

The South Australian Government response to: 'Holding on to Our Future'

The Commissioner for Aboriginal Children and Young People's inquiry into the application of the Aboriginal and Torres Strait Islander Child Placement Principle in the removal and placement of Aboriginal children in South Australia.



**Government
of South Australia**

Foreword

The South Australian Government welcomes the final report of the Commissioner for Aboriginal Children and Young People's Inquiry into the Application of the Aboriginal and Torres Strait Islander Child Placement Principle in the Removal and Placement of Aboriginal children in South Australia.

We acknowledge the considerable work undertaken to produce the report, under the leadership of Commissioner Lawrie and her team.

We acknowledge the many Aboriginal people who shared their experiences, stories and wisdom with the Inquiry team in the hope of helping to build a better child protection and family support system (the system) where Aboriginal children and young people have the best opportunity to be connected with culture, country, kin and community and thrive.

Fundamentally, we acknowledge the cultural authority of all Aboriginal people in South Australia and the importance of privileging their voices as we work together to deliver transformational system change that makes a positive difference in the lives of Aboriginal children and their families.

The removal of children and young people from Aboriginal families and parents has had, and continues to have, a significant impact on Aboriginal communities with this impact compounded by the legacy of the Stolen Generations.

The opportunity to heal and move forward relies on open, truthful dialogue about the failings and injustices of the past - the effects of which are still strongly, deeply felt today - and the challenges, gaps and opportunities at all levels of the current system.

Holding on to Our Future shines a critical light on the experiences of Aboriginal people with South Australia's system and provides a clear call to action in line with every aspect of the Aboriginal and Torres Strait Islander Child Placement Principle.

It reminds all South Australians that while some progress has been made, much more must be done to improve the experiences of and outcomes for Aboriginal children, young people, families and communities in their engagement with the system – including in the practice of removal and placement.

It makes clear the need to consolidate and accelerate existing efforts towards system transformation in genuine, deliberate and active partnership with Aboriginal people.

The Government is committed to this task.



Hon Katrine Hildyard MP
Minister for Child Protection

A blue ink handwritten signature, appearing to read 'Katrine Hildyard', written over a horizontal line.

Context

Holding on to Our Future is provided at an important moment in the work of the State Government and Aboriginal people to ensure that Aboriginal children and young people can grow up safe in family, community and culture.

Efforts to achieve this goal have been led through the Department for Child Protection (DCP) in partnership with Aboriginal Community Controlled Organisations (ACCOs), community, the broader sector and across government.

As the report calls us to do, we have committed to the Aboriginal and Torres Strait Islander Child Placement Principle as the key framework to guide our efforts. Through this framework, we have taken small but positive steps as a government:

- We have an incredibly hard-working child protection and family support sector workforce who dedicate themselves to improving the safety and wellbeing of all children and young people in South Australia.
- To address the structural issues driving over-representation, we have been working towards full implementation of the Principle to the standard of active efforts across the system.
- We have been working on ensuring we have the right legislative, strategic policy and practice settings in place to improve the way we work with Aboriginal families, while at the same time taking deliberate and sustained efforts across each of the Principle's elements.
- We have made significant gains across Aboriginal practice, Aboriginal employment, partnership, ACCO sector capacity building, and increasing our investment in Aboriginal led decision-making, service delivery and governance.

While it is important to acknowledge this progress, we must do more to reduce over representation and achieve better outcomes for Aboriginal children and young people.

To do so, we know we must be transparent, accountable and bold in the pursuit of transformational change which is why the Government has been deliberate in its efforts to build the strategic foundations for this transformational change at both a state and national level.

At the state level, DCP continues to work in active partnership with South Australia's Aboriginal Community Controlled Organisation Network (SAACCON) and other Aboriginal partners to agree a series of priority jointly led actions reflected in a dedicated Child Protection Schedule to the State Partnership Agreement on Closing the Gap.

At the national level, DCP co-led negotiations to reach a shared commitment to align efforts to achieve Target 12 through *Safe and Supported: The National Framework for Protecting Australia's Children 2021-2031 (Safe and Supported)* and the associated *Aboriginal and Torres Strait Islander First Action Plan* (the First Action Plan), which was released in January 2023 following a co-design process with the Aboriginal Leadership Group and SNAICC.

The shared goal of all partners to the First Action Plan was to move away from a series of *ad hoc* actions and disparate strategies and instead commit to a shared decision-making process through which partners can focus on and drive the actions required to achieve transformational change through planned transition to an Aboriginal-led sector.

As a result, and for the first time, we now have an Australia-wide commitment to fully implement the Principle in legislation in every jurisdiction, to uphold the right to self-determination, to enable the progressive delegation of legislative decision-making to Aboriginal organisations, to invest in the Aboriginal workforce, in the community controlled sector and in data sovereignty.

Through this roadmap, further strategic actions have been delivered, many of which speak directly to recommendations of the Commissioner and the fundamental objective. These include:

- \$3.2m investment in the establishment of Wakwakurna Kanyini – the state’s first Peak Body for Aboriginal children and families - through a community-led process. The peak’s central mandate is to privilege and amplify the voices of Aboriginal children, to partner with government to reduce the over-representation of Aboriginal children and young people in contact with the system and build the capacity of the ACCO sector.
- Pursuing changes through the ***Children and Young People (Safety and Support) Bill 2024, now before parliament***, to require implementation of the Principle to the standard of active efforts, to embed self-determination and to enable the progressive delegation of legislative authority to Aboriginal organisations.
- \$13.4m additional investment over 5 years dedicated to expanding Family Group Conferencing services. Family Group Conferences play a critical role in recognising the protective factors that connection to culture, family and community provides and gives families the lead role in finding solutions to keep their children safe, loved and nurtured with kin. The new Bill also requires the Chief Executive to offer to convene an FGC, in a number of circumstances including when the Chief Executive causes an assessment of an Aboriginal child or young person to be carried out.
- Embedding family-decision making and family-led solutions in the legislation, and through investment in the ACCO sector, to deliver services to Aboriginal children, young people and families.
- Building on the additional investment in Family Group Conferencing, the Government has also invested \$35.7m towards providing intensive support to vulnerable families, aiming to reduce the need for out of home care.
- A commitment to work with Wakwakurna Kanyini and other Aboriginal leaders to develop an Aboriginal-led strategy to reduce the over representation of children and young people which drives longer-term work across portfolios.

The Government provides its response to *Holding on to Our Future* in this context.

Our commitment

Holding on to Our Future provides important advice on further opportunities to complement and consolidate this central transformative reform agenda through its 32 recommendations across the framework of the Aboriginal Child Placement Principle and at the practice, policy, legislative and systems level.

In accordance with s20O(2) and s20P(3)(b) of the *Children and Young People (Oversight and Advocacy Bodies) Act 2016*, the government provides its response to each recommendation in the following table.

- 24 recommendations are supported
- 4 recommendations will be the subject of further consideration
- 4 recommendations are not supported.

True transformational change requires the acknowledgement and willingness of governments to uphold the right of all Aboriginal people to self-determination, in a way that is defined by Aboriginal people, and to recognise the responsibility to invest in a way that supports the full exercising of that right.

To drive toward this change, the Government commits to work through the key state level governance established under the First Aboriginal Action Plan and the SA plan for Target 12 Closing the Gap.

Through its existing commitment to shared decision making and to a single long-term roadmap, the Government will work with Aboriginal people in a genuinely open and transparent way to ensure the detail of this plan – approach, prioritisation, investment, sequencing – reflects shared aspirations and priorities.



Response to recommendations

HEADLINE RECOMMENDATIONS	SUPPORT	IMPLEMENTATION APPROACH (AND RATIONALE)
<p>1. The CYPS Act 2017 be amended to insert the five elements of the Aboriginal Child Placement Principle and that they be applied as the paramount consideration for Aboriginal children when considering their safety, wellbeing and best interests. The principle should be applied to the standard of Active Efforts in all significant decisions. Active Efforts must be purposeful, thorough and timely.</p>	<p>Support</p>	<p>The SA Government accepts that the Aboriginal and Torres Strait Islander Child Placement Principle ('ATSICPP') should be embedded to the standard of Active Efforts across legislation, policy and practice; and recognises that the application of the ATSICPP Principle is inherent to achieving safety for Aboriginal and Torres Strait Islander children and young people.</p> <p>The SA Government proposes to implement this recommendation through the Children and Young People (Safety and Support) Bill, introduced to Parliament, which includes amendments to insert the five elements of the Principle, to the standard of active efforts. The Principle will prevail in decision making for Aboriginal children and young people under the Act, except in the event that it is inconsistent with safety, with safety retained as the paramount consideration.</p>
<p>2. A sixth element of Performance to be included to the adopted Aboriginal and Torres Strait Islander Child Placement Principle for South Australia. The implementation of Performance to the standard of Active Efforts is demonstrated by accurate reporting and compliance of all elements, including comprehensive measures embedded within practice and case management systems.</p>	<p>Pending further consideration</p>	<p>The SA Government accepts that it must be accountable to implement the Principle to the standard of active efforts and that these efforts should be demonstrated by accurate reporting and compliance.</p> <p>The Government will be required to report on each element through Annual Reporting requirements under the Bill introduced to Parliament.</p> <p>The Government will also continue to participate in Aboriginal led assessments of performance and compliance through the Family Matters reporting and ATSICPP Baseline reporting via SNAICC.</p> <p>The Government will respectfully refer the proposal to <i>formally</i> incorporate a new element into the Principle to relevant state and national ATSICPP governance for consideration.</p>

HEADLINE RECOMMENDATIONS	SUPPORT	IMPLEMENTATION APPROACH (AND RATIONALE)
<p>3. Legislate a mandatory annual reporting requirement that the Chief Executive report on the implementation of Active Efforts for the Aboriginal and Torres Strait Islander Child Placement Principle and on matters of funding directly invested in Active Efforts measures across the child protection service system.</p>	<p>Support</p>	<p>The SA Government proposes to implement this recommendation through the Children and Young People (Safety and Support) Bill which includes amendments that require the Minister to report on the operation of new provisions, inclusive of the new provision for Aboriginal children and young people. Defining Active Efforts in policy and practice will inform the framework through which investments towards the principle and its elements are measured.</p> <p>The government reports investment across the ATSI CPP framework already which is partially captured through the Report on Government Services (ROGS) and through participation in the Family Matters reporting process.</p>
<p>4. The Department for Child Protection to work in partnership with the Aboriginal community through the newly established Aboriginal child and family peak body to develop its own Aboriginal strategy aimed at improving outcomes for Aboriginal children and young people.</p>	<p>Support</p>	<p>This recommendation will be implemented through existing activity being driven through the SA Government's support for the design and implementation of a peak body, and through its implementation of commitments under national and state frameworks developed in partnership with Aboriginal stakeholders.</p> <p>The SA Government committed \$3.2 million to fund the now established Wakwakurna Kanyini, SA's Peak Body for Aboriginal children and families. Wakwakurna Kanyini will serve as a strong and independent voice, leading efforts to represent community-driven priorities to the State Government.</p> <p>The SA Government notes that this recommendation insofar as it relates to the strategy is consistent with existing commitments contained in the Child Protection Schedule to the SA Implementation Plan for Closing the Gap (and associated commitments).</p> <p>Specifically, the Schedule requires DCP to partner with DHS, SAACCON and Wakwakurna Kanyini to develop South Australia's jurisdictional plan for the implementation of the First Aboriginal Action Plan 2023-26 under Safe and Supported: the National Framework.</p>

HEADLINE RECOMMENDATIONS	SUPPORT	IMPLEMENTATION APPROACH (AND RATIONALE)
<p>5. The CYPS Act 2017 be amended to include that the Youth Court (the Court) should satisfy itself that the five elements of the Aboriginal and Torres Strait Islander Child Placement Principle have been applied to the standard of Active Efforts before making an order under the Act. If it is not so satisfied, the Court should have the power to make specific orders requiring the Chief Executive of the Department for Child Protection to comply with the obligation to implement the Aboriginal and Torres Strait Islander Child Placement Principle to the standard of Active Efforts.</p>	<p>Support</p>	<p>The SA Government will implement this recommendation through the Children and Young People (Safety and Support) Bill, introduced to Parliament, which includes amendments that the Youth Court must satisfy itself that the ATSI CPP has, so far as possible, been implemented to the standard of Active Efforts, before making certain orders.</p> <p>In determining this implementation approach, it is noted that the Court does not require specific powers in order to compel adherence to the ATSI CPP, as the absence of sufficient evidence to satisfy the Court that the ATSI CPP has been adequately implemented will naturally lead to such orders not being made.</p> <p>The scope and nature of the orders that would be required to direct the DCP in implementing the ATSI CPP would fall outside of the natural jurisdiction of the Youth Court, and it has been determined are more appropriately left as case management responsibilities for DCP.</p>

PREVENTION RECOMMENDATIONS	SUPPORT	IMPLEMENTATION APPROACH (AND RATIONALE)
<p>6. The CYPS Act 2017 be amended to require the Chief Executive of the Department for Child Protection to give consideration to enabling Federal Circuit and Family Court of Australia proceedings to be taken by the Aboriginal family with whom the child is to be placed, before making an application for a guardianship order.</p>	<p>Support</p>	<p>The SA Government has determined not to pursue amendments to legislation to defer departmental involvement pending any Family Court proceedings that Aboriginal families may decide to initiate.</p> <p>The SA Government will instead explore opportunities to establish referral pathways for families to obtain legal assistance with applying for consent orders in the family courts to reflect the terms of a Family Group Conference agreement.</p> <p>Further opportunities to achieve the intent of this recommendation will also be considered and implemented through policy and practice reforms that will be developed following commencement of the Bill (pending the outcome of the Parliamentary processes).</p>
<p>7. Restore 'best interests' as the paramount consideration within the CYPS Act 2017 and that for Aboriginal and Torres Strait Islander children their best interests are determined in the context of the application of the five pillars of the Aboriginal and Torres Strait Islander Child Placement Principle as a paramount consideration.</p>	<p>Support</p>	<p>The SA Government proposes to implement this recommendation through the Children and Young People (Safety and Support) Bill which has re-introduced 'best interests' as a guiding principle to be upheld and effected in all decision making, setting out a non-exhaustive list of the factors to which regard may be required in determining what is in the best interest of the child or young person, while maintaining safety as the paramount consideration. In considering the best interests of Aboriginal CYP, regard must be given to the need to comply with the ATSICPP.</p> <p>It is currently proposed that safety be retained as the paramount consideration in the new Bill. This has been determined in the context of the structure of the child protection and family support system in South Australia and to support child protection workers in the context of statutory intervention to have a clear and unfettered focus on safety.</p>
<p>8. Sustainable and adequate funding commensurate to need must be allocated to local-level Aboriginal Community Controlled Organisations to enable the delivery of culturally safe and appropriate Early Intervention and Intensive Family Support Services as defined at the local level</p>	<p>Support (W-o-G)</p>	<p>The SA Government is committed to targeted investment in the Aboriginal Community Controlled Organisations (ACCO) sector.</p> <p>Work is being implemented through specific actions and strategies committed to under Closing the Gap (PR 2, State Partnership, T12) and related work through Safe and Supported: Aboriginal and Torres Strait Islander First Action Plan 2023-2026, and the <i>National Child and Family Investment Strategy; Driving the shift towards earlier supports and the transition of resources to the Aboriginal Community Controlled Sector.</i></p>

PREVENTION RECOMMENDATIONS	SUPPORT	IMPLEMENTATION APPROACH (AND RATIONALE)
		<p>To support aligned effort, this recommendation will primarily be implemented through these existing frameworks and commitments. Acknowledging full implementation will require sustained effort over time, the activity will consider opportunities for shared decision making around sequencing and prioritisation in the context of existing capacity and resourcing. When considering capacity and resourcing, “funding commensurate to need” will be data informed.</p> <p>Alongside this, the SA Government has introduced to Parliament the Children and Young People (Safety and Support) Bill which includes provisions for active efforts, delegation, and a new State strategy which collectively will also contribute to increasing the capacity for earlier and more effective Aboriginal led child protection and family support service delivery for Aboriginal children and families.</p> <p>Further, the Government will consider further opportunities to work in partnership with ACCOs, particularly in locations where there are a limited number of ACCOs and support them through capacity building to deliver early and effective intervention and intensive family support services</p>
<p>9. The CYPS Act 2017 be amended to provide that where there are Aboriginal child wellbeing concerns the family may self refer to culturally safe services through the Child and Family Support Services pathway, and that where mandated reporters and the Chief Executive of the Department for Child Protection have concerns about the wellbeing of Aboriginal children, they must refer the matter to Child and Family Support Services pathway for culturally safe assessment and referral</p>	<p>Pending further consideration</p>	<p>In response to this recommendation, rather than provide for a legislative pathway, the SA Government will consider strengthening self-referral options, while at the same time ensuring the complexity assessment role of CFSS Pathways Service is retained. This implementation approach is intended to ensure that service allocation decisions are well-informed and equitable so that families are receiving access to the right services for their level of risk and need, and families with greatest need are prioritised.</p> <p>The SA Government will continue to work with relevant stakeholders, including the Aboriginal child protection and family support sector workforce and internal Aboriginal leadership, to develop options for further consideration.</p> <p>Alongside this, the SA Government has introduced the Children and Young People (Safety and Support) Bill. While the Bill does not include specific provisions, the ability to access culturally safe services might be reasonably seen as part of implementing the Principle to the standard of <i>active efforts</i> (as required in the Bill).</p>

PREVENTION RECOMMENDATIONS	SUPPORT	IMPLEMENTATION APPROACH (AND RATIONALE)
<p>10. The Department for Child Protection reinstate the Yaitya Tirramangkotti team in the Call Centre to draw upon Aboriginal knowledge and expertise in managing, assessing and responding to notifications concerning Aboriginal children and their families. The Yaitya team to consist of a supervisor, a senior practitioner and a minimum of eight social workers and Aboriginal Family Practitioners. The Yaitya Tirramangkotti team to be the culturally safe mechanism to ensure the early intervention support system and the statutory system apply Active Efforts to prevent pathway to removal. This includes giving the Yaitya Tirramangkotti team delegation to refer to Family Group Conferencing.</p>	<p>Pending further consideration</p>	<p>The SA Government acknowledges the importance of culturally safe, accessible and appropriate child protection and family support responses for Aboriginal families engaged across the child protection and family support sector.</p> <p>Models which achieve the goals set out in the recommendation and associated commentary will be developed which draw on Aboriginal knowledge and expertise.</p>
<p>11. The Department for Child Protection abolish the use of Structured Decision Making®. There is no place for racially biased assessment tools in government services. An assessment tool to replace Structured Decision Making® should be developed in partnership with the Aboriginal community through the South Australian Peak Body for Aboriginal Children and Families and leading Aboriginal child protection experts</p>	<p>Pending further consideration</p>	<p>The SA Government has a statutory obligation to keep children safe from harm. It currently adopts SDM as the only validated tool for the assessment of risk <i>in the context</i> of child <i>safety</i> in SA. This does not preclude the use of other tools for other purposes, including family support clinical assessments.</p> <p>In this context, the SA Government cannot commit to replace SDM for <i>this purpose</i> at this point in time. The SA Government does acknowledge the advocacy of a number of stakeholders, including the Commissioner, around the use of the tool in the context of Aboriginal families.</p> <p>In response to the recommendation, the Minister for Child Protection will refer the matter for further independent consideration in the first instance by the South Australian Child Protection Expert Group, and – in consultation with key Aboriginal stakeholders – table it at a 2025 Community Services Ministers forum with a proposal that the issue be considered at a national level.</p>

PREVENTION RECOMMENDATIONS	SUPPORT	IMPLEMENTATION APPROACH (AND RATIONALE)
12. Amend section 59 of the Children and Young People (Safety) Act 2017 so that the onus lays with the applicant to prove on the balance of probabilities that the orders they seek should be made.	Support	The SA Government will implement this recommendation through the Children and Young People (Safety and Support) Bill, introduced to Parliament, which includes provisions whereby the reverse onus has been limited to applications for Specified Person applications only.
13. The Department for Child Protection's practice of uninformed removals at birth is condemned and it must cease immediately	Support	<p>Where it is assessed as safe and reasonable to do so, the SA Government accepts that efforts must be taken to ensure mothers are informed of a removal at birth. This requires a culture of continuous improvement at the practice and policy level to which this Government is committed.</p> <p>In response to this recommendation and related recommendations (i.e. 13, 14, 15) the SA Government will work together to develop an Action Plan to support best practice. This work will be designed in close partnership with Aboriginal stakeholders, including the CACYP, the Guardian for CYP and Wakwakurna Kanyini.</p> <p>The SA Government has committed to ensuring a Family Group Conference is offered to families where there is an Unborn Child Concern.</p>
14. SA Health, through its various Local Health Networks prioritise the establishment of step-down facilities with family focussed, tailored support and coordinated services specifically for Aboriginal women identified with Unborn Child Concerns.	Support	As above – noting alongside this, the SA Government is committed to working with senior Aboriginal leadership to consider opportunities for complementary action.
15. SA Health develop a model of care for Unborn Child Concern which includes Aboriginal Case Coordinator roles in birthing hospitals to focus specifically on complex case management of Unborn Child Concerns.	Support	As above – noting alongside this, the SA Government is committed to working with senior Aboriginal leadership to consider opportunities for complementary action.

PARTNERSHIP RECOMMENDATIONS	SUPPORT	IMPLEMENTATION APPROACH (AND RATIONALE)
<p>16. The Children and Young People (Safety) Act 2017 require that at least one local level Recognised Aboriginal or Torres Strait Islander Organisation for each regional community with proven strong community knowledge and connections be gazetted and fully funded to perform legislated functions in line with recommendation.</p>	<p>Support</p>	<p>The SA Government proposes to implement this recommendation through the Children and Young People (Safety and Support) Bill, introduced to Parliament, which includes provision for the recognition of Aboriginal or Torres Strait Islander entities and for the functions of the Chief Executive to be delegated to recognised Aboriginal or Torres Strait Islander entities accordingly.</p> <p>Both the Minister and Chief Executive have a legislated function under the draft bill to work in partnership with recognised Aboriginal or Torres Strait Islander entities to build capacity to facilitate delegated decision making and family led decision making in relation to Aboriginal and Torres Strait Islander children and young people. These clauses support the Department's efforts to transition the sector towards Aboriginal led decision making and service delivery, while recognising the current need to build capacity in the sector before key legislative functions can be transferred to recognised Aboriginal or Torres Strait Islander Organisations.</p> <p>The SA Government will work with relevant Aboriginal stakeholders to develop accompanying policy and procedures to support the implementation of delegation provisions.</p>
<p>17. The Children and Young People (Safety) Act 2017 should be amended to specifically provide for the delegation of the Chief Executive's powers to local level Aboriginal Community Controlled Organisations. Current decision-making models are based on Eurocentric models of family life and relationships. The government must change the way decisions are made about Aboriginal children and shift power and decision making back to Aboriginal families, communities and Aboriginal Community Controlled Organisations.</p>	<p>Support</p>	<p>The SA Government proposes to implement this recommendation through the Children and Young People (Safety and Support) Bill, introduced to Parliament, which includes provisions for the delegation of any of the Chief Executive's powers to recognised Aboriginal or Torres Strait Islander entities.</p> <p>Both the Minister and Chief Executive have a legislated function under the draft bill to work in partnership with recognised Aboriginal or Torres Strait Islander entities to build capacity to facilitate delegated decision making and family led decision making with respect to Aboriginal and Torres Strait Islander children and young people.</p> <p>The SA Government will work with Aboriginal partners to develop accompanying policy and procedures to support the implementation of delegation and related provisions.</p>

PARTNERSHIP RECOMMENDATIONS	SUPPORT	IMPLEMENTATION APPROACH (AND RATIONALE)
<p>18. The Children and Young People (Safety) Act 2017 be amended to broaden the function of RATSIOs to provide that the RATSIO assist Aboriginal families and their children at all significant decision-making points about the child’s wellbeing or safety including by:</p> <ul style="list-style-type: none"> (a) providing cultural advice to DCP, the Youth Court, other state authorities and where necessary South Australian Civil and Administrative Tribunal (SACAT) on: <ul style="list-style-type: none"> (i) safety and wellbeing assessments (ii) family support needs for prevention of removals (iii) care options for children without orders (iv) placements for children where a removal is necessary (b) undertaking family scoping for: <ul style="list-style-type: none"> (i) identification of family and kin to be involved in decision making (ii) identification of family, kin and community placement options (c) development of cultural maintenance plans 	<p>Support</p>	<p>The SA Government proposes to implement this recommendation through the Children and Young People (Safety and Support) Bill, introduced to Parliament, which supports transition to an Aboriginal led child protection and family support sector through its provisions for delegation to recognised Aboriginal and Torres Strait Islander entities.</p> <p>While the bill does not include the level of prescription contained in the recommendation, the legislative scheme contained in Part 4 of the proposed new bill empowers the Minister to recognise Aboriginal or Torres Strait Islander entities (RAE) for the purposes of the Act and enables the CE to delegate <u>any</u> of her powers under the Act to RAE.</p> <p>The SA Government will work through Wakwakurna Kanyini and other Aboriginal partners to develop accompanying policy and procedures to support the implementation of delegation provisions.</p>

PARTNERSHIP RECOMMENDATIONS	SUPPORT	IMPLEMENTATION APPROACH (AND RATIONALE)
<ul style="list-style-type: none"> (d) attendance at reviews conducted under section 85 of the Act (e) attendance at Family Group Conferences (FGC) (f) contributing to the design of relevant policies and programs (g) appointment of an Aboriginal cultural support person or child advocate to ensure the participation of children and young people in significant decisions or to advocate on their behalf (h) reporting to the Court about the efforts that have been made by the CE DCP to comply with the ATSICPP to the standard of Active Efforts before a guardianship order is made 		

PARTICIPATION RECOMMENDATIONS	SUPPORT	IMPLEMENTATION APPROACH (AND RATIONALE)
<p>19. The Department for Child Protection's current policy for Aboriginal Family Led Decision Making must be replaced by a new policy that must be developed in partnership with Aboriginal communities and Aboriginal Community Controlled Organisations.</p>	<p>Support</p>	<p>The SA Government accepts the criticality of Aboriginal Family Led Decision Making. To embed this as a foundational principle of child protection administration and decision making it has been included within the Children and Young People (Safety and Support) Bill.</p> <p>In this context, the SA Government will review the Aboriginal Family Led Decision Making policy in partnership with Aboriginal stakeholders as part of the implementation phase for the new bill where passed.</p>
<p>20. As a matter of urgency, it must be mandated that a referral to a Family Group Conference be made before the Department for Child Protection can apply to the Court for any guardianship orders for Aboriginal children.</p>	<p>Support</p>	<p>The SA Government proposes to implement this recommendation through the Children and Young People (Safety and Support) Bill, introduced to Parliament, which includes provisions requiring that a family group conference must be offered to an Aboriginal and Torres Strait Islander family before certain prescribed orders can be made.</p>
<p>21. The Children and Young People (Safety) Act 2017 be amended to mandate that if the Chief Executive of the Department for Child Protection, the Court or a state authority suspects that an Aboriginal child or young person is at risk or there are concerns for their wellbeing, then the Chief Executive of the Department for Child Protection, the Court or the state authority must make a referral for a Family Group Conference at the earliest possible opportunity; and it is to be facilitated by an external, independent, Aboriginal-led program prior to any significant decisions being made about the Aboriginal child.</p>	<p>Support</p>	<p>The SA Government proposes to implement this recommendation through the Children and Young People (Safety and Support) Bill, introduced to Parliament, which includes provisions for the Court to convene a family group conference, where the Court deems this would be appropriate in making arrangements for the care of the child or young person. The Chief Executive also has this ability in addition to the mandatory reporting requirements.</p> <p>The Children and Young People (Safety and Support) Bill requires that all family group conferences convened with respect to an Aboriginal or Torres Strait Islander child or young person must, unless it is not reasonably practicable or prescribed circumstances apply, be convened by an Aboriginal or Torres Strait Islander person (not being an employee of the Department).</p> <p>The Bill also requires that the Chief Executive to offer to convene a family group conference for an Aboriginal or Torres Strait Islander child or young person where certain circumstances arise. The Bill further requires that a family group conference must be offered to an Aboriginal and Torres Strait Islander family before certain prescribed orders can be made.</p>

PARTICIPATION RECOMMENDATIONS	SUPPORT	IMPLEMENTATION APPROACH (AND RATIONALE)
<p>22. The following sections of the Children and Young People (Safety) Act 2017 be amended to mirror the requirement of the Court and the South Australian Civil and Administrative Tribunal to provide reasonable opportunity for children and young people to personally present their views unless they are not capable of doing so: a. Section 85: Annual reviews b. Section 157: Internal reviews c. Section 95: Review by Contact Arrangements Review Panel</p>	<p>Support</p>	<p>The SA Government proposes to implement this recommendation through the Children and Young People (Safety and Support) Bill, introduced to Parliament, which includes relevant provisions to elevate the voice of children and young people generally as well as specific provisions around ensuring a child's views are heard in 'prescribed decisions' (including annual reviews, internal reviews and decisions relating to contact arrangements) and in the Court and SACAT proceedings.</p>
<p>23. That the legislated functions of Recognised Aboriginal and Torres Strait Islander Organisations be expanded within the Children and Young People (Safety) Act 2017, in line with recommendation 18, to include appointment of an Aboriginal cultural support person or child advocate to ensure the participation of children and young people in all significant decisions and to advocate on their behalf generally and where the Act provides they have right to be heard or to have a decision reviewed.</p>	<p>Support</p>	<p>The SA Government will take action to implement this recommendation through the pursuit of both legislative and policy changes.</p> <p>While not prescribed in a form identical to the recommendation, the Children and Young People (Safety and Support) Bill includes a new clause to ensure the voices of all children and young people are heard in course of making prescribed decisions that affect children and young people. Clause 13(3)(b) specifically identifies a child or young person's voice may be presented with the accompaniment of a support person. The Bill also includes provisions for a Respected Persons scheme.</p> <p>With the policy intent supported, the SA Government will work with stakeholders to develop options to deliver on the objectives of this recommendation in a way that is flexible, achievable and also ensures the individual needs and views of child or young person are considered.</p>

PLACEMENT RECOMMENDATION	SUPPORT	IMPLEMENTATION APPROACH (AND RATIONALE)
<p>24. That the legislated functions of Recognised Aboriginal and Torres Strait Islander Organisations be expanded within the Children and Young People (Safety) Act 2017, in line with recommendation 18, to include family scoping for identification of family and community placement options for Aboriginal children.</p>	<p>Support</p>	<p>The SA Government proposes to implement this recommendation through the Children and Young People (Safety and Support) Bill, introduced to Parliament, which provides the appropriate enabling framework for this type of delegation. Once passed, the DCP will work with Aboriginal partners to develop accompanying regulations, policy and procedures to support the implementation of delegation provisions.</p>
<p>25. Reinstate the Aboriginal Family Care Program and amend the Children and Young People (Safety) Act 2017 to set out the functions of an Aboriginal Family Care Program, inclusive of Recognised Aboriginal and Torres Strait Islander Organisation functions, and allocate funding to meet contemporary arrangements in line with recommendation 16 and 18.</p>	<p>Not supported</p>	<p>DCP is committed to enable flexibility in the type of models through which Aboriginal led decision making and service delivery is implemented, including Family Led Decision Making and local led decision making through Recognised Aboriginal Entities (or equivalent).</p> <p>This commitment has been enlivened in the provisions of the Children and Young People (Safety and Support) Bill, introduced to Parliament, which provides a framework which enables the implementation of locally led and determined models, as opposed to prescribe specific models in an inflexible way. The Bill includes a provision to ensure RAEs are resourced appropriately to deliver any delegated functions.</p> <p>In relation to the recommendation to set out the specific functions of the Aboriginal Family Care Program as described, alongside the amendment process, the SA Government will work with Aboriginal stakeholders to develop associated regulation, policy and procedures, including the development of model options.</p>

PLACEMENT RECOMMENDATION	SUPPORT	IMPLEMENTATION APPROACH (AND RATIONALE)
<p>26. Design, develop and implement a new approach specific to Aboriginal Kinship Care, in partnership with the Aboriginal community and the Aboriginal community-controlled sector. The profile of Aboriginal Kinship carers and their needs are different and Aboriginal kinship care should be developed as a distinct service type with its own legal, policy, financial and practice systems that recognise the difference and full potential of this type of care.</p>	<p>Support</p>	<p>The SA Government will work with the CACYP, GCYP and through Wakwakurna Kanyini to further develop options for a model, and associated implementation approaches, including timing, sequencing, prioritisation within the context of available resourcing and sector capacity.</p>

CONNECTION RECOMMENDATION	SUPPORT	IMPLEMENTATION APPROACH (AND RATIONALE)
<p>27. The Children and Young People (Safety) Act 2017 and Children and Young People (Safety) Regulations 2017 be amended to expand the functions of Recognised Aboriginal and Torres Strait Islander Organisations to include the development of cultural maintenance plans for Aboriginal children, in line with recommendation 18.</p>	<p>Support</p>	<p>The SA Government proposes to implement this recommendation through the Children and Young People (Safety and Support) Bill, introduced to Parliament, which provides the appropriate enabling framework through which the intent of this recommendation can be achieved, without limiting the legislative authority that can be delegated. The SA Government will work with Aboriginal stakeholders to develop accompanying regulations, policy and procedures as may be required to support the implementation of delegation provisions.</p>
<p>28. That the Children and Young People (Safety) Act 2017 be amended to: a. remove the power conferred to the Chief Executive of the Department for Child Protection in section 93 and give powers to the Youth Court to make orders in relation to contact with family, and b. abolish the Contact Arrangements Review Panel.</p>	<p>Not supported</p>	<p>The proposal contained in this recommendation was considered as part of the drafting process for the draft Children and Young People (Safety and Support) Bill following the review of the <i>Children and Young People (Safety) Act 2017</i>. Consistent with the Recommendation 74 of the Nyland Royal Commission, it was determined that the power to determine contact arrangements will remain with the Chief Executive. This retains flexibility and maintains the capacity for timely and responsive decision making close to the child.</p> <p>Provisions have been included to support improvements to the Contact Arrangements Review Panel (CARP) process particularly for Aboriginal children and young people. These include provisions to require the independence of presiding member, and that for Aboriginal children and young people, the presiding member must be Aboriginal, that majority of panel must be Aboriginal and CARP must consult with Recognised Aboriginal Entity (or equivalent).</p> <p>Alongside this, the DCP will review the CARP as it applies to Aboriginal children and young people in partnership with Aboriginal stakeholders. This review will consider how decisions in relation to contact might best privilege Aboriginal cultural authority. It will be undertaken alongside an investigation of opportunities for enabling this through delegation provisions.</p>

CONNECTION RECOMMENDATION	SUPPORT	IMPLEMENTATION APPROACH (AND RATIONALE)
<p>29. The Children and Young People (Safety) Act 2017 be amended to require that the Court and Chief Executive of the Department for Child Protection must have regard to Aboriginal attachment styles and Aboriginal child rearing practices, when making decisions about reunification and long-term orders.</p>	<p>Support</p>	<p>The SA Government proposes to implement this recommendation through the Children and Young People (Safety and Support) Bill, introduced to Parliament, which includes provisions that require regard to be had to child rearing practices when considering the best interests of an Aboriginal child or young people. Without limiting the scope of this provision, it is intended to include a requirement that regard is had to Aboriginal attachment styles.</p>
<p>30. The Children and Young People (Safety) Act 2017 be amended to provide for regular consideration of the viability of reunification at annual reviews after children have been placed under long term guardianship orders.</p>	<p>Support</p>	<p>The proposal contained in this recommendation was considered as part of the drafting process for the Children and Young People (Safety and Support) Bill, introduced to Parliament, which resulted in provisions in the Bill that require the Chief Executive to make active efforts to explore the ways in which a child or young person and their parents can be reunified, and that case plans must be reviewed at a child's annual review.</p>
<p>31. The Review of Care arrangements for Aboriginal children in care should be conducted by Independent Reviewing Officers, external to the Department for Child Protection with powers to report back to the courts if the Aboriginal child's reunification, contact, cultural safety and cultural needs are not being met.</p>	<p>Not supported</p>	<p>The Youth Court does not have the jurisdiction to monitor care arrangements for children and young people subject to guardianship orders.</p> <p>The SA Government considers that oversight of care arrangements continue to most appropriately be led by independent bodies such as the Guardian for Children and Young People and the Commissioner for Aboriginal Children and Young People.</p> <p>Acknowledging the intent of this recommendation, the Children and Young People (Safety and Support) Bill, introduced to Parliament, also includes provisions to ensure Aboriginal children and young peoples' reunification, contact, cultural safety and cultural needs are being met. This includes through provisions for articulating the full Aboriginal and Torres Strait Islander Child Placement Principle, the requirements for active efforts, enabling delegated authority, and the inclusion of the Respected Persons' scheme.</p>

CONNECTION RECOMMENDATION	SUPPORT	IMPLEMENTATION APPROACH (AND RATIONALE)
<p>32. The Children and Young People (Safety) Act 2017 be amended to give the Court power to make reunification orders, that such orders require reviews every two months and to make consequential orders at reviews. The Court should have discretion to extend orders if substantial progress has been demonstrated.</p>	<p>Not supported</p>	<p>The existing practice of the Youth Court to refer matters to the reunification scheme allows for the Youth Court to monitor cases and review progress towards reunification in appropriate cases. Hearings occur every 6-8 weeks.</p> <p>Interim orders can be extended with the agreement of the parties while the matter is before the Reunification Court. The Reunification Court process is currently the subject of an evaluation.</p> <p>No legislative change is considered necessary in this context.</p>