

Aboriginal Child Placement Principle

The Aboriginal Child Placement Principle (ACPP) is central to ensuring the best interests of the child are recognised and met. Broadly, the purpose of the principle is to maintain the child's link to their Aboriginal culture. Despite its importance in ensuring the rights of Aboriginal children and young people are met, there is still ongoing community concern about the implementation of the ACPP and compliance with its broad principles. This paper seeks to provide guidance on the full implementation of the principle.

The Aboriginal Child Placement Principle in the NSW Child Protection Sector

Section 13 of the *Children and Young Persons (Care and Protection) Act 1998* (the Care Act), titled "Aboriginal and Torres Strait Islander Child Placement Principles", outlined the placement hierarchy to be enacted when an Aboriginal child is to be placed in out-of-home care.¹ The order is as follows:

- a) with a member of their extended family or kinship group
- b) if not with a), then with a member of the community to which they belong
- c) if not with a) or b), then with carers in another Aboriginal community
- d) if none of the aforementioned options are available, placement with a non-Aboriginal foster home becomes the last resort

The ordering of these placement priorities reemphasises the intention of the principle, which is foremost about "keeping Aboriginal and Torres Strait islander children connected to their family, community, culture and country".² Compliance with the placement hierarchy is reported annually, with NSW reporting relatively high compliance compared to other jurisdictions³. However, other resources developed by Family and Community Services present a broader conceptualisation of the ACPP beyond a simple placement hierarchy, including the participation of Aboriginal families and communities in all decision making and greater involvement and control by Aboriginal communities in the welfare and wellbeing of Aboriginal children and families.⁴ This acknowledgement speaks directly to AbSec's perspective on the ACPP.

AbSec's Position on the Aboriginal Child Placement Principle

While acknowledging the importance of the placement hierarchy in protecting the rights of Aboriginal children in need of alternate care, AbSec's view reflects this broader conceptualisation of the ACPP. Consistent with Arney et al (2015), AbSec's believes that the ACPP must be viewed as comprising of five interrelated elements, specifically prevention, partnership, placement, participation and connection.⁵ These elements reinforce the importance of engaging with Aboriginal families and communities at all levels of service delivery and the implementation process and working together to keep Aboriginal children connected to their family, community and culture while in care and return them home where it is safe to do so. In saying this, there remains an obvious need for re-evaluation of the implementation process in order to ensure a well-rounded, just and holistic application of the principle at all levels of service delivery.

As noted above, this view is reflected in the stated position of FACS as well as within the Care Act, including the importance of Aboriginal participation and self-determination across all aspects of its application⁶.

¹ NSW Children and Young Persons (Care and Protection) Act 1998 – Section 13

² Arney, F. et al. 2015.

³ See Australian Institute of Health and Welfare annual 'Child Protection Australia' report: <http://www.aihw.gov.au/child-protection-publications/>

⁴ FACS Aboriginal Consultation Guide. Section 2.4 p 9

⁵ Arney, F. et al 2015.

⁶ See s. 11 and 12, Children and Young Persons (Care and Protection) Act 1998

However, as the current monitoring of the implementation of the ACPP is focused only on compliance with the placement hierarchy, there is significant concern within the Aboriginal community that this broader understanding of the ACPP is not reflected in practice, particularly with respect to efforts for early intervention and family preservation, restoration, and the participation of Aboriginal families and communities in safety and care planning (including cultural planning) for Aboriginal children and young people. Finally, the implementation of the ACPP is predicated on robust processes for the timely and accurate identification of Aboriginal children and families – another area of significant concern for Aboriginal communities.

In Practice

- Full implementation of the ACPP must reflect all five interrelated elements, including prevention, partnerships with Aboriginal people, the placement hierarchy, the participation of the child's Aboriginal family, extended family and community, and ongoing connection to their family, community and culture.
- Monitoring of the implementation of the ACPP must be expanded, building on annual reporting of compliance with the placement hierarchy to include all five elements, and should be overseen by AbSec in order to drive greater Aboriginal community oversight, transparency and confidence.
- There must be a positive obligation on FACS, when seeking final orders for an Aboriginal child, to present in detail the actions they have taken in partnership with the child's Aboriginal family, community and community organisations to preserve the child's family unit.
- Practitioners must proactively engage with a child's Aboriginal family and community to identify and assess suitable placements at the earliest opportunity, preferably before children need to be removed. This will help reduce placements outside of the child's family or community networks, thereby limiting the impact of removal on the child as much as possible by placing them with people they know.
- Extensive family finding is needed to identify potential placements and other informal supports that may provide a supportive network for the child throughout their life, working in partnership with the child's Aboriginal family and community, and involving the child or young person.
- At each level of the placement hierarchy, appropriate assessments of potential carers must be completed, with outcomes and decisions clearly recorded, including the response of family and community to these assessments and strategies for the care of the child. The overall principles of maintaining a child's connection to their family, community and culture, and Aboriginal participation and self-determination must guide this process.
- Where children are to be placed in any form of out-of-home care, comprehensive cultural planning that clearly articulates how a child's cultural rights and identity will be supported is essential.
- When agencies have a child transitioned into their case management, review the previous application of the ACPP for this child and consider, in partnership with the child's Aboriginal family and community, whether greater compliance with the ACPP is possible, including restoration to the child's family.
- Improving links between legislation, policy and practice and enhancing the recruitment, assessment and support of carers.⁷

⁷ Arney, F. et al. 2015