# Secretariat of National Aboriginal and Islander Child Care

Response to the National Standards for Out of Home Care Consultation Paper

1 April 2010

**More Information:**

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Dear Martin,

**Response to the National Standards for Out of Home Care Consultation Paper**

Thank you for this opportunity to provide feedback on the *National Standards for Out of Home Care Consultation Paper*. The Secretariat of National Aboriginal and Islander Child Care welcomes the current focus on national Out of Home Care standards, having called for these since 1982.[1]

## 1 Background of SNAICC

The Secretariat of National Aboriginal and Islander Child Care (SNAICC) is the national peak body in Australia representing the interests of Aboriginal and Torres Strait Islander children and families.

SNAICC was formally established as a non-government, not-for-profit organization in 1981, elected its first national executive in 1982 and opened in 1983. It was originally conceived as a national representative body for the state-funded Aboriginal and Torres Strait Islander community based child care agencies (AICCAs), and has grown to include in its membership base foster care agencies, link up and family reunification services, family group homes, services for young people at risk, Multi-functional Aboriginal Children's Services (MACS), family support services, long day care child care services, playgroups, pre schools, early childhood education services, community groups and voluntary associations.

SNAICC also has a network and subscriber list of over 1500 community groups: mostly Aboriginal and Torres Strait Islander organisations, but also significant numbers of non-Aboriginal and Torres Strait Islander community-based services, government agencies and individuals with an interest in Aboriginal and Torres Strait Islander families and children.

SNAICC is governed by a national executive of Aboriginal and Torres Strait Islander people drawn from our members and operates from a Melbourne office, with funding provided by the Department of Families, Housing, Community

[1] See also Human Rights and Equal Opportunity Commission, *'Bringing Them Home' the Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families* (1997) 661. For further information on SNAICC's development and historical views on the need for a national child and family welfare approach, see Linda Briskman, *The Black Grapevine* (2003) and Nigel D'Souza, 'Aboriginal Child Welfare: framework for a national policy' (1993) *Family Matters* (35) 40 – 45.

Services and Indigenous Affairs and the Department of Education, Employment and Workplace Relations.

In addition to the secretariat function, the SNAICC Resource Service (SRS) seeks to fill resource gaps identified across the Aboriginal and Torres Strait Islander family and children's services sector and to provide a central information-sharing clearinghouse. The SRS works across the family and children's services sector with Aboriginal and Torres Strait Islander community-based services and those other services working directly with Aboriginal and Torres Strait Islander children. The SRS promotes partnership development in all our products. All SRS activities are externally evaluated.

Further information is available online at www.snaicc.asn.au.

## 2 Introduction

The placement of children in Out of Home Care is widely recognised as the most severe form of child welfare interventions. As of 30 June 2009, there were 10,512 Aboriginal and Torres Strait Islander children in Out of Home Care, representing nine times the rate of non-Indigenous children,[2] with the number significantly increasing over the past decade. Aboriginal and Torres Strait Islander children are not only more likely to be placed in Out of Home Care, but are more likely to enter care at a younger age and to remain in care longer than other children.[3]

In *Achieving Stable and Culturally Strong Out of Home Care for Aboriginal and Torres Strait Islander Children* (2005), SNAICC noted that these devastating numbers have arisen

> … because of the damage that has been done to Aboriginal and Torres Strait Islander individuals, families and communities since colonisation ... the systematic removal of Aboriginal children (the Stolen Generations) from their families, communities, land and heritage is of special relevance. The grief, dislocation and despair experienced by the stolen children and the grief and loss of their families remain unhealed and have had terrible effects on children and families that have passed from one generation to the next.[4]

SNAICC firmly believes that it is in the best interests of all children and families to focus on strengthening preventative support and minimising the need for removal of a child. Where a removal is necessary, comprehensive support for the child and the family must be provided, with the aim of reunification where possible. Implementation of the Aboriginal Child Care Principle (ACPP) is fundamental to maintaining an Aboriginal or Torres Strait Islander child's links to family, community, land and culture. The principle recognises the centrality of

[2] Australian Institute of Health and Welfare, *Child protection Australia 2008-09* (2010) vii.
[3] Alexandra Osborn and Paul Delfabbro, *National comparative study of children and young people with high support needs in Australian out-of-home care* (2006).
[4] Secretariat of National Aboriginal and Islander Child Care, *Achieving Stable and Culturally Strong Out of Home Care for Aboriginal and Torres Strait Islander Children* (2005) 3.

culture to an Aboriginal and Torres Strait Islander child's wellbeing and development.

SNAICC agrees with the areas of wellbeing identified in the consultation paper. In SNAICC's view, the National Standards must ensure that all Aboriginal and Torres Strait Islander children are provided with:

- security;
- community belonging and involvement;
- stability; and
- cultural and spiritual development.

This view is grounded in the six principles SNAICC has developed to support Aboriginal and Torres Strait Islander Children in Out of Home Care.

## 3 Principles to guide the development of National Out of Home Care Standards

SNAICC first published the six principles in *Achieving Stable and Culturally Strong Out of Home Care for Aboriginal and Torres Strait Islander Children* (2005). They were designed to support Aboriginal and Torres Strait Islander child care in a sustainable manner that builds on the strengths of existing carers, communities, programs and services. The six principles are:

3.1 Safety is paramount,
3.2 Case planning for Aboriginal and Torres Strait Islander children should focus on the maintenance of connections to family; community; and the development of cultural and spiritual identity,
3.3 Case planning for Aboriginal and Torres Strait Islander children should take a life course approach and focus on the needs of the child, both now and later as an older child, an adolescent and an adult,
3.4 Participation of children in decision-making,
3.5 Plans for the child's cultural and spiritual development should be developed and the implementation of these plans must be adequately resourced, and
3.6 Adequate caseworker, medical and educational support for all placements.

A comprehensive and detailed list of standards is beyond the scope of this submission. However, the following discussion seeks to provide a broad illustration of and recommendations for the application and monitoring of these principles in relation to Aboriginal and Torres Strait Islander children placed in Out of Home Care.

### 3.1 Safety is paramount

Being free from physical and psychological harm is paramount for Aboriginal and Torres Strait Islander children, as it is for other children. An Aboriginal or Torres Strait Islander child's involvement with their family and community is vital, *but never more important than the child's safety*. Maintaining connections to family and community is not a justification for leaving a child at risk of harm, nor is making a placement that puts them at risk of harm.

While the intent of the Aboriginal Child Placement Principle clearly places the child's safety as paramount, SNAICC is also deeply concerned that this has not been reflected in recent discussions on poor placements. In SNAICC's view, it must also be recognized that successful placements require adequate support for decisionmakers, carers and communities. While SNAICC has been informed that there is a significant pool of potential Aboriginal and Torres Strait Islander carers, many are unable to formalize caring arrangements because there is a lack of support and resources. The level of resources provided must be commensurate with the need; for example, there are many instances where localized knowledge and a strong relationship with communities is needed before a placement can be made; for carers, many of our children have complex needs that may require additional funding, training and specialist support.

SNAICC believes that there needs to be consistent monitoring in each jurisdiction as well as national monitoring and reporting on Aboriginal and Torres Strait Islander children in placements. This would encourage and sustain ongoing vigilance and a national perspective on Aboriginal and Torres Strait Islander children's health and wellbeing. It would also guard against the damaging effects of removal and separation from family, land and culture on Aboriginal and Torres Strait Islander children, as demonstrated in the findings of the *Bringing Them Home report.* These findings are supported by the recent Western Australian Aboriginal Child Health Survey, which indicates that significant associations exist between the social and emotional wellbeing of Aboriginal and Torres Strait Islander children and the policies and practices of forcible removal.[5]

Monitoring and reporting should include examination of adherence to the Aboriginal and Torres Strait Islander Child Placement Principle, as well as the level of contact with family and community. As the consultation paper observes, placement outside family and community with a non-Aboriginal and Torres Strait Islander carer varies considerably by jurisdiction. At 30 June 2009, the system had supported the Out of Home Care placement of 10,461 Aboriginal and Torres Strait Islander children. Non-compliance with the principle ranged from 16% in New South Wales; 23.6% in South Australia; 24.7% in Western Australia; 40.5% in Victoria; 41.8% Queensland; 42% in the Australian Capital Territory;

[5] SR Zubrick, et al, *The Western Australian Aboriginal Child Health Survey: The Social and Emotional Wellbeing of Aboriginal Children and Young People* (2005) Perth: Curtin Institute of Technology and Telethon Institute for Child Health Research, pp.463—543.

52.5% in the Northern Territory; to 72.3% in Tasmania.[6] These levels of non-compliance are compounded by what the New South Wales Community Services Commission identifies as 'the absence of a policy and practice framework in relation to the Aboriginal Child Placement Principle.'[7]

In response, SNAICC advocates that a series of positions be created at national, state and territory levels to ensure consistent monitoring and implementation of standards in the placement and care of Aboriginal and Torres Strait Islander Children across all jurisdictions.

SNAICC is aware that the creation of a National Children's Commissioner is currently being considered under Strategy 1.3 'Develop and implement effective mechanisms for involving children and young people involving children and young people in decisions affecting their lives' of the *National Framework for Protecting Australia's Children 2009 – 2020*. SNAICC strongly supports this proposal, and recommends that this discussion be broadened to include the establishment of a National Commissioner dedicated to Aboriginal and Torres Strait Islander children's issues. The scope and complexity of issues and policies affecting Aboriginal and Torres Strait Islander children and their over representation in the child protection system, requires a dedicated position with an exclusive focus.

The National Aboriginal and Torres Strait Islander Children's Commissioner would need a permanent, independent role similar to the current Aboriginal and Torres Strait Islander Social Justice Commissioner, with the position held in a secure tenure arrangement of five years. The position should have broad powers to inquire into measures implemented for the care, protection and wellbeing of Aboriginal and Torres Strait Islander children, with direct reporting to Parliament.

Additionally, SNAICC recommends the appointment of independent, ongoing Aboriginal and Torres Strait Islander Child Guardians in all jurisdictions. These positions could potentially be modelled on the Queensland child guardian or community visitor roles.

**Recommendations:**

*3.1 Ensure consistent monitoring and reporting on the implementation of standards for Aboriginal and Torres Strait Islander Children in all jurisdictions.*

*3.1.1 Establish a National Aboriginal and Torres Strait Islander Children's Commissioner.*

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[6] Australian Institute of Health and Welfare, *Child protection Australia 2008-09* (2010) 67.
[7] New South Wales Community Services Commission, *A question of safeguards: Inquiry into the care and circumstances of Aboriginal and Torres Strait Islander children and young people in care* (2001), as cited in Nicholas Richardson, Leah Bromfield and Alexandra Osborn, *Cultural considerations in out-of-home care* (Australian Institute of Family Studies, Research Brief 8 of 2007).

*3.1.2 Appoint Aboriginal and Torres Strait Islander Child Guardians in all state and territory jurisdictions.*

## 3.2 Case planning for Aboriginal and Torres Strait Islander children should focus on the maintenance of connections to family; community; and the development of cultural and spiritual identity.

Aboriginal and Torres Strait Islander children's relationship with to land, family and community provides the foundation of their identity, culture and spirituality, and is integral to their wellbeing and development. A central responsibility of anyone caring for an Aboriginal or Torres Strait Islander child should be to nurture this relationship to the greatest extent possible.[8]

Children in Out of Home Care must be given opportunities to have a relationship with their family, including extended family members, and to maintain their place in the interconnected network of people that forms their community. Appropriate implementation of the Aboriginal Child Care Principle is fundamental to maintaining links to family, community and culture.

### *The Aboriginal and Torres Strait Islander Child Placement Principle*

The Aboriginal Child Placement Principle (ACPP) governs the order of priority when placing Aboriginal and Torres Strait Islander children and young people in Out of Home Care. The ACPP was designed by Aboriginal and Islander Child Care Agencies to ensure that Aboriginal and Torres Strait Islander children and young people are maintained within their own biological family, extended family, local community, wider community and their culture.[9] The *National Framework for Protecting Australia's Children 2009 – 2020* also provides support for the ACPP under Outcome 5.3.C ('Strengthen Aboriginal and Torres Strait Islander Child Placement Principle').

The Australian Institute of Health and Welfare (AIHW) describes the order of priority for placement for Aboriginal and Torres Strait Islander children as: with the child's extended family; within the child's Indigenous community; with other Indigenous people. All jurisdictions have adopted the ACPP in legislation or policy.[10] It states: 'In cases where children are not placed in accordance with the

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[8] Secretariat of National Aboriginal and Islander Child Care, *Values Statement for Aboriginal and Torres Strait Islander children* (2007); Secretariat of National Aboriginal and Islander Child Care, *Achieving Stable and Culturally Strong Out of Home Care for Aboriginal and Torres Strait Islander Children* (2005).

[9] See Secretariat of National Aboriginal and Islander Child Care, *Achieving Stable and Culturally Strong Out of Home Care for Aboriginal and Torres Strait Islander Children* (2005) and Jennifer Lock, *The Aboriginal Child Placement Principle* (New South Wales Law Reform Commission, 1997).

[10] Australian Institute of Health and Welfare (AIHW). (2009). *Child Protection Australia 2007-08.* Child Welfare Series no.45 Cat. No. CWS 33. Canberra: AIHW; AIHW. (2008). *Child Protection in Australia 2006-07*. Child Welfare Series no. 43. Cat. No. CWS 31. Canberra: AIHW; AIHW. (2007). *Child Protection in Australia 2005-06.* Child Welfare Series no. 40. Cat. No. CWS 28. Canberra: AIHW; AIHW. (2006). *Child Protection in Australia 2004-05.* AIHW cat. no. CWS 26. Canberra:

Principle, this decision is *usually* made only after extensive consultation with Indigenous individuals or organisations'.[11]

SNAICC endorses the ACPP where an Aboriginal and Torres Strait Islander child is only removed from their family and community environment as a last resort. The placement requires ongoing consultation with the child's community child/welfare organisation (Aboriginal and Islander Child Care Agency). If the placement is with a non-Aboriginal family, it is to be with a family living in close proximity to a child's natural family, and should include ongoing maintenance of the child's culture and identity, through contact with the child's community, as a priority.[12]

Where children from the same family are to be placed in care, all efforts should be made to keep siblings in one placement. This should be a non-negotiable requirement of all Out of Home Care placements, unless safety issues take precedence. Genealogical work needs to be done for children who are not with their family and this needs to be recorded and kept for them.

Non-compliance with the principle impacts upon the cultural care available to Aboriginal and Torres Strait Islander children. In SNAICC's view, long-term placement with non-Indigenous carers is not in the best interests of Aboriginal and Torres Strait Islander children.

The National Standards provide an opportunity for clear, consistent guidance on the Aboriginal and Torres Strait Islander Child Placement Principle and its implementation.

**Recommendations:**

*3.2 Strengthen awareness and compliance with the Aboriginal and Torres Strait Islander Child Placement Principle.*

*3.2.1 Incorporate training and licensing requirements for agencies and professionals (government and non-government) dealing with Aboriginal and Torres Strait Islander children at risk of removal.*

*3.2.2 Child welfare authorities must periodically review Out of Home Care placements and explore opportunities to place Aboriginal and Torres Strait Islander children within their family and kinship networks.*

***Aboriginal and Torres Strait Islander Community Controlled Services for Children and Families***

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AIHW (Child Welfare Series no. 38); AIHW. (2005). *Child Protection in Australia 2003-04*. AIHW cat. no. CWS 24. Canberra: AIHW (Child Welfare Series no. 36).

[11] AIHW (2009) 64. Italics added for emphasis.

[12] Victorian Government Department of Human Services. (2002). Aboriginal Child Placement Principle: Guide for Child Protection and Care Workers. Melbourne: Community Care Division

SNAICC maintains that the National Standards for children in Out of Home Care will be best implemented for Aboriginal and Torres Strait Islander children with a strong network of Aboriginal and Islander Child Care Agencies (AICCAs) to support them. AICCAs or similar Aboriginal community-controlled child and family welfare agencies undertake work for their communities in many areas, including helping children in Out of Home Care to maintain their connection to family and community, and to develop their cultural and spiritual identity.

AICCAs and other Aboriginal and Torres Strait Islander child and family welfare agencies have worked with state and territory authorities in some jurisdictions, such as the Victoria Aboriginal Child Care Agency (VACCA) in Victoria, to develop cultural care planning tools for Aboriginal and Torres Strait Islander children in Out of Home Care, and to support the development of life story books and cultural care plans. They have worked alongside departmental officers to provide advice about children who have been reported as abused or neglected, or found to need Out of Home Care (e.g. the VACCA's Lakidjeka model).

AICCAs and other agencies have the potential to be funded to provide a range of culturally appropriate forms of support to Aboriginal and Torres Strait Islander children in Out of Home Care to undergird the implementation of National Standards.

SNAICC has advocated for many years for the number of these agencies to be expanded and for current agencies to be better supported to meet the needs of their communities, including children in Out of Home Care. There is also an insufficient number of AICCAs or similar Aboriginal services to match demand, for example, no such service currently exists in the Northern Territory.

**Recommendations:**

*Require an Aboriginal and Torres Strait Islander perspective for case planning*

- *3.2.3 Aboriginal and Torres Strait Islander agencies must be contacted and consulted whenever an Aboriginal or Torres Strait Islander child is notified as abused or neglected, or subject to a substantiation or child protection order.*
- *3.2.4 No Aboriginal or Torres Strait Islander child should ever be removed from home and placed in Out of Home Care without close consultation with an Aboriginal or Torres Strait Islander child and family welfare agency such as an AICCA.*

### *Cultural competency and non-Aboriginal and Torres Strait Islander carers and agencies*

Cultural competency is defined as:

> a set of congruent behaviours, attitudes, and policies that come together in a system, agency, or among professionals that enable them to work effectively in cross-cultural settings.[13]

Non-Indigenous service carers and agencies should demonstrate both a commitment to developing cultural competence and to providing culturally appropriate care for children.

Studies have identified the need for caseworkers, carers and residential workers to receive training about the value and means of connecting Aboriginal and Torres Strait Islander children and young people to their culture.[14] The *Bringing Them Home* report also made a series of recommendations aimed at providing training about the history and impact of forcible removals to professionals working with Aboriginal and Torres Strait Islander children separated from their families.[15]

Publications that discuss cultural care for Aboriginal and Torres Strait Islander children in detail include:

- SNAICC's *Foster their Culture Caring for Aboriginal and Torres Strait Islander children in Out of Home Care* (2008);
- the joint resource developed by the Victorian Aboriginal Child Care Agency and Victorian Department of Human Services, *Caring for Aboriginal and Torres Strait Islander Children in Out of Home Care* (2005); and
- the joint publication series from SNAICC and the Australian Institute of Family Studies, *Promising Practices in Out of Home Care for Aboriginal and Torres Strait Islander Carers, Children and Young People* (2007).

These publications provide foster carers with significant information that:

- describes the cultural support needs of Aboriginal and Torres Strait Islander children,
- broadens recognition of the importance of culture and identity to the wellbeing of Aboriginal and Torres Strait Islander children in care,
- supports carers in their role and assists in the establishment of good practice for Aboriginal and Torres Strait Islander foster care arrangements, and
- provides awareness of best practice services and programs that may be able to offer support or referrals.

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[13] See for example Darryl Higgins, Leah Bromfield and Nick Richardson, *Enhancing out-of-home care for Aboriginal and Torres Strait Islander young people* (Australian Institute of Family Studies, 2005) 38; Char Tong and Terry Cross, *Cross Cultural Partnerships for Child Abuse Prevention with Native American Communities* (1991), as quoted in Victorian Aboriginal Child Care Agency (VACCA), *Aboriginal Cultural Competence Framework* (2008) 23.

[14] CREATE Foundation, *Indigenous children and young people in care: Experiences of care and connections with culture* (2005) as cited in Nicholas Richardson, Leah Bromfield and Alexandra Osborn, *Cultural considerations in out-of-home care* (Australian Institute of Family Studies, Research Brief 8 of 2007) 8.

[15] See recommendations 9a, 34 a, b and 35 in HREOC (1997) pp.653, 658.

SNAICC recommends the National Standards be developed with reference to these and other similar publications. SNAICC would be pleased to work in consultation with Aboriginal and Torres Strait Islander child and family welfare consultative forums and other care providers to develop a National Cultural Care Plan to support this aspect of the National Standards.

**Recommendations:**

*Facilitate non-Indigenous carers and agencies' cultural competency*

*3.2.5 Develop and integrate a national resource for cultural care of Aboriginal and Torres Strait Islander children in partnership with Aboriginal and Torres Strait Islander organisations, carers and communities.*

*3.2.6 Develop appropriate cultural awareness training and accreditation programs for non-Indigenous agencies and carers in partnership with Aboriginal and Torres Strait Islander organisations and carers.*

## 3.3 Case planning for Aboriginal and Torres Strait Islander children should take a life course approach

Case planning for Aboriginal and Torres Strait Islander children must recognise that family, community and cultural connections are vital for their social and emotional wellbeing and resilience. If Aboriginal or Torres Strait Islander children are able to see themselves as part of an inter-connected network of people and a journey, which is their birthright, they will have greater capacity to deal with life's difficulties as they arise from childhood through to adulthood. In SNAICC's view ensuring the cultural connection of Aboriginal and Torres Strait Islander children should be a non-negotiable aspect of all case planning for Aboriginal and Torres Strait Islander children.

All children and young people require additional support around periods of transition, whether starting or finishing school, seeking employment; negotiating adolescence or leaving home; it is also clear that children and young people in Out of Home Care are particularly vulnerable. Case plans must reflect this understanding, and promote stability and continuity.

### *Looking After Children (LAC)*

SNAICC is currently undertaking a project in partnership with Barnardos Australia, a licensee holder for the LAC system, to research case management and cultural care planning — specifically the Looking After Children system in respect to Aboriginal and Torres Strait Islander children in Out of Home Care. The project focuses on the Assessment and Actions records section of LAC, which is designed to assess how children are faring while they are in Out of Home Care. The final report for this project has not yet been written or presented to the reference group for the project. However, based on the project's findings thus

far, SNAICC would not support LAC Assessment and Action records being used as a case management tool for Aboriginal and Torres Strait Islander children in Out of Home Care.

There are few national or international studies on the application of LAC to Indigenous children, and more research in this area is needed. The dominant view from our consultations with Aboriginal and Torres Strait Islander agencies is that the Assessment and Action records are not useful at a practical level or culturally appropriate in their current form and some questions are culturally insensitive.

SNAICC acknowledges that the Assessment records could be amended in a more sensitive manner (Anglicare in Victoria has made recommendations in this regard). SNAICC, however, would guard against simply amending and then using LAC as a case management tool for Aboriginal and Torres Strait Islander children. Good case management tools for Aboriginal and Torres Strait Islander children should be developed in close consultation with Aboriginal and Torres Strait Islander child and family welfare agencies. They should then be implemented holistically with resources and ongoing processes that facilitate capacity building and collaboration with Aboriginal and Torres Strait Islander organisations.

**Recommendations:**

*3.3 Ensure case planning for Aboriginal and Torres Strait Islander children takes a life course approach*

*3.3.1 Transition plans for children leaving care should be required by the National Standards.*
*3.3.2. These plans must include support and resources for ongoing support as adults.*

*Develop case management tools for Aboriginal and Torres Strait Islander children in Out of Home Care*

*3.3.3 Case management tools for Aboriginal and Torres Strait Islander children in Out of Home Care should be developed in close consultation with Aboriginal and Torres Strait Islander child and family welfare agencies.*
*3.3.4 These should be implemented holistically with resources and ongoing processes which facilitate capacity building and collaboration with Aboriginal and Torres Strait Islander organisations.*

## 3.4 Participation of children in decision-making

Children who have not had the opportunity to discuss their views about placements or who do not understand why they cannot live at home with their family may attempt to force a change by contributing to the breakdown of

placements. Out of Home Care workers should sit down and listen to children individually both before the placement is made and during the placement.

Children need to be regularly kept up to date about what is happening so they do not feel alone, unwanted and unloved by their families. Studies have shown that children in care also benefit from being active participants in the development of their own care plans.[16] Children need to feel comfortable about all stages of their Out of Home Care journey.

**Recommendation:**

*3.4 Incorporate provisions for the participation and engagement of children in decisions and planning affecting them into the National Standards.*

### 3.5 Plans for the child's cultural and spiritual development should be developed and the implementation of these plans must be adequately resourced.

Case plans for Aboriginal and Torres Strait Islander children in Out of Home Care must include the cultural aspects of what will happen for the child. Children in Out of Home Care must have planned opportunities to learn about and experience their own culture and spirituality. These opportunities should include involvement with their birth family if possible and with their Aboriginal or Torres Strait Islander community. Participation in community and cultural events should be seen as an important part of properly caring for an Aboriginal or Torres Strait Islander child.

It is essential to develop cultural plans that are specific to the child and reflect their particular identity. It is important that Aboriginal children in Out of Home Care don't just know 'Aboriginal' or 'Torres Strait Islander' culture generally. For children to grow up strong in culture, they need to know where they belong: where they fit in the environment, who their mob is, their stories and their songlines, and their specific rights and obligations to their community.

This underlines the vital role of AICCAs in supporting Aboriginal children in Out of Home Care. Local Aboriginal and/or Torres Strait Islander community-controlled organisations are rooted in their families, communities, cultures and country. As such, they play a significant role in supporting families and communities to raise children strong in culture. Large national or state-wide non-Indigenous child and family services cannot provide the appropriate support and cultural education to assist Aboriginal and Torres Strait Islander children to reconnect and stay connected with their culture, their mob and their family in ways that upholds the integrity of the child's particular culture or community. Generalised, almost 'aggregated' hotch-potches of 'Aboriginal' or 'Torres Strait Islander' cultures that cater to service provision across a state or

[16] CREATE, *Response to the National Child Protection Framework Discussion Paper* (2008).

broad sub-regions cannot stay true to the specific cultural needs of a child from a specific Aboriginal or Torres Strait Islander cultural group.

Children should be taken to visit their family and country, and provided with life storybooks about who they are and where they come from. Regional differences in cultural and spiritual beliefs and practices must be recognised and respected. Special efforts to connect children with their particular cultural and family background need to be made for children living in urban and regional areas where people do not live their culture in the same way as in remote communities and where the Aboriginal or Torres Strait Islander community may be comprised of people from a range of cultures and language groups.

Non-Aboriginal and Torres Strait Islander workers and carers may need to seek guidance on Aboriginal and Torres Strait Islander spirituality, as it is often not well-understood. The CRCAH discussion paper on Aboriginal spirituality is a useful educational resource.[17]

**Recommendation:**

*3.5* *Plans for the child's cultural and spiritual development should be adequately developed and* resourced, in accordance with recommendation 3.2.2 above

### 3.6 Adequate caseworker, medical and educational support for all placements

The child and the carer family need adequate caseworker support for the duration of the Out of Home Care placement. All placements, including those with kinship carers, must have an allocated Aboriginal or Torres Strait Islander caseworker to monitor carefully the health, growth, development, educational progress and general wellbeing of the child; to support the placement continually; and to deal with issues as they arise.

Research also notes the carers' calls for improved information and knowledge sharing; opportunities for training; and practical support from caseworkers.[18] Increased support for carers will inevitably improve the quality of placements.

Areas in which collaborative and comprehensive support should be provided for placements include:

- *Multi-disciplinary health checks and comprehensive educational assessments* for all Aboriginal and Torres Strait Islander children soon after they enter Out of Home Care to assist caseworkers to identify what

[17] Vicki Grieves, *Aboriginal Spirituality: Aboriginal Philosophy, The Basis of Aboriginal Social and Emotional Wellbeing* (2009) Discussion Paper No. 9, Cooperative Research Centre for Aboriginal Health, Darwin.

[18] See for example, Patricia Elarde and Clare Tilbury, 'The experiences of Aboriginal and Torres Strait Islander carers in the child protection system' (2007) *Children Australia* 32 (2) 9.

assistance both the child and the carer need. This should be based on a one-stop holistic model in order to minimise unnecessary duplication of services and stress for the child and carer.

- *Specialist medical and counselling support services* should be available as needed. Children coming into care are very often psychologically disturbed or traumatised due to their experiences before entering care. Often these difficulties manifest themselves at a later date, perhaps when the child senses it is safe to 'let go'. For this reason, help must be at hand for the carer when troubles surface.
- *Specialist educational assessments* should also be provided for Aboriginal and Torres Strait Islander children entering care, and strategies developed to address educational needs.
- *Caseworker involvement* in assisting the carer to develop cultural and spiritual development plans for the child and facilitating the child's involvement with their birth family, extended family and community.
- *A national database for information sharing* that would allow services to access, share and collect information across jurisdictions. The database would support awareness of best practices, access to a comprehensive listing of services; ensure vital information on children in care was available irrespective of their location; and importantly, collaboration between services.
- *Disaggregated data* on outcomes for Aboriginal and Torres Strait Islander and non-Aboriginal and Torres Strait Islander children in care against those for both Aboriginal and Torres Strait Islander and non- Aboriginal and Torres Strait Islander children not in care.

**Recommendations:**

*3.6 Provide collaborative and comprehensive support*

*3.6.1 Undertake multi-disciplinary health checks and comprehensive educational assessments for all Aboriginal and Torres Strait Islander children soon after they enter Out of Home Care.*

*3.6.2 Provide specialist medical and counselling support services as required.*

*3.6.3 Provide specialist educational assessments for Aboriginal and Torres Strait Islander children entering care, and strategies to address educational needs.*

*3.6.4 Facilitate caseworkers to assist carers to develop cultural and spiritual development plans for Aboriginal and Torres Strait Islander children in care.*

*Streamline information and establish a national database for information sharing*

*3.6.5 Develop a national database to assist services to access, share and collect information across jurisdictions.*

*3.6.6 Provide disaggregated data on outcomes for Aboriginal and Torres Strait Islander Children in care.*

## 4 Other comments

### Implementation of the National Standards

### 4.1 Support and resource the application of the National Standards to all providers of care

4.1.1 It is SNAICC's position that the National Standards should apply regardless of whether the provider is Aboriginal and Torres Strait Islander community-controlled or non-Indigenous.

4.1.2 The capacity for all providers of care to meet these standards must be supported by a thorough financial analysis of current needs and projected cost increases; funding adjustments to reflect upgrade needs and increased costs; and training and resource support to ensure that care providers are equipped to meet these changes.

4.1.3 SNAICC receives feedback from its members that the current demands on services are not supported by resources and funding, a concern repeated in studies.[19] Without adequate recruitment, training, funding and resource support, introduction of National Standards will have an unwanted effect of creating a divide between levels of care and support for children. The important role of caregivers must be appreciated and supported; the standards must not discourage new or existing carers, particularly given the shortage of carers and the increasing number of children in the child protection system.

### 4.2 Promote a clear role for preventative family support and support during care, with the goal of reunification of the child and family.

4.2.1 There is a considerable amount of literature available detailing the need for a shift towards prevention.[20] This discussion should be incorporated into the National Standards.

### 4.3 Consultation Paper: '2.2 Learning from history'

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[19] Nicholas Richardson, Leah Bromfield and Alexandra Osborn, *Cultural considerations in out-of-home care* (Australian Institute of Family Studies, Research Brief 8 of 2007)7.

[20] See for example, Secretariat of National Aboriginal and Islander Child Care, *SNAICC Service Development, Cultural Respect and Service Access Policy* (2008); Allen Consulting Group, *Inverting the pyramid* (2009); Wood, *Report of the Special Commission into Child Protection Services in NSW* (2008).

4.3.1 Presumably the standards will incorporate the background information provided in this consultation paper. This section should include information on the past government policies of forcible removal of Aboriginal and Torres Strait Islander children, the effects of which continue to be felt by Aboriginal and Torres Strait Islander peoples. It is important to recognise that this complex history continues to place further strain on the Out of Home Care system.[21]

4.3.2 SNAICC submits the following information for inclusion in the second paragraph:

'Past government policies of removal of Aboriginal and Torres Strait Islander children continue to have effect today.'

### 4.4 Incorporate the *Convention on the Rights of the Child*

4.4.1 SNAICC welcomes the inclusion of references to Australia's obligations under the *Convention of the Rights of the Child* (CRC) in the consultation paper, and recommends that this should be incorporated throughout the National Standards.

4.4.2 For example, *'4.3.1 The views of children and young people'* should include a reference to the CRC.

4.4.3 SNAICC submits the following information for inclusion in the first paragraph:

'Consistent with article 9 of the *Convention on the Rights of the Child*, children must have an opportunity to participate in any process that may result in their removal from their parents.'

4.4.4 Another example of where the CRC and the *General Comment No. 11 on Indigenous children and their rights under the Convention* (2009) should be referenced in the National Standards is the recognition of the importance of culture, Aboriginal and Torres Strait Islander community involvement and culturally appropriate services for Aboriginal and Torres Strait Islander children.

4.4.5 SNAICC submits the following information for inclusion in the standards: 'Consistent with the *Convention on the Rights of the Child* and the *General Comment No. 11 on Indigenous children and their rights under the Convention*, Aboriginal and Torres Strait Islander children's cultural rights should always be considered. This includes consultation with their communities and the adoption of culturally sensitive programmes.'

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[21] Darryl Higgins, Leah Bromfield and Nick Richardson, *Enhancing out-of-home care for Aboriginal and Torres Strait Islander young people* (Australian Institute of Family Studies, 2005) 2.

## 5 Consolidated Recommendations

*3.1 Ensure consistent monitoring and reporting on the implementation of standards for Aboriginal and Torres Strait Islander Children in all jurisdictions.*

*3.1.1 Establish a National Aboriginal and Torres Strait Islander Children's Commissioner.*
*3.1.2 Appoint Aboriginal and Torres Strait Islander Child Guardians in all state and territory jurisdictions.*

*3.2 Strengthen awareness and compliance with the Aboriginal and Torres Strait Islander Child Placement Principle.*

*3.2.1 Incorporate training and licensing requirements for agencies and professionals (government and non-government) dealing with Aboriginal and Torres Strait Islander children at risk of removal.*
*3.2.2 Child welfare authorities must periodically review Out of Home Care placements and explore opportunities to place Aboriginal and Torres Strait Islander children within their family and kinship networks.*

*Require an Aboriginal and Torres Strait Islander perspective for case planning*

*3.2.3 Aboriginal and Torres Strait Islander agencies must be contacted and consulted whenever an Aboriginal or Torres Strait Islander child is notified as abused or neglected, or subject to a substantiation or child protection order.*
*3.2.4 No Aboriginal or Torres Strait Islander child should ever be removed from home and placed in Out of Home Care without close consultation with an Aboriginal or Torres Strait Islander child and family welfare agency such as an AICCA.*

*Facilitate non-Indigenous carers and agencies' cultural competency*

*3.2.5 Develop and integrate a national resource for cultural care of Aboriginal and Torres Strait Islander children in partnership with Aboriginal and Torres Strait Islander organisations, carers and communities.*
*3.2.6 Develop appropriate cultural awareness training and accreditation programs for non-Indigenous agencies and carers in partnership with Aboriginal and Torres Strait Islander organisations and carers.*

*3.3 Ensure case planning for Aboriginal and Torres Strait Islander children takes a life course approach*

*3.3.1 Transition plans for children leaving care should be required by the National Standards.*
*3.3.2. These plans must include support and resources for ongoing support as adults.*

*Develop case management tools for Aboriginal and Torres Strait Islander children in Out of Home Care*

*3.3.3 Case management tools for Aboriginal and Torres Strait Islander children in Out of Home Care should be developed in close consultation with Aboriginal and Torres Strait Islander child and family welfare agencies.*

*3.3.4 These should be implemented holistically with resources and ongoing processes which facilitate capacity building and collaboration with Aboriginal and Torres Strait Islander organisations.*

*3.4 Incorporate provisions for the participation and engagement of children in decisions and planning affecting them into the National Standards.*

*3.5 Plans for the child's cultural and spiritual development should be adequately developed and* resourced, in accordance with recommendation 3.2.2 above

*3.6 Provide collaborative and comprehensive support*

*3.6.1 Undertake multi-disciplinary health checks and comprehensive educational assessments for all Aboriginal and Torres Strait Islander children soon after they enter Out of Home Care.*

*3.6.2 Provide specialist medical and counselling support services as required.*

*3.6.3 Provide specialist educational assessments for Aboriginal and Torres Strait Islander children entering care, and strategies to address educational needs.*

*3.6.4 Facilitate caseworkers to assist carers to develop cultural and spiritual development plans for Aboriginal and Torres Strait Islander children in care.*

*Streamline information and establish a national database for information sharing*

*3.6.5 Develop a national database to assist services to access, share and collect information across jurisdictions.*

*3.6.6 Provide disaggregated data on outcomes for Aboriginal and Torres Strait Islander Children in care.*

## 6 Conclusion

We look forward to the opportunity for further input on the development of standards for national Out of Home Care.

Please feel free to contact me if you have any questions or comments.

Yours sincerely,

Frank Hytten
SNAICC CEO