

Right to Information Decision – Public Disclosure Log

Right to Information No.: RTI201516-055

Information Requested

- 1 The number of Tasmanian Aboriginal child protection workers that are employed in Child Protection Services.
- 2 The number of Tasmanian Aboriginal children currently under care and protection orders with Child Protection Services.
- 3 The number of Tasmanian Aboriginal children that were notified to Child Protection Services in the 2014-15 year.
- 4 The current work being done with the Tasmanian Aboriginal Community about the need for kinship care arrangements.
- 5 The MOU or any other arrangement in place between the current Tasmanian Government and the Tasmanian Aboriginal Community in relation to making sure all children are safe and free from harm or violence.

Information disclosed

- 1 **The number of Tasmanian Aboriginal child protection workers that are employed in Child Protection Services.**

This data is not captured by the Department of Health and Human Services.

- 2 **The number of Tasmanian Aboriginal children currently under care and protection orders with Child Protection Services.**

As at 12 October 2015, there were 276.

- 3 **The number of Tasmanian Aboriginal children that were notified to Child Protection Services in the 2014-15 year.**

Due to the high number of children with an unknown Indigenous status at notification during 2014-15, it is not possible to provide the number of aboriginal children notified during that reference period.

- 4 **The current work being done with the Tasmanian Aboriginal Community about the need for kinship care arrangements.**

Child Protection Services apply the Aboriginal Child Placement Principle (attached) in conjunction with the Kinship Care Procedure to work with Aboriginal organisations on a case by case basis to provide culturally appropriate and effective responses to Aboriginal children and young people who need to be placed in out of home care. This is done at the time of placement by Out of Home Care teams, and via collaborative case management forums such as Family Group Conferences.

- 5 **The MOU or any other arrangement in place between the current Tasmanian Government and the Tasmanian Aboriginal Community in relation to making sure all children are safe and free from harm or violence.**

The Department has the following funding arrangements in place to ensure children are safer and free from harm or violence:

- **Public Health Services** has one off funding for a two-year “Indigenous Teenage Sexual and

Reproductive and Young Parent Support Project” program valued at \$160 000.

- **Community Support Program** funds a “Family Support – Care” program valued at \$224 730 annually over a three year term.
- **Children and Youth Services** provide funding to support vulnerable young Aboriginal people with annual funding valued at \$168 815. Discussions are underway currently to identify opportunities to optimally target that funding going forward.

Care and Protection Services Policy and Practice Guidelines

Title:	Aboriginal Child Placement Principle	
Description:	<i>This document has been updated to assist staff to provide a culturally appropriate and effective response to Aboriginal children and young people who need to be placed in out of home care. This document is to be used in conjunction with the Formal Kinship Care Program policy.</i>	
Audience:	OPEN	
Approved By:	Child and Family Services State Manager Child and Family Services Statewide Management Group	
Custodian:	Statewide Information Management Committee	
Version:	<i>Approved by CP Management Group (replaces section in FS Operational Manual)</i>	
Effective Date:	16 February 2006	Review Date: 16 February 2009

1. Background and Purpose

The Aboriginal Child Placement Principle has been agreed as a culturally appropriate service response to Aboriginal Children in all jurisdictions as identified in the 'Stolen Children' National Inquiry *Bringing them home*, which was tabled in Federal Parliament on 26 May 1997. The purpose of this document is to alert child protection staff to the importance of the Aboriginal Child Placement Principle when making a decision to place a child in Out of Home Care in Tasmania. The Aboriginal Child Placement Principle outlines the hierarchy of preference when there is a need to place a child outside of his/her family. This order of priority should then be with:

- (1) A member of the child's extended family or relatives;
- (2) If this is not feasible or possible after consultation with an Aboriginal child/welfare organisation, the child may be placed with:
 - a. An Aboriginal family from the local community and within close geographical proximity to the child's natural family;
 - b. As a last resort, the child may be placed, with a non-Aboriginal family living in close proximity to the child's natural family;
 - c. Any non-Aboriginal placement must ensure the maintenance of the child's culture and identity through contact with the child's community.

The Aboriginal Child Placement Principle includes the following main features:

- Hierarchy of preference when placing Aboriginal children where the Child Protection Worker must first look at placing an Aboriginal child/young person with his or her extended family (see figure 1);
- Geographical considerations;
- Working in a collaborative manner with recognised Aboriginal organisations ;
- Ensuring that the cultural needs of an Aboriginal child/young person are met;
- The best interests of the Aboriginal child or young person is paramount; and
- Aboriginal and Torres Strait Islander participation in decision-making.

The Aboriginal Child Placement Principle has been developed to enhance and preserve Aboriginal children's sense of identity, by ensuring that Aboriginal children and young people are maintained within their own biological family, extended family, local Aboriginal community, wider Aboriginal community and their Aboriginal culture. The objectives of the Principle are to ensure that, recognition is given to an Aboriginal child's right to be raised in their own culture and, to the importance and value of family, extended family, kinship networks, culture and community in raising Aboriginal children.

It is widely recognised that there is an over-representation of Aboriginal and Torres Strait Islander children and young people and their families involved as clients with child protection. In 2003/04, the number of substantiations for Aboriginal and Torres Strait Islander children was higher in all States and Territories except NSW for which data could not be provided, and Tasmania¹. The reasons behind the overrepresentation are complex but may include intergenerational effects of previous separations from family and culture and poor economic status (HREOC, 1997). As at 30th June 2004, there were 5,059 Aboriginal and Torres Strait Islander children in Out of Home Care in Australia. This is approximately 7 times the rate for other children. In Tasmania, there were 55 Aboriginal and Torres Strait Islander children and 432 other children placed in Out of Home Care²

Under Section 3 of the *Children, Young Persons and Their Families Act, 1997* (CYPF Act) an **'Aboriginal child'** or **'Aboriginal youth'** means a child who is an Aboriginal person within the

¹ *Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples*, Authored by AIHW & ABS, published 26th August 2005

meaning of the *Aboriginal Lands Amendment Act 2005*; an Aboriginal person must satisfy all of the following requirements (the onus of proving that a person satisfies the requirements lies on the person asserting Aboriginality);

- a) Aboriginal ancestry;
- b) Self-identification as an Aboriginal person; and
- c) Communal recognition by members of the Aboriginal community.

Aboriginal Kinship Extended Family and Child Rearing Practices

While the European presence has had a real and often destructive impact on Aboriginal child rearing practices, it has not changed the essential values and beliefs of Aboriginal people as they have adapted to their new and ever-changing circumstances. Traditionally, an Aboriginal child was not isolated from the rest of the community. Children can be seen as belonging to the whole of the community, therefore many adults and children may be involved in their lives and upbringing – ‘*growing up*’. Aboriginal children were traditionally the responsibility of the entire extended family and community. Aboriginal organisations also play a role in the social and kinship fabric of the communities they are in. They often have a role in the ‘*growing up*’ of children whose parents and families are, for whatever reason, unable to care for themselves³.

United Nations Convention on the Rights of the Child⁴

The Convention on the Rights of the Child adopted by the United Nations in 1989 and ratified by Australia, sets out the undertakings of the international community in recognising children as independent persons with their own integrity and human rights. The Convention refers to the best interests of the child being the primary consideration when government intervenes in family life, and to the responsibility of government to respect this and provide support to parents, extended family or where applicable, the community in fulfilling their duties and exercising their rights.

The Convention states that children have a right to an identity; young people who are capable should be able to speak for themselves in matter that affect them; indigenous children shall not be denied the right, in community with other members of the group, to enjoy their own culture; and that attention shall be paid to the cultural background of children in out of home care.

² *As above*

³ Adapted from the *Aboriginal Child Placement Principle Guide*, DHHS Victoria 2002.

⁴ See Appendix 1

Principles relating to dealing with Aboriginal children (Section 9: CYPF Act)

In 1984, the Tasmanian Government adopted the Aboriginal Child Placement Principle. Under this, an indigenous family must be the preferred placement for an indigenous child in need of alternative care. This principle has now been embedded into the CYPF Act through section 9.

(1) A decision or order as to where or with whom an Aboriginal child will reside may not be made under this Act except where a recognised Aboriginal organisation has first been consulted.

(2) In making any decision or order under this Act in relation to an Aboriginal child, a person or the Court must,

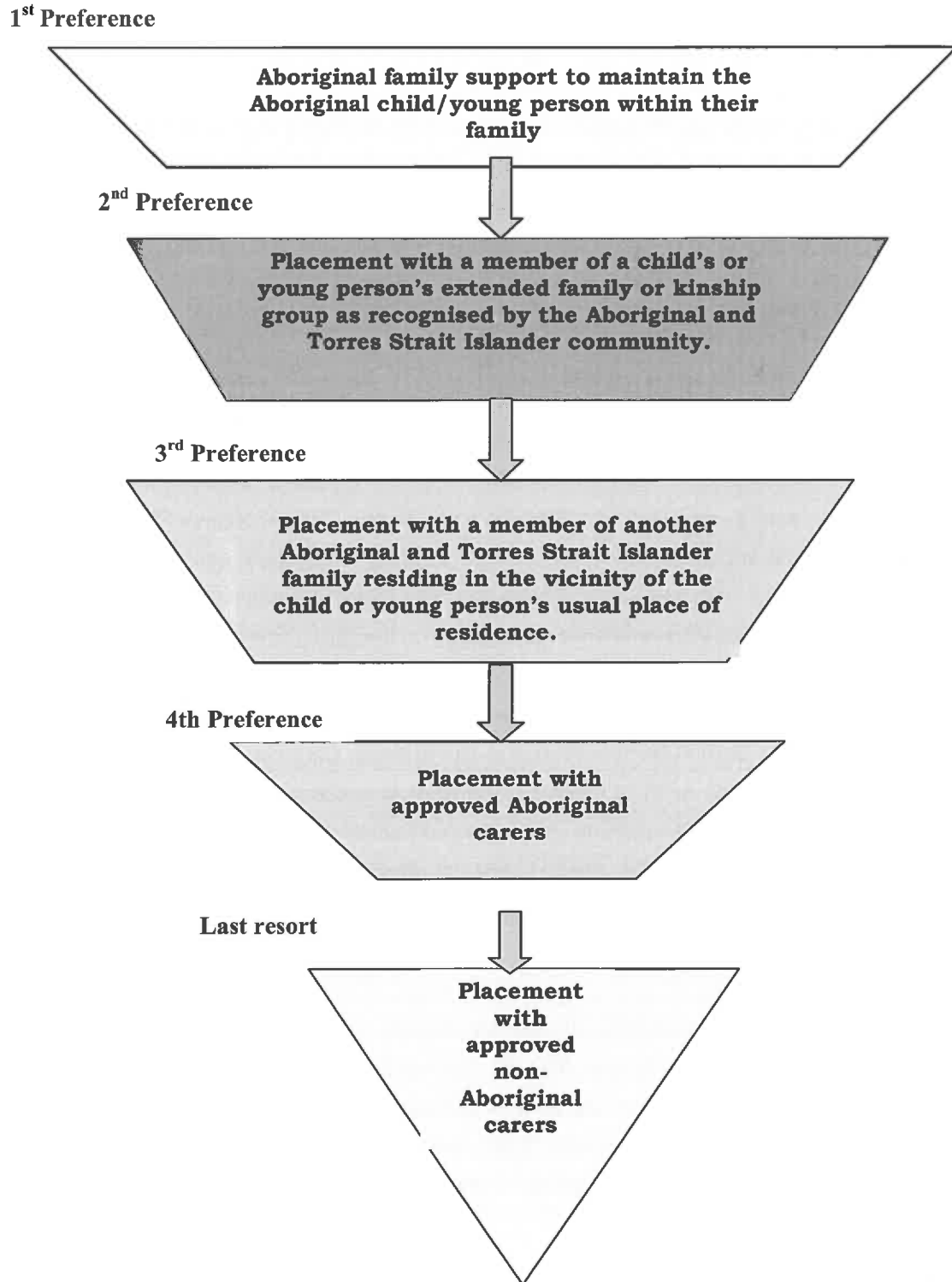
(a) Have regard to any submissions made by or on behalf of a recognised Aboriginal organisation consulted in relation to the child; and

(b) If a recognised Aboriginal organisation has not made any submissions, have regard to Aboriginal traditions and cultural values (including kinship rules) as generally held by the Aboriginal community; and

(c) Have regard to the general principle that an Aboriginal child should remain within the Aboriginal community.

2. Policy principles

Figure 1: Hierarchy of Preference for the Aboriginal Child Placement Principle



Entering care can be a very traumatic experience in a child or young person's life, notwithstanding that the action of removing him or her from his or her family is based on the presence of unacceptable safety and care risks. Placement principles and Standards of Care⁵ have been devised in recognition of the need to minimise trauma and disruption to a child or young person and in recognition of the benefits to a child or young person's wellbeing where he or she can remain significantly connected to his or her usual environment and community.

2.1 The process starts with recognition of removal of an Aboriginal child or young person from his or her family as the option of **last resort** when safety or care risks are present within the family and cannot otherwise be adequately resolved. The preferred out of home care placement is one that can guarantee a child or young person's safety and care and one that also retains the child in an environment of some familiarity where he or she primarily experiences identity and belonging. The **best interests** of the Aboriginal child or young person is paramount in any decision-making.

2.2 The Principle also defines the process of ensuring that Aboriginal community representatives are consulted and involved in the decision-making regarding the care arrangements for Aboriginal children and young people. Specific attention is paid to Aboriginal children and young people, who are separated or removed from their biological family. The Aboriginal Placement Principle also supports the importance of increased and ongoing involvement and control by Aboriginal people in Aboriginal child and family welfare and child protection matters. Please refer to the list of Government and Non-Government organisations on the [Child Protection Resource Net](#).

2.3 Where an Aboriginal child or young person is placed in the care of a non-Aboriginal carer it is imperative that the Child Protection Worker in Out of Home Care consults with the child or young person's primary worker at Child Protective Services to ascertain the specific care needs of the child or young person with regard to preserving and enhancing his or her experience of identity and belonging. In this situation, the fundamental objective (subject to the best interests of the child) is to be the reunion of the child or young person with his or her family or Aboriginal or Torres Strait Islander community.

2.4 Child Protection Workers must ensure that maximum communication and discussion occurs with families, extended family and relevant community representatives at all stages of Child Protection involvement. A referral to a **Family Group Conference** is an option to encourage the participation of Aboriginal and Torres Strait Islander families, kinship groups, representative organisations and communities in decision-making. The views of the child/young person must be

⁵ Refer to Appendix 2

taken into account and their participation, in so far as it would not be detrimental to the safety and wellbeing, should be encouraged. The FGC Program is seeking to recruit Aboriginal facilitators to convene these conferences.

2.5 Child Protection Workers must ensure that where a child has been placed away from his/her parents and is placed in Out of Home Care, that appropriate Looking after Children (LAC) documentation are completed. The *Essential Information Record: Part 1* includes information regarding Aboriginal children.

Appendix 1: Rights of Children

Children placed in any out of home care setting by the statutory care and protection service have rights that include, but are not limited, to the following which mirrors the UN Convention:

- the right to live in a physically and emotionally safe and nurturing environment
- the right to be free from any form of physical or emotional abuse
- the right to be free from corporal and unusual punishment and any punishment of a punitive nature including coercion, threat and mental abuse in relation to their family circumstances, behaviour and daily living functions of eating, sleeping and toileting
- the right to be free from the administration of alcohol, chemical substance or medication not authorised by their medical practitioner or otherwise agreed in consultation with their primary worker
- the right to be treated with dignity in their personal relationships with other persons in the home
- the right to have their biological identity respected and to be supported in any contact with their families as prescribed in their Care Plans
- the right to have visitors and to visit friends and significant persons in their lives, unless this be prohibited by Court Orders or otherwise disallowed by Child and Family Services
- the right to preserve, enhance and celebrate their cultural, ethnic and religious identities
- the right to be free to express an opinion on all matters including decision making about their welfare
- the right to confidentiality and privacy in regard to letters and written communications, telephone conversations, and meetings with their primary worker, family and friends
- the right to access educational, recreational, social, religious and cultural activities appropriate to their needs and interests
- the right to a nutritional diet that meets their developmental needs and does not conflict with their cultural or religious beliefs or practices
- the right to choose and wear their own clothes and to choose their own hairstyles and other manifestations of personal style and appearance as appropriate to their age and circumstance
- the right to manage their own cash resources including pocket money and to be offered advice on management of these resources.

Appendix 2: Standards of Care

The responsibility of caring for children who cannot live with their families due to safety and care risks is a significant one that Child and Family Services shares with foster carers. While all children should be afforded quality care, respect and consideration, children who have suffered neglect or abuse or been at risk of neglect or abuse require special consideration of their experiences and their needs.

Standards of care are derived in part from recognition of fundamental rights of children and are premised on understandings of what can be considered to constitute adequate care of children and young persons.

The following must be observed as minimum or baseline requirements in caring for children:

- all children will be afforded dignity, respect and privacy, and their rights will be recognised and observed
- a safe and protective physical and emotional environment, free from physical, verbal and emotional abuse, will be provided for children
- children will receive physical care, including provision of adequate shelter, food and clothing
- children will receive emotional care that demonstrates that they are valued as persons and that they belong within the community of their out of home placement
- the individual and particular developmental needs of all children will be respected and accommodated
- children will be supported to cultivate and maintain healthy relationships with their families and other significant people in the lives, as detailed in their Care Plans and unless otherwise prohibited by order of the Court or by direction from Child and Family Services as the statutory care and protection authority
- the needs and interests of children with regard to their cultural, ethnic and religious identities will be respected, and opportunities provided to preserve and enhance these identities
- the material needs of children will be met in relation to their education, health and recreational needs and pursuits.

