

Policy Commitment

Restoring the cultural rights of Aboriginal and Torres Strait Islander children, young people and families through community informed child protection reform

For Aboriginal and Torres Strait Islander children to grow up safe with kin and in culture, and for their families and communities to experience equal opportunities and outcomes, the child protection system must be radically reformed through self determination and legitimate cultural authority.

Childhood is an important time for healthy development, learning and establishing the foundations for future wellbeing. Connection to family, community and kin are important enablers for a strong sense of self and identity. It is also a time of vulnerability during which children's rights to live in safety, to develop and be themselves, to be cared for and have a home must be protected. While sometimes a child protection response is necessary to uphold children's right to be safe, the child protection system does not serve Aboriginal and Torres Strait Islander children and their families now, nor does it foster what is required for communities to be restored so they may flourish.

We believe the child protection system can be reformed to truly recognise and build on the strengths of Aboriginal and Torres families

to care for their children and raise them to be proud in their cultures. The steps towards justice through restoration are multi-faceted and require the collaboration of Government, Aboriginal and Torres Strait Islander Community Controlled organisations, the care sector and community.

The removal of Aboriginal and Torres Strait Islander children continues to cause harm.

The State sanctioned removal of Aboriginal children from their families began in the 1800's¹, with legacy policies now recognised as causing substantial harm and transgenerational trauma. However, the authorised removal of children still exists, with Aboriginal and Torres Strait Islander children now removed and placed into the child protection system at greater rates than during the era of the Stolen Generations².

¹ <https://healingfoundation.org.au/who-are-the-stolen-generations/#:~:text=The%20Stolen%20Generations%20refers%20to,mid%2D1800s%20to%20the%201970s.>

² <https://www.snaicc.org.au/family-matters-report-2020-reveals-aboriginal-and-torres-strait-islander-children-continue-to-be-separated-from-families-and-culture-at-an-alarming-rate/>

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Aboriginal and Torres Strait Islander children represent more than 42% of all children in out-of-home care, despite representing only 5% of the Australian population³. They are 10 times more likely to be living in out-of-home care than non-Aboriginal children and experience greater long-term disadvantage across multiple life domains as a result. Currently, only one-third of Aboriginal and Torres Strait Islander children are on track in all five domains of early childhood development⁴. Year on year, National Close the Gap Target 12 – the reduction of children into care by 45%⁵ by 2031 – is not on track to be met⁶ and has shown to be worsening⁷. This means an increasing number of children are expected to experience long term impact to their social and emotional wellbeing into the future.

The current child protection system does not address the key drivers of Aboriginal and Torres Strait Islander entry into child protection.

The current child protection system is not structured in a way that supports an understanding of the strengths and cultural differences of Aboriginal and Torres Strait Islander parenting⁸.

Neither has it been set up to acknowledge or address the poverty and socioeconomic disadvantage Aboriginal and Torres Strait Islander families continue to experience as a result of Australia's colonisation, structural and material racism and transgenerational trauma. Material and other forms of disadvantage are key contributors to Aboriginal and Torres Strait Islander families' over-representation in the

current child protection system.⁹ Nearly half of Aboriginal and Torres Strait Islander people live in the most socio-economically disadvantaged areas in Australia.¹⁰

The cultural determinants of Aboriginal and Torres Strait Islander wellbeing are well understood. These include:

- connection to country, cultural beliefs, knowledge and language¹¹
- knowing and being part of a community and having connection with and responsibility to family and kin
- cultural expression and continuity; and
- self-determination and leadership.¹²

However, once they enter the child protection system, Aboriginal and Torres Strait Islander children are often cared for by non-Indigenous organisations, where access to culturally informed connection and practice can be inconsistent – further eroding connection to culture, language and identity.

What is evident is that the child protection system does not serve Aboriginal and Torres Strait Islander children and their families now, nor does it foster what is required for communities to flourish. Child protection reform needs to effectively respond to the needs of children and families and ensure that Aboriginal and Torres Strait Islander peoples' rights to participation and self-determination are fulfilled. The steps towards reform and justice require the collaboration of Government, Aboriginal Community Controlled Organisations (ACCOs) and the child, youth and family sector.

³ [https://www.pc.gov.au/closing-the-gap-data/dashboard/socioeconomic/outcome-area12/out-of-home-carearea12#:~:text=Nationally%20in%202021%2C%20the%20rate,2019%20\(the%20baseline%20year\).](https://www.pc.gov.au/closing-the-gap-data/dashboard/socioeconomic/outcome-area12/out-of-home-carearea12#:~:text=Nationally%20in%202021%2C%20the%20rate,2019%20(the%20baseline%20year).)

⁴ <https://www.rific.gov.au/life-stages/children>

⁵ National Close the Gap <https://www.closingthegap.gov.au/>

⁶ Family Matters <https://www.familymatters.org.au/wp-content/uploads/2022/11/20221123-Family-Matters-Report-2022-1.pdf>

⁷ <https://www.pc.gov.au/closing-the-gap-data/annual-data-report/report>

⁸ <https://aifs.gov.au/resources/policy-and-practice-papers/child-protection-and-aboriginal-and-torres-strait-islander>

⁹ <https://aifs.gov.au/resources/policy-and-practice-papers/child-protection-and-aboriginal-and-torres-strait-islander>

¹⁰ <https://www.indigenoushpf.gov.au/measures/2-09-index-disadvantage> (AEDC Census 2021)

¹¹ One-third of Aboriginal and Torres Strait Islander children are reported to speak an Aboriginal or Torres Strait Islander language at home <https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/language-statistics-aboriginal-and-torres-strait-islander-peoples/latest-release>

¹² <https://www.indigenoushspc.gov.au/getattachment/e129c621-58a4-4966-8730-dcf6e3a533a8/dudgeon-et-al-2021-family-kinship.pdf?v=1071> P3

Principles of our commitment to reform the rights of Aboriginal and Torres Strait Islander children and families within the child protection system

Commitment to the unique rights of children

Within our services delivery and advocacy, we ensure we adopt policies and practices that protect and promote the rights of Aboriginal and Torres Strait Islander children to grow up strong with family, kin, and culture. This includes our support for the direct oversight of the rights of children by dedicated Commissioners for Aboriginal and Torres Strait Islander children including a National Commissioner with the power to investigate and report on issues impacting the wellbeing of children.

Commitment to self-determination for Aboriginal and Torres Strait Islander people

We actively recognise the identity and culture of Aboriginal and Torres Strait Islander people are best nurtured by family, kin and community, and we uphold the principle of self-determination and cultural authority of ACCOs, Peak organisations and communities to design and deliver the continuum of family preservation and care services.

Reforming the child protection system

Through policy and advocacy we are partnering in necessary reforms in the child protection system and its service sector to realise a just, equitable and culturally safe system for Aboriginal and Torres Strait Islander children and families now and into the future. This includes ensuring ACCOs do not inherit a system of care that continues to sustain the over-representation of children in child protection.



Elevate Reconciliation Plan – Transformation Project

Life Without Barriers is committed to partnering with Aboriginal Community Controlled organisations, the child, youth and family sector and Government to disrupt legacy responses in child protection that do not recognise the right for children to be raised in culture and with kin.

To ensure the wellbeing of Aboriginal and Torres Strait Islander children and families now and into our shared future, out-of-home care service providers like Life Without Barriers – and the sector – must fundamentally change. As one of Australia’s largest national providers of out-of-home care, we embrace our responsibility to uphold the right of Aboriginal and Torres Strait Islander children to grow in culture and with kin.

Whilst the key focus should be on preventing the need for a child protection response, there are times when other care plans may be required. Where this is the case, ensuring risk assessments and care plans are developed, managed and reviewed by Aboriginal and Torres Strait Islander people and that children are able to continue their connection to their community and culture is essential to the wellbeing and life outcomes of children.¹³ Where care is required, ACCOs are best placed to sustain and nurture the cultural knowledge, safety and connection of Aboriginal and Torres Strait Islander children.¹⁴ Whilst families may require interventions to enable safe home situations for children, we recognise there are practices in child protection systems which are discriminatory and which prioritise the removal of children over supports focused on supporting families to remain together.

To guide our Transformation Project, Life Without Barriers has established several **Transformation Commitments** informed by our partnership with SNAICC – National Voice for our Children, The Family Matters Report, the Aboriginal Placement Principles (ATSICPP), the Safe and Supported Framework, the National Close the Gap Agreement and the United Nations Agreement on the Conventions of the Rights of the Child.

Our Transformation Project involves three central commitments:

- Influence the sector to adopt and implement priority reforms to reduce over-representation of Aboriginal and Torres Strait Islander children in out-of-home care.
- Advocate for ACCOs to receive support to commission and operate services for Aboriginal and Torres Strait Islander children through the investment of resources traditionally awarded to non-Indigenous organisations
- Transition all Aboriginal and Torres Strait Islander children and young people in our care to ACCOs within ten years.

¹³https://www.familyisculture.nsw.gov.au/___data/assets/pdf_file/0011/726329/Family-Is-Culture-Review-Report.pdf

¹⁴Stronger ACCOs Stronger families report

Our Transformation Commitments

All families enjoy access to quality, culturally safe, universal and targeted services necessary for Aboriginal and Torres Strait Islander children to thrive.

We will influence and advocate for investment by government to reorient the child protection system to family support, early intervention and prevention services.

We will ensure Aboriginal and Torres Strait Islander peoples lead our practice to improve culturally safe and targeted service delivery.

We will ensure Aboriginal and Torres Strait Islander children receive care that is culturally safe, secure and founded in connection to family, kin, culture, community and country.

We will influence the community service sector to embed systems that deliver improved outcomes for Aboriginal and Torres Strait Islander children and families.

Aboriginal and Torres Strait Islander people and organisations participate in and have control over decisions that affect their children.

We will ensure our priorities and actions are led by the voice of Aboriginal and Torres Strait Islander peoples, support self-determination.

We will influence the child, youth and family service sectors to ensure improved outcomes for Aboriginal and Torres Strait Islander children and their families through transitioning children to family, kin or case management by ACCOs.

Law, policy and practice in child and family welfare are culturally safe and responsive.

We will influence networks to contribute to the reform agenda and challenging structural and institutional racism.

We will focus on influencing child and family sector networks and key partners to contribute to a collective impact to maximise the longer-term outcomes of Building Block 3 across our 10-year commitment.

Governments and services are accountable to Aboriginal and Torres Strait Islander people.

We will ensure greater accountability and transparency to Aboriginal and Torres Strait Islander peoples.

We will make a public commitment that Life Without Barriers will only engage in initiatives where participation principles are adhered to by partners.

The transformation project is founded on the Family Matters Building Blocks – four clear principles to overhaul the current approach to Aboriginal and Torres Strait Islander child wellbeing.¹⁵

Our Transformation Principles

Life Without Barriers has established clear principles to guide our actions during the transition process. At all times, Life Without Barriers will adopt a child-rights approach, enabling Aboriginal and Torres Strait Islander children and young people to grow up safely in their identity, culture, and community.

Rights of Aboriginal children and young people

- Life Without Barriers will adhere to the United Nations Convention on the Rights of the Child and the United Nations Declaration on the Rights of Indigenous Peoples when transitioning Aboriginal and Torres Strait Islander children and young people's case management to ACCOs.
- As a signatory of the Family Matters campaign, Life Without Barriers commits to working in accordance with the key principles and to implementing all corresponding actions:
 - applying a child focused approach
 - ensuring Aboriginal and Torres Strait Islander people and organisations participate in and have control over decisions that affect their children
 - protecting Aboriginal and Torres Strait Islander children's right to live in culture
 - pursuing evidence-based responses
 - supporting, healing and strengthening families
 - challenging systemic racism and inequities that affect children and young people in care.

Connection to Kin & Culture – Finding Family: Finding Mob

- Life Without Barriers will prioritise ACCOs as an extension of communities who are best placed to provide care to Aboriginal and Torres Strait Islander children and young people and we commit to working with ACCOs in all jurisdictions.
- Connection to kin and culture will be supported, facilitated, prioritised and actively assured by Life Without Barriers, including the implementation of the five elements of the Aboriginal and Torres Strait Islander Child Placement Principles.¹⁸

Developing partnerships with Aboriginal and Torres Strait Islander Community Controlled organisations

- We commit to forging partnerships with ACCO's built on transparency and respect.
- We will support ACCO's in ways they request such as sharing resources, staff, expertise, training.

¹⁸ <https://www.snaicc.org.au/the-aboriginal-and-torres-strait-islander-child-placement-principle-a-guide-to-support-implementation/>

Our Transformation Principles

Planning to transition care to Aboriginal Community Controlled Organisations

- We commit to being led by ACCOs and their recommendations as to the pace of transition planning. We know that this will vary by region throughout Australia. We will continue support as required post transition of children.
- We will support ACCOs both through and after transition, based on their needs and preferences.
- Transition plans will be child focused and based on the Aboriginal and Torres Strait Islander Child Placement Principles.
- Mixed household groups where an Aboriginal or Torres Strait Islander child is residing with a non-Indigenous child will be considered as a 'sibling group' and considered as full transfers to ACCOs and negotiated on a case-by-case basis.

Guardianship

- Life Without Barriers will consider supporting and facilitating guardianship of Aboriginal or Torres Strait Islander children in certain circumstances where:
 - The guardianship will not further separate or disconnect a child or young person further from culture
 - The child / young person has requested this, and their request is supported by family, including extended family.
 - Where family has requested, and this request is supported by the child / young person.

Interstate Transfer

- Life Without Barriers will undertake interstate transfer within the Aboriginal Placement Principles (ATSICPP), our Transition Principles, and the relevant State or Territory legislation.

Where Life Without Barriers are required to provide support to an Aboriginal or Torres Strait Islander CYP we will adhere to the following

- Aboriginal and Torres Strait Islander children and young people entering care should be cared for by suitable family or kin. Exploring options to place a child with family, kin and connecting the child to their place of origin community will be a priority for all new entries.
- Where that is not possible, the child/ young person should be cared for by a carer authorised and supported by an ACCO.
- When an Aboriginal and Torres Strait Islander child/ young person comes to Life Without Barriers, we will adopt the following protocol:
 - confirm with the relevant agency what family/ kin have been engaged (in line with the Aboriginal and Torres Strait Islander placement principles)
 - confirming with the relevant state Government Departments that all attempts have been made to place child with family/ kin or community control
 - direct engagement with relevant ACCO to ascertain capacity for further identifying researching placement options with family or kin for the child/ young person and should these not be available, ensuring the ACCO can place the child/ young person with family
 - recording, reporting, and using data to influence internal and external practices.
- Life Without Barriers will only accept care of an Aboriginal or Torres Strait Islander child or young person in agreement with community and where a plan is established towards transitioning the child/ young person's case management to an ACCO as quickly as possible.

Our Transformation Principles

Recruiting and transitioning Aboriginal and Torres Strait Islander carers to ACCOs

- Life Without Barriers will not seek to target, recruit or assess Aboriginal and Torres Strait Islander carers unless requested and agreed with a local ACCO or as part of a transition partnership.
- Where we receive enquiries from potential new Aboriginal and or Torres Strait Islander carers, and there is an opportunity for them to support an Aboriginal or Torres Strait Islander child in Life Without Barriers' care, they will be assessed and a plan will be made to transition the carer and child's case management to an ACCO. Enquiries will otherwise be referred to an ACCO.
- Where there is not a local ACCO or the ACCO is not able to undertake the carer assessment, Life Without Barriers will facilitate this process with a clear plan for transitioning the Aboriginal or Torres Strait Islander carer and the Aboriginal or Torres Strait Islander child to an ACCO.
- Life Without Barriers will support our existing carers with an Aboriginal or Torres Strait Islander child or young person in their care, to transition their case management to an ACCO, where they will be reassessed.
- Where more support is required, Life Without Barriers will partner with the relevant ACCO to establish an agreement between parties, that considers current and future caring opportunities.
- Existing Aboriginal or Torres Strait Islander carers form part of the intended transfer to ACCOs.

Adoption of Aboriginal and Torres Strait Islander Children

- Life Without Barriers does not support the adoption of Aboriginal and Torres Strait Islander children and will not facilitate, endorse or support any adoption processes for Aboriginal or Torres Strait Islander children.
- Where adoption is requested by the child or / and Aboriginal or Torres Strait Islander family, Life Without Barriers will refer the matter to the intended transitioning ACCO to consider.
- It is unlikely that Life Without Barriers will be called to express an opinion or have an involvement in a Meriba Omasker Kaziw Kazipa Cultural Recognition Order for Torres Strait Islander children (legal recognition of traditional child rearing practices). If Life Without Barriers needs to be involved in a matter concerning an application for a Cultural Recognition Order, decision making will be made at Deputy Chief Executive level with significant cultural input.

Leaving Care planning

- Support for Aboriginal and Torres Strait Islander young people who are preparing to leave care will commence at least two years before the young person is due to leave care.
- ACCOs are regarded as part of connecting children to culture and community and wherever possible will be engaged in the development of leaving care plans.
- All Aboriginal and Torres Strait Islander children leaving care plans will include connection to family/ kin, community and culture as guided by The Family Matters Report.
- Transition plans will include Life Without Barriers agreeing to aftercare support where appropriate.