

Placing a child in accordance with the Aboriginal and Torres Strait Islander Child Placement Principle

Direction to staff

This document provides instructional information for Child and Youth Protection Services (CYPS) to conduct its business. All staff must comply with it.

Note: Unless otherwise indicated, the term ‘child’ or ‘children’ also refers to ‘young person’ or ‘young people’. The term ‘children in care’ refers to ‘children in out of home care’.

Summary of main points

This document outlines how to:

- Identify family networks and potential placement options
 - Determine the best placement for an Aboriginal and/or Torres Strait Islander child, in accordance with section 513 of the *Children and Young People Act 2008* (the Act)
 - Incorporate guidance provided by SNAICC (2017) ‘Understanding and Applying the Aboriginal and Torres Strait Islander Child Placement Principle’ into practice
 - Gather information from relevant parties to inform placement decisions.
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Purpose of this document

This document outlines how to determine the best placement for an Aboriginal and/or Torres Strait Islander child, in accordance with section 513 of the Act ‘Priorities for placement with out-of-home carer – Aboriginal or Torres Strait Islander child or young person’ and also in compliance with guidance provided by SNAICC (2017) ‘Understanding and Applying the Aboriginal and Torres Strait Islander Child Placement Principle.’

Scope

This procedure applies to all staff within CYPS and will be followed in relation to all Aboriginal and/or Torres Strait Islander children and young people.

In this document

This document contains the following topics.

Purpose of this document.....	1
Scope.....	1
Relevant policy.....	2

When to perform this procedure.....	2
Procedures	3
Step 1 – Talk to both child’s biological parents	3
Step 2 - Identify existing family and kinship networks	3
Step 3 - Consult with Aboriginal and Torres Strait Islander Cultural Services Team	4
Step 4 – Speak to the child.....	5
Step 5 – Identify suitable placement options consistent with section 513 and best interests principle	5
Step 6 – Complete Initial Kinship Carer Assessment and place the child.....	6
Step 7 – What to do if it has not been possible to place the child with family or kin	7
Step 8 – Speak with any relevant Aboriginal and/or Torres Strait Islander organisation or person who may wish to make a submission or give advice to the placement	8
Step 9 – Commence Comprehensive Kinship Carer Assessment and develop Restoration Plan simultaneously	8
Record keeping	9
Roles and responsibilities	8
Related materials	9
Legislation	9
Policies, procedures and practice guides.....	9
Other documentation	10
Document information	10
Version history	10
Definitions	10

Relevant policy

This procedure upholds the principles of the ‘Cultural Plans for Aboriginal and Torres Strait Islander children and young people’ policy and procedure and is to be read in conjunction with the documents listed in the below section ‘Related materials’.

When to perform this procedure

This procedure is to be applied as soon as it becomes necessary to place an Aboriginal and/or Torres Strait Islander child in out of home care. This may occur on either a voluntary or involuntary basis, either with or without a transfer of parental responsibility to the Director-General and including following Emergency Action.

The Act requires that decisions about placement of an Aboriginal and/or Torres Strait Islander child with an out of home carer (section 10) are made in accordance with section 513 (Priorities for placement with out-of-home carer – Aboriginal or Torres Strait Islander child or young person) which requires that the decision **is consistent with** any Cultural Plan in force for the child.

Note: This procedure presupposes all active efforts by CYPs case managers to prevent child removal having already taken place through Family Preservation and mechanisms such as Family Group Conferencing, Safety Planning and Functional Family Therapy.

Procedures

There are 9 key steps in arranging a placement for an Aboriginal and/or Torres Strait Islander child. These steps must be followed regardless of the circumstances of a child entering care.

1. Talk to both child's biological parents
2. Identify existing family and kinship networks
3. Consult with the Aboriginal and Torres Strait Islander Cultural Services Team
4. Speak to the child
5. Identify suitable placement options consistent with section 513 and best interests principle
6. Complete Initial Kinship Carer Assessment and place the child.
7. What to do if it has not been possible to place the child with family or kin
8. Speak with any relevant Aboriginal and/or Torres Strait Islander organisation or person who may wish to make a submission or give advice to the placement
9. Commence Comprehensive Kinship Carer Assessment and develop Restoration Plan simultaneously

Step 1 – Talk to both child's biological parents

As soon as it is necessary to consider the need to place an Aboriginal and/or Torres Strait Islander child outside of their family home, CYPS must consult with both of the child's parents, about where they would like their child to live for the period of time required.

Where possible, seek advice from both parents about who is important to the child. Ideally, parents will be able to give information about the individuals who:

- the child has closest connections to and would like to stay with
- the child should have regular contact with
- could be called upon to provide respite care or 'a break' for the carer/s
- could be asked to provide other forms of support to the child's care placement.

It is expected that CYPS case managers will communicate with parents and family in a clear and culturally safe manner that enables them to fully understand their rights and available supports.

Parents should be provided with information about CYPS processes, requirements and expectations.

They must also be advised that restoration planning is always the first goal of CYPS in the period following a child's placement.

Step 2 - Identify existing family and kinship networks

To identify the child's family and kinship networks, CYPS case managers will:

1. Consult the Cultural Plan (if one exists) to identify key family stakeholders and decision makers.
2. Consult the Family Assessment (if one exists) to identify key family stakeholders and decision makers.
3. Consider a genogram, ecomap or other document outlining familial cultural connections (where they exist) to identify key family stakeholders.

Family members who are connected to the child and family should be questioned about who they know has:

- cultural importance to the child
- kinship responsibilities for the child
- decision making responsibilities for the child
- a spiritual role in the child's life

If Family Mapping has not already taken place, this is a good opportunity to develop a genogram.

Step 3 - Consult with Aboriginal and Torres Strait Islander Cultural Services Team

Once Steps 1 and 2 have been completed, it is important that CYPS case managers take the information they have gathered to the Aboriginal and Torres Strait Islander Cultural Services Team for their input and advice. There is an expectation that case managers will have gathered as much relevant information about the child and family's cultural and social connections as possible, before taking the matter to the Aboriginal and Torres Strait Islander Cultural Services Team.

Referral of the child to the Aboriginal and Torres Strait Islander Cultural Services Team should be made using the client management system referral process, emailing the link to the inbox [Redacted].

The Aboriginal and Torres Strait Islander Cultural Services Team will respond within 48 hours of receiving the referral to arrange a meeting with the case manager.

Ideally case managers will be able to inform Aboriginal and Torres Strait Islander Cultural Services staff of the following key elements of the child's care needs:

- Who is important to this child?
- Who do they have contact with now?
- How regular is this contact?
- What services (if any) are in place?
- Where does the child attend school?
- Is school a positive place for the child?
- Where is the child's country and how often they visit their country?
- Where are their parent's countries and how often they visit their countries?
- Who holds cultural and/or spiritual knowledge for this child?
- What is their role and how often do they see the child?
- Does this child have a role in their community which needs to be considered?
- What is this role and what does it mean?

Based on this information, Aboriginal and Torres Strait Islander Cultural Services staff will be able to provide culturally suitable and safe advice about how to proceed with speaking to the child, and the placement decision. It may also be important to seek advice about how to maintain ongoing communication with parents and key family members, and whether a Family Group Conference referral is required and/or appropriate.

Step 4 – Speak to the child

Speaking with the child is of essential importance. This step may be done with the support of an Aboriginal and Torres Strait Islander Cultural Services staff member, another suitable person (e.g. ACT Together case manager if appropriate) or a member of the child's family and/or community. Central to the Aboriginal and Torres Strait Islander child placement principle, as well as section 513 of the Act, is the child's views and wishes.

The Act requires that in placing any child, the priorities for placement under section 513 require that the proposed placement must be:

- Available
- Not objected to by the child, and
- Consistent with any Cultural Plan which may be in force.

This means in discussing a proposed placement with a child, CYPs case managers must have both of the following front of mind, the need to:

- Protect the child from risk of abuse or neglect; and
- Place the child with a carer to whom the child does not object.

As with all best interests decisions under the Act, the placement wishes of an Aboriginal and/or Torres Strait Islander child need to consider in the broader context of section 10 'Aboriginal and Torres Strait Islander children and young people principle'.

This section stipulates that the decision-maker must take into account:

- The need for the child to maintain connections with lifestyle, culture and traditions of their Aboriginal and/or Torres Strait Islander community,
- Submissions on behalf of the child's placement may be made by an Aboriginal and/or Torres Strait Islander person or organisation, and
- The traditions and cultural values (including kinship) of the child, as identified by their family and community, must be taken into consideration.

Note: Case managers can not comply with section 10 if they have not explored and identified 'kinship' relationships within the child's family and community. This 'community' must be the one where the child has the strongest connection, not necessarily the local (ACT) community.

Step 5 – Identify suitable placement options consistent with section 513 and best interests principle

Case managers must remember that section 513 (Priorities for placement with out-of-home carer – Aboriginal or Torres Strait Islander child or young person) is a hierarchical list. This means that the first priority for placement of an Aboriginal and/or Torres Strait Islander child is **always** kinship care.

Priority 1 – Kinship care (with relatives and extended family who may be either Aboriginal and/or Torres Strait Islander or non-Indigenous)

Kinship care options should have been identified during steps 1-4, and should be considered at this point in terms of:

1. Availability,
2. Suitability, and
3. The child's wishes (i.e. they must not object).

Where possible, the placement of an Aboriginal and/or Torres Strait Islander child should be immediately with **kin**¹ who have completed an 'Initial Kinship Carer Assessment'. Where this is not possible, the first placement should be with kin who have signed the 'Suitability Information Notice' form.

Where an Aboriginal and/or Torres Strait Islander child has non-Indigenous immediate and extended family, the Act requires that a suitable kinship carer must be capable of promoting the child's ongoing contact with their Aboriginal and/or Torres Strait Islander family, community and culture. To this end, it is preferable for a non-Indigenous kinship carer to live near the child's Aboriginal or Torres Strait Islander family and community.

This does not mean that Aboriginal or Torres Strait Islander kin are considered 'more' suitable than non-Aboriginal kin, but it does mean that in weighing up the benefits of a care placement – the non-Indigenous kin must demonstrate a clear and measurable commitment to promoting the child's ongoing contact with Aboriginal or Torres Strait Islander family, community and culture. This must be a demonstrated capability that the Director-General will assess as part of the child's best interests decision. Balancing the elements of best interests, availability, suitability and the child's wishes, must be a carefully considered process which takes all key elements of the child's needs into account.

The process of kinship care assessment should not create placement instability or disruption for a child. CYPS case managers will make active efforts to focus on completion of the Initial Kinship Carer Assessment as quickly as possible to create placement stability and focus efforts on Restoration as soon as possible.

Assessment of suitable kinship carers may take place concurrently with restoration planning, and in a transparent manner where all relevant family members and the child are aware of who, in the family, has offered to provide care.

Consistent with section 513, continuing contact with the child's family, community or culture is an important consideration for placement. Kinship carers who are also members of the child's community are more ideally located to facilitate contact with parents and extended family.

Step 6 – Complete Initial Kinship Carer Assessment and place the child

CYPS case managers will refer to usual 'Kinship Carer Approval' and 'Care Placements' procedures.

Additional considerations for the case management of an Aboriginal and/or Torres Strait Islander child post-placement include:

- Seeking advice from the Aboriginal and Torres Strait Islander Cultural Services Team on ways to support connections that meet the child's specific cultural needs. They may be able to provide information on services and activities which would benefit the child in a culturally safe manner.
- Ask the child and family if they would like a support person or service present or a representative of the Aboriginal and Torres Strait Islander Cultural Services Team to accompany them when the CYPS case manager visits or a meeting is held.
- Update or finalise the child's Cultural Plan as soon as possible (see 'Cultural Plans for an Aboriginal and Torres Strait Islander children and young people' procedure).

¹ Please note, 'kin' is defined at section 516(2) of the Act as a "family member or significant person, of the child". Significant person is defined at section 14 of the Act as "a person (other than a family member) who the child, a family member of the child, or the Director-General considers is significant in the child's life". Examples include; a long-term friend, a person who normally lives with the child, a person who has responsibility for the child in accordance with the cultural traditions and customs of the child's community.

- Ensuring regular communication with parents and family in a clear and culturally safe manner that enables them to fully understand CYPs processes, their rights and available supports.
- Encourage contact with parents and family in ways consistent with the family's norms and culture – where possible, at the parents' home, in a neutral location (park) or a culturally safe service.
- Invest time to develop quality relationships within the child's network, to ensure open and transparent communication is established and maintained.
- Identify family members who can work with the parents to improve the child's safety, support meaningful contact visits and promote restoration.

Step 7 – What to do if it has not been possible to place the child with family or kin

Where a suitable kinship care placement has not been identified for an Aboriginal and/or Torres Strait Islander child, the next most suitable placement is; “a foster carer who is a member of the child's or young person's Aboriginal or Torres Strait Islander community in a relationship of responsibility for the child or young person according to local custom and practice”.

Priority 2 – A foster carer who is a member of the child's Aboriginal or Torres Strait Islander community in a relationship of responsibility

This placement option may only be informed through consultation with the Aboriginal and Torres Strait Islander Cultural Services Team, and with the child's biological parents and extended family. This placement type is a step closer to kinship care than a foster care placement, due to the existence of a relationship of responsibility within the community. For example; a child of Wiradjuri descent within the Ngunnawal community, might be placed with a Wiradjuri carer who has knowledge of the child's extended family.

Priority 3 – A foster carer who is a member of the child's community

This placement option extends the concept of community to include non-Indigenous community members, as long as the 'community' in question is that to which the child “has the strongest affiliation” (s10(c)). For example, a foster carer who is a member of the child's church community, or a member of their sporting community, as long as the 'community' is one of significance in the child's life. This placement type needs to be discussed with a team leader, and the importance of the 'community' needs to be verified by the child and their parent/s.

Priority 4 - An Aboriginal or Torres Strait Islander foster carer

Where it is not immediately possible to place a child with family or kin, it is necessary to continue the search for any extended family or other kin who may not have been readily identified. This may involve another referral to Aboriginal and Torres Strait Islander Cultural Services Team for family finding advice, and/or seeking an appointment through AIATSIS (Australian Institute of Aboriginal and Torres Strait Islander Studies) or Link-Up NSW for people of the stolen generations who have been fostered, adopted or raised in institutions.

Active efforts by CYPs case managers will be made to ensure that even after a child has been placed in a suitable foster placement, kinship care options will continue to be sought and explored.

Priority 5 – a non-Aboriginal or Torres Strait Islander foster carer who the Director-General believes is sensitive to the child's needs and is capable of promoting the child's ongoing contact with their Aboriginal or Torres Strait Islander family, community and culture and will facilitate contact and restoration.

This is the placement option of last resort and it is the responsibility of the CYPs case manager to ensure that a non-Indigenous carer is held accountable for compliance with the child's Cultural Plan, as well as all agreed efforts to keep the child connected to family, culture and community.

Placement with a non-Indigenous foster carer will be considered temporary, until all active efforts to find a higher priority level placement, have been exhausted.

Step 8 – Speak with any relevant Aboriginal and/or Torres Strait Islander organisation or person who may wish to make a submission or give advice to the placement

The CYPS case manager must give consideration to asking an Aboriginal and/or Torres Strait Islander person or organisation, if they would like to make a submission to the cultural planning process. For example, if Gugan Gulwan have provided any support to the child, CYPS are responsible for **asking them** if they would like to provide a submission to the placement decision making process.

Step 9 – Commence Comprehensive Kinship Carer Assessment and develop Restoration Plan simultaneously

It is essential that carer assessment and restoration planning takes place in a parallel (and not mutually exclusive) process. Restoration work with the child’s biological family will be guided by existing procedure relating to restoration processes.

Restoration is not an event but rather a graduated process of transitioning a child back to their parent/s or family, after an assessment by CYPS that the risk issues which necessitated their move from home, have now been resolved and addressed. No child should be restored to their parent/s unless all identified risks have been at least reduced, and where possible, ameliorated.

While restoration is the first goal of the child’s case management, stability in care is necessary to make the transition of a child back home as smooth as possible. This requires provision of support to both the placement and the biological parents, to stay focussed on the child’s best interests and how all Care Team members can play a part.

The time spent in placement for a child can be a time to think about introducing family members who may not been part of a child’s life for some time. CYPS case managers should think about using creative ways to build and enhance the child’s networks and supports, such as introducing photos, letters, cards, text messages and phone calls.

Roles and responsibilities

The following table outlines the roles and responsibilities under this procedure.

Role	Responsibility
Case Manager and/or Assessment and Support team	<ul style="list-style-type: none"> • ensuring any placement of an Aboriginal and Torres Strait Islander child is consistent with a Cultural Plan in force. • talking to both biological parents, family and kin and formulating a genogram or ecomap. • consulting with the Aboriginal and Torres Strait Islander Cultural Services Team • consulting with the child and other key stakeholders. • identifying suitable placement options • completing the Initial Kinship Carer Assessment and placing the child • speaking with any relevant Aboriginal and/or Torres Strait Islander organisation or person who may wish to make a submission or give advice about the placement • completing the Comprehensive Kinship Carer Assessment • developing a Restoration plan • recording all information on the client management system

Role	Responsibility
Aboriginal and Torres Strait Islander Cultural Service Team	<ul style="list-style-type: none"> • providing advice and guidance to case managers for finding family • assisting case managers to talk with the child, biological parents, extended family and kin • assisting case managers to consult with key stakeholders including Aboriginal and/or Torres Strait Islander organisations or persons who may wish to make a submission or give advice about the placement • recording all cultural consult event types on the client management system • providing advice and guidance to the Application Review Committee and Restoration panel
Team Leaders	<ul style="list-style-type: none"> • providing ongoing case and practice supervision, specifically when working with Aboriginal and/or Torres Strait Islander children and families • ensuring Aboriginal and/or Torres Strait Islander children are placed in placement options consistent with section 513 and best interests principle
Operations Managers	<ul style="list-style-type: none"> • ensuring Aboriginal and/or Torres Strait Islander children are placed in placement options consistent with section 513 and best interests principle

Record keeping

Referrals to the Aboriginal and Torres Strait Islander Cultural Services Team should be made using the client management system referral process, and any meetings held will be recorded as an Event and Case Note (ECN) (see 'Working with the Aboriginal and Torres Strait Islander Cultural Services Team' practice guide). The Aboriginal and Torres Strait Islander Cultural Services Team will record all advice, consultations and interactions on the client management system.

It is important that the placement decision is recorded as a Decision or Significant Action (DOSA) on the client management system to explicitly articulate how the best interests of the child have been met, and the priorities for placement at section 513 have been followed.

Related materials

The following materials directly relate to this procedure.

Legislation

- [Children and Young People Act 2008](#)
- [Human Rights Act 2004](#)
- [Information Privacy Act 2014](#)
- [Territory Records Act 2002](#)

Policies, procedures and practice guides

- Policy: Cultural Plans for Aboriginal and Torres Strait Islander children and young people
- Procedure: Annual review
- Procedure: Care Plan procedure
- Procedure: Care Placements

- Procedure: Case plans for child protection matters
- Procedure: Cultural Plans for Aboriginal and Torres Strait Islander children and young people
- Procedure: Kinship Carer Approval
- Practice guide: Case management – care plan, case plan and cultural plan
- Practice guide: Case management – developing a care plan
- Practice guide: Developing contact arrangements
- Practice guide: Engaging with Aboriginal and Torres Strait Islander children and young people
- Practice guide: Family Group Conference (FGC)
- Practice guide: Identifying and finding kinship carers
- Practice guide: Kinship carers and kinship care placements
- Practice guide: Placing a child in a care placement
- Practice guide: Working with the Aboriginal and Torres Strait Islander Cultural Services Team

Other documentation

- Form: Suitability Information Notice [access restricted]
- [Our Practice Standards CYPS](#)
- [Working with Aboriginal and Torres Strait and Torres Strait Islander families: Providing culturally responsive practice](#)
- [Working and walking together: Supporting family relationship services to work with Aboriginal and Torres Strait Islander families and organisations by SNAICC](#)

Document information

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Version history

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Date	Amendment details
29/06/2020	First publication of this procedure.

Definitions

For definitions of terms used in this document, access the CYPS glossary.