Indigenous and Anglo-Saxon) in New South Wales noted:

*The findings reported in this study are sparse because the quality of linguistic and culturally relevant data recorded in the case files is not particularly rich or routine. As such there is little empirical evidence that can be ascertained to support the effectiveness or ineffectiveness of any practices or strategies that caseworkers use with their CALD groups.*³¹

Similarly, the Working with Refugee Families Project reported 'difficulties encountered in obtaining relevant case files for the study due to the current practices used by Families SA to identify and record the cultural background of the children who come into contact with the system'. Cultural background was not always recorded and, when it was, the data collection categories limited the practitioner's ability to accurately identify certain cultural groups.³²

While more research is emerging and knowledge is growing about the needs of CALD children and their families, gaps remain.³³

UNRELIABLE DATA

The prevalence of childhood abuse and neglect in CALD communities in South Australia is unknown. C3MS, Families SA's electronic case management system, does include a CALD field for practitioners to complete at intake. However, it is not mandatory and even if a practitioner does complete it, they are not required to record any further information about the culture with which the child identifies, such as the child's or parent's birth country or the language spoken in the home.³⁴

The Commission considered summoning data from Families SA (the Agency) relating to children from CALD backgrounds, in particular the number of notifications and the proportion that were screened in, investigated and substantiated. Families SA informed the Commission that this data was unreliable because it has a very low completion rate. The Commission therefore acceded to the Agency's request not to summons the data.

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The Commission was told that only 0.47 per cent of intakes record whether or not the child is from a CALD background. Families SA was unable to say whether the relevant field on C3MS was incomplete because the child did not have a CALD background, the practitioner had not sought the information or the notifier had not provided it.³⁵

The Commission was told that while the Life Domains area of C3MS includes the ability to record detailed information relating to CALD backgrounds (for example, the language spoken at home, whether an interpreter is required, immigration status and date of arrival in Australia), completing this information is not mandatory. Hence the field is not often populated.³⁶

The Commission also saw examples of contracted service providers reporting to Families SA that their CALD data was unreliable due to data collection issues. Some difficulties capturing statistics relating to CALD referrals were attributed to Families SA practitioners not providing this information as part of the initial referral.³⁷

Because of limitations in the available data and evidence, the Commission is unable to draw any conclusions as to the numbers of, and circumstances surrounding, CALD children coming into contact with the system.

ESTABLISHING AN EVIDENCE BASE

In August 2012 the Second Action Plan of the National Framework for Protecting Australia's Children 2009-2020 was endorsed by the federal, state and territory governments. The plan recognised the need for culturally sensitive strategies and practices, highlighting that a 'one size fits all' approach was insufficient to cater to Australia's diverse communities. It drew attention to the need for an improved and specific evidence base about particular groups of children, including CALD children. It said that collecting child protection data, including on CALD status where possible, was a priority.³⁸

The Third Action Plan, launched in December 2015, again highlighted the 'need to understand the prevalence of abuse and neglect concerning ... families from Culturally and Linguistically Diverse (CALD) backgrounds and new and emerging communities'.³⁹

Despite the issue being on the national agenda for a number of years, and the shortcomings of the state's data collection and recording practices being clearly identified in the Working with Refugee Families Project in 2009, Families SA has not taken steps to address these deficiencies.⁴⁰

At a national level, abuse and neglect data is also not yet disaggregated for children from CALD backgrounds.⁴¹

As a starting point in South Australia, and in line with the national framework's plans, Families SA should purposefully track when CALD children come into contact with the child protection system. Other service providers should support and contribute to this. Reliable data collection is critical to understanding trends and patterns in the interactions of CALD children with the system, in order to better plan and target responses as well as provide a foundation for empirical research.

THE RESPONSE OF FAMILIES SA TO THE WORKING WITH REFUGEE FAMILIES PROJECT

The Working with Refugee Families Project was the first study of its kind in Australia. It was funded by the Department for Families and Communities and completed by the Australian Centre for Child Protection at the University of South Australia in 2009. The project, in part, was designed to identify culturally appropriate strategies and models for intervention with recently arrived families from refugee backgrounds who were at risk of involvement in the child protection system.⁴² The principal finding of the project was 'the critical significance of culturally competent child protection practice when working with refugee families':

*This includes the development of a child protection workforce that is well prepared and confident in addressing the needs of refugee families who come into contact with the child protection system. Equally important, culturally competent child protection practice requires establishing and maintaining high quality relationships with refugee communities based on two-way communication and collaboration.*⁴³

The project made a number of suggestions to build on existing practices and initiatives, including:

- providing information to people from refugee backgrounds about Australian child protection laws and parenting practices;
- developing links with refugee communities, particularly community leaders;
- employing specialist staff within and external to Families SA to act as a liaison between workers and families;
- providing staff with ongoing education, training and information about the diverse refugee communities; and
- enhancing the child protection knowledge of interpreters and translators.

In May 2014, Families SA established the Multicultural Community Engagement Team (MCET). Before this, a Community Development Team linked with Families SA's services for unaccompanied humanitarian minors had undertaken some of the activities now within the mandate of MCET. The information and recommendations from the project informed the service delivery of the Community Development Team.⁴⁴

MCET provides a statewide, community development service to families from CALD backgrounds. The team promotes parenting programs that focus on child protection, child development, strategies for managing children's behaviour and nurturing children's potential. MCET also conducts information sessions on child protection laws and parenting to newly arrived migrants, in conjunction with Families SA's Commonwealth Guardianship Team (a team providing alternative care support services to unaccompanied humanitarian minors).⁴⁵

In 2015 the mandate of MCET expanded to include its staff working together with practitioners in local offices on child protection cases and the case management of children under long-term care and protection orders. MCET provides an early intervention and educational response to some Tier 2 and Tier 3 notifications where it is identified that a culturally appropriate community response would enhance child safety outcomes. MCET also assists with liaison between Families SA staff and CALD communities, particularly through links forged with community elders and leaders.⁴⁶

The Commission was told that MCET staff have led the development of cultural awareness among Families SA staff across the state.⁴⁷

Given the scope of MCET's role in Families SA, the Commission was surprised to learn that the team consists of only three positions: a supervisor employed in the administrative services stream and two social workers.⁴⁸ The mandate of MCET suggests that the Agency understands the need to encourage culturally competent practice. However, it is questionable whether three staff members would have the capacity to adequately provide a statewide service, including working with the Agency's Learning and Practice Development Unit to provide cultural competence training to staff.

The evidence before the Commission does not allow any firm conclusions on whether Families SA's response to the principal findings of the Working with Refugee Families Project has been sufficient and effective. The response seems to be primarily contingent on the ability of MCET to properly engage with staff and CALD communities, whether it be in relation to specific cases or in a more general educative or liaison role.

The capacity of MCET should be reviewed. Because it would take time to gather sufficient empirical evidence to inform the resourcing of the team, in the first instance this review would need to be qualitative, with information sought from front-line staff, other stakeholders, members of CALD communities and the team itself. It would be important to learn whether the practice of those front-line staff working in communities with denser CALD populations is sufficiently culturally informed, or whether Families SA needs to do more to build a culturally competent workforce. The Agency should regularly review the cultural competency of its workforce, identify the areas of greatest need in terms of at-risk children in CALD communities, and deploy resources accordingly. Consideration may be given to collocating MCET staff in offices in these areas.

More specifically, there may be merit in specialist CALD staff working cases together with practitioners in local offices. However, the effectiveness of this approach would need to be evaluated. It would be important to know, particularly from children from CALD backgrounds who are in care, their views on how Families SA and the broader system have responded to their cultural needs. The Commission heard no evidence to indicate that this question was routinely asked of children or, if they were asked, whether it was with the genuine intention to inform and devise a culturally appropriate continuum of care.

CALD CHILDREN IN CARE

Culture is integral to the formation of a child's identity. Supporting a child's cultural heritage and expression, and strengthening cultural identity, should be guiding principles of good practice in the out-of-home care sector.⁴⁹

NO IN-DEPTH GUIDANCE

Families SA's Consents and Decisions Practice Guide for children in home-based care often refers to the need for culturally appropriate decision making, but provides little guidance on how this is to be achieved in practice. It is unclear what expectation is placed on a caseworker with respect to cultural planning and maintenance.⁵⁰

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Similarly, Families SA's Residential Care Service Principles refer to a commitment to:

*working with children and young people within the unique context of their cultural and spiritual background and identity. We respect, value and celebrate cultural, religious and linguistic diversity and respond to individual needs with this in mind ... We welcome the opportunity to work with children and young people from new and emerging communities in South Australia and we do all that we can to support them in maintaining their cultural and religious traditions and practices in our care.*⁵¹

The Residential Care Practice Guides, which support the principles, acknowledge the importance of children in care being culturally strong and the need to respect and nurture a child's cultural identity. No meaningful or in-depth guidance is provided on how this might be achieved in practice.⁵²

The practice guides relevant to case planning and caring for CALD children need to be reviewed to better guide staff and carers about how culturally informed practice is best achieved.

CULTURAL MAINTENANCE PLANS

The Commission heard evidence about a number of children in care who identified with CALD backgrounds, yet did not have any plans in place to maintain their cultural identity. The Commission was told Families SA did not show any interest in their culture. One foster parent explained that fortunately she was able to promote a cultural connection for her foster daughter through an opportune personal circumstance. It appears the foster child 'landed in a perfect place' as a result of good fortune, rather than any purposeful cultural assessment or planning.⁵³

It is the responsibility of Families SA to do more than pay lip-service to the cultural maintenance of CALD children in care. Cultural planning should not be left to languish as an afterthought in a care system that is culturally blind or, worse, culturally destructive.⁵⁴ It should be an integral part of the case management of all children who identify with a CALD background. To do otherwise would jeopardise the child's future belonging and connection to culture and confuse their sense of self.

A preliminary step for practitioners in laying the groundwork for cultural planning would be to gather background information and record it in the Life Domains area of C3MS, as a requirement for all CALD children in care. Such information would form the basis for scoping a culturally matched placement for a CALD child who could no longer be safely cared for at home. Further, this data collection would assist Families SA to understand the representation of CALD children in care.⁵⁵

No support to connect a child with his cultural heritage

Taj's birth mother identified with a diverse culture. His foster parent recognised the importance of Taj's cultural heritage, but found it challenging to support Taj to navigate his traditional cultural background as a child in care in Australia. There was a discord between Taj not wanting to be different to other children—for a nine-year-old child this meant 'being as white as possible'—and the foster parent who saw her role as 'helping ... him to be brave enough to identify [with his culture]'. The foster parent took subtle steps through Taj's schooling and sporting activities to encourage connectedness to his culture. Families SA told the foster parent she had to help Taj understand his cultural background, but did not support or assist her to do so and did not provide Taj with a cultural maintenance plan or program.¹

¹ Oral evidence: Name withheld (W112).

This information would also provide the foundation from which a caseworker could develop an understanding of cultural practices and beliefs, and therefore be in a position to offer the opportunity to a CALD child in care to identify with their culture. Consultation with the child's carers, community members and service providers, would assist this process, and it is necessary for a caseworker to develop a meaningful cultural maintenance plan.

The extent to which CALD children engage with their cultural origins, and how they can best be supported to have a safe and enduring identity shaped by this, as well as the Australian culture, should also be informed by the views of the child, together with a child's long-term cultural wellbeing.

Every child in care who identifies with a CALD background should have a comprehensive cultural maintenance plan. The plan should be reviewed regularly, having regard to the child's age and placement circumstances, and informed as necessary through further consultation.

IMPROVING ENGAGEMENT AND SERVICE DELIVERY

The Commission's Intake review (see Appendix C) of 120 notifications made to the Families SA Call Centre (commonly referred to as the Child Abuse Report Line) resulted in some observations about the challenges faced by refugee children and their families, and the adequacy of services for this group.

The Commission saw that refugee children and families who are coming into contact with the child protection system were traumatised by experiences of war and other violence. It is not clear that Families SA has the confidence to assume system leadership for these complex and confronting issues that are often socially and politically fraught.

Families SA does not appear to seek specialist advice from, or refer children and families to, either intensive or more practical support services.

While mindful of the sample size, and acknowledging there may be examples of good practice or meaningful service delivery not evidenced before the Commission, the themes identified by the Intake review are a stark reminder of the vulnerabilities of CALD children and the complexity of developing and maintaining a robust, yet culturally competent child protection system. While Families SA should take a leading role in developing such a system, other stakeholders and service providers should also demonstrate their commitment to establishing cultural competence.

There are examples of service providers reaching out to CALD communities. In November 2015, the Commission visited FamilyZone at the Ingle Farm Primary School and saw firsthand the benefit of colocated services—a TAFE English class was being taught to new arrivals in Australia, while the participants' children were being cared for in an onsite creche (FamilyZone is also discussed in Chapter 8).

The suburb of Ingle Farm is in the City of Salisbury. The student profile of Ingle Farm Primary School reflects a culturally and linguistically diverse society: 72 per cent of students speak English as a second language (with 50 different home languages spoken), 14 per cent of students are humanitarian arrivals and about 70 cultural groups are represented in the school.⁵⁶ The school provides a new arrivals program: an Intensive English Language Centre for students from non-English speaking backgrounds who are in their first 12 months in Australia.⁵⁷

FamilyZone offers culturally specific regular support groups, such as women's groups and playgroups, that provide information and assistance on relevant issues and an opportunity for social connection. Services have been offered to Afghan, African, Chinese and Indian families.⁵⁸ From January to July 2015, 1259 families attended FamilyZone, 45 per cent of whom identified with a CALD background.⁵⁹

FamilyZone can assist CALD families in many ways, such as⁶⁰:

- providing children with the opportunity for bilingual development;
- alleviating depression experienced by parents, through discussing and sharing problems;
- developing social networks and reducing social isolation, including the forming of relationships with other local families and professional staff; and
- providing an ideal stepping stone to services in the wider community.

For CALD families, particularly those who have significant issues with trust and are reluctant to access new services, the collocation of integrated services is of considerable benefit, especially when positioned near a school that embraces diversity.

Soft entry points such as FamilyZone represent opportunities to engage with vulnerable CALD families, develop trusting relationships with them, support their growth in the Australian community and seamlessly connect them with other support services.⁶¹ When developing services for CALD families, the government should look to examples such as FamilyZone as effective service models, providing opportunities for early intervention with vulnerable families.

RECOMMENDATIONS

The Commission recommends that the South Australian Government:

- 231 **Require that the cultural background of children coming into contact with the child protection system be recorded on C3MS, including in the Life Domains area, for all children in care who have a culturally and linguistically diverse background.**

- 232 **Analyse data collected regarding the cultural background of children coming into contact with the child protection system to determine how to best respond to children at risk in culturally and linguistically diverse communities.**

- 233 **Undertake a qualitative review of the capacity of the Agency's Multicultural Community Engagement Team (MCET).**

- 234 **Evaluate the effectiveness of specialist MCET staff working together with front-line practitioners on child protection cases and assess the value of collocating MCET staff in the Agency's offices.**

- 235 **Assist staff and carers who work with children in care who have a culturally and linguistically diverse background to achieve culturally informed best practice through the development of practice guides.**

- 236 **Ensure that every child in care with a culturally and linguistically diverse background has a comprehensive cultural maintenance plan that is regularly reviewed, having regard to the child's age and placement circumstances.**

- 237 **Identify key performance indicators on the cultural competency of the Agency's workforce, and regularly review the effect of these recommendations on that competency.**

NOTES

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- 14 K Lewig et al., *The working with refugee families project*, p. 26; P Sawrikar, *Culturally appropriate service provision: Interim report 1*, pp. 35–39; J Kaur, *Cultural diversity and child protection: Australian research review on the needs of culturally and linguistically diverse (CALD) and refugee children and families*, JK Diversity Consultants, Queensland, July 2012, pp. 12–13.
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