

EVIDENCING COMPLIANCE WITH THE 5 ELEMENTS OF THE ABORIGINAL AND TORRES STRAIT ISLANDER CHILD PLACEMENT PRINCIPLE

Developed by the Office of the Child and Family Official Solicitor

1

PREVENTION

Protecting children's rights to grow up in family, community and culture by supporting families to care safely for their children.

WHAT DOES THIS MEAN FOR PRACTICE?

- Ensure early identification of a child as Aboriginal or Torres Strait Islander so the relevant legislation, policy and practice guidance can be applied.
- Consider the generational impact and trauma experienced by Aboriginal and Torres Strait Islander peoples as a result of past policies, practices, programs and laws.
- Consider the long-term effect of decisions on the child's identity and connections with their family, community and culture.
- Ensure families have access to a full range of culturally appropriate early childhood, education, health and other support services.
- Be proactive in linking families to the right services as challenges arise, including referrals to Aboriginal and Torres Strait Islander Family Wellbeing Services or Family Participation Programs.
- Work with families and their networks to build safety and seek solutions that keep children out of the tertiary child protection system, where possible.

EVIDENCING COMPLIANCE IN CHILD PROTECTION PROCEEDINGS

- Demonstrate early identification of the child/family as Aboriginal or Torres Strait Islander. Ideally this would occur at the intake stage or during the investigation and assessment stage. This may also be relevant in terms of how quickly CSOs have engaged an Independent Entity ('independent person') in the processes.
- Gather all relevant information about the child's family, community, language group, Country and people of significance to the child and his or her family and complete a genogram.
- Provide details in the Form 25 Affidavit, including 'active efforts'¹ to obtain this information. Aboriginal and Torres Strait Islander Practice Leaders and Cultural Practice Advisors can help CSOs obtain relevant information, by identifying local community organisations and Elders who may be able to assist.

1. 'Active efforts' means affirmative, active, thorough and timely efforts to maintain or reunite an Aboriginal and/or Torres Strait Islander child with his or her family

1

PREVENTION

Protecting children's rights to grow up in family, community and culture by supporting families to care safely for their children.

WHAT DOES THIS MEAN FOR PRACTICE?

- Where children are subject to departmental intervention, provide culturally appropriate services to care for, or return, children to their families, community, culture and country.

EVIDENCING COMPLIANCE IN CHILD PROTECTION PROCEEDINGS

- When outlining the child protection history, highlight any alternative pathway options that have been considered at either the intake or investigation and assessment stages to divert the family from the child protection system. For example:
 - › Has a differential response been used when child protection concerns have been raised?
 - › Has there been any referral to secondary child protection system, such as a Child and Family and Child Connect, an intensive family support service, Family Wellbeing Service or Family Participation Program? If so, provide evidence of referrals (conversations with families, emails, phone calls) to the service. If a Family Led Decision Making process has been previously used in the investigation and assessment stage, and the family, extended family and their network has tried to build a safety and support plan to keep the child from entering the tertiary system, you should evidence the details of this process and outcomes.
- When families are engaged with Child Safety, provide evidence of referrals (conversations, emails and phone calls) to education, health and other support services and 'active efforts' made to ensure that families are engaged with the services. Active efforts might include taking positive action to help the family connect to support services and identifying and offering alternate options for support if the family did not engage. [Note CSOs will need to develop relationships and referral pathways with local, culturally safe community services. Aboriginal and Torres Strait Islander Practice Leaders and Cultural Practice Advisors can assist CSOs to identify and connect with services.]

2

PARTNERSHIP

Ensuring the participation of community representatives in service design, delivery and individual case decisions. Participation must extend beyond consultation to genuinely include Aboriginal and Torres Strait Islander community representatives in the decisions that are made about children at all stages of child and family welfare decision making.

WHAT DOES THIS MEAN FOR PRACTICE?

- Commit to genuine partnerships between Aboriginal and Torres Strait Islander children and families, as well as the community controlled sector.
- Form genuine partnerships with Aboriginal and Torres Strait Islander community representatives and facilitate their participation in decision-making across the child protection continuum. Consultation is insufficient.
- Involve families in all decision making by engaging with them directly in a culturally appropriate way with the assistance from the Independent Entity ('independent person').
- Invite families to stakeholder meetings that meet their location and family needs.

EVIDENCING COMPLIANCE IN CHILD PROTECTION PROCEEDINGS

- Provide evidence (conversations, phone calls, emails and case notes) of referrals to Family Participation Services and Family Wellbeing Service, and 'active efforts' to ensure families are participating throughout the child protection continuum and at each significant decision including placement (follow up visits, meetings, phone calls, emails etc)
- Provide details of all Family Led Decision Making processes, including date, place, convenor, who was involved, purpose of meeting and the outcomes achieved.
- Provide details of conversations with the child and family about an independent person, and any information provided to the child, family and independent person about their role (such as fact sheets, brochures). In situations where families have decided not to have an independent person involved, details of these conversations should also be included.
- Detail the involvement of the independent person/s for each significant decision all along the child protection continuum.

3

PLACEMENT

Placing children in out-of-home care in accordance with the Aboriginal and Torres Strait Islander Child Placement Principle placement hierarchy as set out in s.83 of the *Child Protection Act 1999* (the Act).

WHAT DOES THIS MEAN FOR PRACTICE?

- Consider and follow the placement hierarchy in s83 of the Act when arranging placements for children as follows: Aboriginal and Torres Strait Islander child or young person must be placed with a member of the child's family group, if practicable.
- If this is not practicable, the child must be placed with Aboriginal and Torres Strait Islander members of the child's community or language group or, if not practicable, with Aboriginal and Torres Strait Islander people (foster carers).
- If the above options are not available, as a last resort the child may be placed with a non-Indigenous carer who lives near the child's family, community or language group and has demonstrated capacity for ensuring the child's continuity of connection to kin, country and culture.
- Make arrangements in partnership with children and families for an independent person to support the child and their family's participation in decisions about where and with whom the child will live.
- Make active efforts to identify kin for family arrangements or formal placements and document why they are or aren't a placement option.
- Complete a cultural support plan which outlines how Child Safety, family and carers will support children to maintain their connection to family, community and culture.
- Review placement options if cultural support plans are not being implemented.
- Where the child has not been placed with Aboriginal and Torres Strait Islander family or carers, regularly review appropriate placement options until permanency is achieved.

EVIDENCING COMPLIANCE IN CHILD PROTECTION PROCEEDINGS

- Detail the 'active efforts' made to identify kin and recruit carers from the family system, for example, contact (conversations, phone calls, emails, meetings) with family members, Elders, people of significance and members of the child's community. Note that a one-off consultation with a family in the early stages of a matter is insufficient. 'Active efforts' requires ongoing and repeated efforts to work with family, and others (from the Family Participation Program) to identify carers from within the family system. CSOs should be encouraged to seek assistance and support from the Cultural Practice Advisors or Aboriginal and Torres Strait Islander Practice Leaders.
- Where appropriate, reference and exhibit emails from the Placement Support Unit about the attempts made to explore placement options in accordance with the placement hierarchy.
- Reference the cultural support plan exhibited to the Affidavit.
- Ensure the case plan review addresses compliance/non-compliance with the cultural support plan.

4

PARTICIPATION

Ensuring the participation of children, parents and family members in decisions regarding the safety, belonging and wellbeing of their children, by acknowledging that Aboriginal and Torres Strait Islander families have the best knowledge about the strengths and risks that exist in their own families and communities.

WHAT DOES THIS MEAN FOR PRACTICE?

- Child Safety staff need to make efforts to increase their own individual cultural capability, for example, by undertaking training, seeking advice from Cultural Practice Advisors and Aboriginal and Torres Strait Islander Practice Leaders on case matters.
- Acknowledge that Aboriginal and Torres Strait Islander families and young people are best placed to provide advice with respect to their culture, strengths and risks that exist in their own families and communities.
- Enable children (when age appropriate) and families to participate in case planning and decision making processes. For example, utilise Aboriginal and Torres Strait Islander Family Led Decision Making processes (such as the Family Participation Program), and assist the child and family to identify and nominate an independent person.
- Refer families to appropriate legal services if available or arrange for appropriate advocacy to support the participation of children in decision making.

EVIDENCING COMPLIANCE IN CHILD PROTECTION PROCEEDINGS

- Provide details of conversations with the child and family about the independent person, and any information provided to the child, family and independent person (such as factsheets, brochures).
- Detail the involvement of the independent person for each significant decision at all stages of the child protection continuum.
- Provide details of Family Led Decision Making processes including date, place, convenor, who was involved, purpose of meeting and outcomes achieved.
- If a Family Led Decision Making process has not occurred, explain the reasons (for example, the convenor was not available, short timeframes) and explain how the family participated in the decision-making process (Family Group Meeting, other meetings and conversations).
- Provide evidence (by way of conversations, phone calls, emails) of referrals to Family Participation Service and Family Wellbeing Service and active efforts to ensure families are participating throughout the child protection continuum (follow up visits, meetings, phone calls, emails etc).



CONNECTION

Maintaining and supporting connections to family, community, culture and country for children in out-of-home care.

WHAT DOES THIS MEAN FOR PRACTICE?

- Develop meaningful cultural support plans for every Aboriginal and Torres Strait Islander child and review on a regular basis.
- Ensure carers understand that they have a vital role in maintaining cultural connections for children and clearly outline their responsibilities.
- Regularly review and ensure that child and young people in care have contact with their family. This may include their parents, siblings, grandparents and extended family members.
- Regularly review and support options for reunification and reconnection.
- Place children with kin, community and on country wherever possible and keep trying until this is achieved.

EVIDENCING COMPLIANCE IN CHILD PROTECTION PROCEEDINGS

- Affidavit material should include discussion of how the child's identity and connections with family and community will be maintained in the long term (particularly in relation to recommended intervention, placement and contact) and should reference the cultural support plan and case plan exhibited to the affidavit.
- Detail the CSO's conversations with the proposed carer about their roles and responsibilities, including their role in maintaining cultural connections for the child.
- Where appropriate, exhibit a signed acknowledgement by the proposed guardian that they understand their responsibilities in maintaining cultural connection for a child.
- Reference the case plan and outline how the goal of reunification will be achieved.
- Detail the active efforts made to identify kin, for example, contact with family members, Elders, people of significance and members of the child's community.
- Where appropriate, reference and exhibit emails from the Placement Support Unit about the attempts made to explore placement options in accordance with the placement hierarchy.

USEFUL RESOURCES

- CSPM Practice Kit: Safe Care and Connection
- CSPM Practice Guide: Family Participation Program – Referrals for Aboriginal and Torres Strait Islander family-led decision making
- Policy 641-2: Decisions about Aboriginal and Torres Strait Islander Children
- [Understanding and Applying the Aboriginal and Torres Strait Islander Child Placement Principle: A resource for legislation, policy and program development \(SNAICC\)](#)
- [The Aboriginal and Torres Strait Islander Child Placement Principle: A guide to support implementation \(SNAICC\)](#)