



Kinship

Introduction

Aboriginal kinship relations reflect a complex and dynamic system that is not captured by existing non-Indigenous definitions of family¹.

The concept of kinship, and the role of those defined as kin, is an important element of practice and decision making within the child and family sector. Kinship is particularly important to Aboriginal families and communities, and may represent opportunities to engage broad, caring social networks to support vulnerable families and keep children and young people safe. However, despite this importance, there remains considerable concern within the Aboriginal child and family sector, and across Aboriginal communities, regarding the application of this concept in practice, and the “missed opportunities” to empower Aboriginal families and communities to meet the needs of their children. This paper seeks to provide clarity and guidance from AbSec, as the Aboriginal peak, to the sector regarding the concept of kinship and its role in practice. It is our hope that a more consistent application of this principle will contribute to achieving more positive outcomes for Aboriginal children, families and communities.

Kinship in the NSW Child Protection System

The concept of kinship is recognised within the child protection system in NSW, particularly with respect to Aboriginal children and families. Section 12 of the *Children and Young Persons (Care and Protection) Act 1998* (the Care Act) suggests an obligation to provide an opportunity to “Aboriginal and Torres Strait Islander families, kinship groups, representative organisations and communities” to participate in decisions made under this Act. Similarly, Section 13 outlines the priority to place Aboriginal children in statutory out-of-home care “with a member of the child’s extended family or kinship group” maintaining their connection to family, community and culture.

In this context, “kin” is defined as “a person who shares a cultural, tribal or community connection with the child or young person that is recognised by that child or young person’s family or community”. It should also be noted that in defining “relative”, the Care Act explicitly extends this to include kin (as defined above) for Aboriginal or Torres Strait Islander children and young people, allowing for the inclusion of kin in contact orders for Aboriginal children in out-of-home care.

AbSec’s position on kinship

The concept of kinship is central to Aboriginal community and society. It is through these kinship relationships that we connect ourselves as Aboriginal people to the broader network of Aboriginal people on and off

¹ CFCA Paper No. 25, 2014 see <https://aifs.gov.au/cfca/sites/default/files/publication-documents/cfca25.pdf> - date assessed 11 July 2016

country. As such, a clear understanding of concept is integral to the welfare and wellbeing of Aboriginal children, both with respect to their social connections and belonging, as well as their cultural identity.

Broadly, AbSec acknowledges the definition of kin provided in the Care Act, relating to those who share important cultural connections with the child or young person and their family. Kinship is not limited to biological relationships, but refers to a culturally-defined relationship network, reflecting cultural bonds and obligations – it is both genealogical and sociological in nature². Acknowledging the diversity of our communities, and that geographically co-located communities may not necessarily share kinship ties, it is important to note that this definition seeks to empower Aboriginal families and communities in defining kinship for Aboriginal children and young people.

In Practice

- Invest in strong relationships with local Aboriginal communities through Aboriginal community organisations to support your understanding of local kinship structures. These relationships are important to casework practice, including engaging with family and facilitating the participation of Aboriginal families and communities in decision making. Strong relationships may assist in delivering effective formal and informal social supports to vulnerable families, reducing the need for Aboriginal children to enter care, or identifying appropriate placements within that child’s kinship group to prevent disconnection.
- Develop robust processes to ensure that the child’s Aboriginal family **and** community are able to meaningfully participate in all significant decisions regarding Aboriginal children. This might include the use of Aboriginal-led participatory approaches such as Aboriginal Family Group Conferencing.
- Involve Aboriginal families, kin and communities in developing care plans for Aboriginal children, including how the child’s cultural rights will be met while in care.

We know that children who become isolated from cultural and community networks when placed in out-of-home care are more vulnerable to being abused and less able to seek help. It is devastating to witness that some of our children being removed from a violent or turbulent home life for their ‘protection’ are placed in care that isolates them from relationships with their family, community and culture—the very things that would have otherwise grounded and shaped them. They can become disengaged and face further hardship and suffering³. – Andrew Jackomos, 2014

² Dousset, L. (2013) Evidence for systemic outbreeding: A rejoinder to Denham, *Beyond Fictions of Closure in Australian Aboriginal Kinship*. 2013, 5 (2), pp.1-14. <halshs-00826028>

³ Jackomos, A. (2015). International Human Rights Day Oration. *Linking Our Past with Our Future: How Cultural Rights Can Help Shape Identity and Build Resilience in Koori Kids* - 4 December 2014, Peninsula Community Theatre, Mornington. First published in the *Indigenous Law Bulletin* March/April 2015, Vol 8, No. 1 17