
Adoption of Aboriginal and/or Torres Strait Islander children and young people

Direction to staff

The policy position was jointly developed by diverse representatives from the Aboriginal and Torres Strait Islander community.

Community Services Directorate (CSD) is committed to accepting Aboriginal and Torres Strait Islander community-led solutions to issues which impact on the Aboriginal and Torres Strait Islander communities, in line with its commitment to self-determination for Aboriginal and Torres Strait Islander people.

Child and Youth Protection Services recognises the impact colonisation has had on the Aboriginal and Torres Strait Islander community and understands some children may not know if they are of Aboriginal or Torres Strait Islander background.

CYPS staff will make early and active efforts to support the identification of children who may be Aboriginal and/or Torres Strait Islander.

This document provides overarching principles by which CYPS staff, 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’.

Purpose of this document

This policy operationalises the Community Services Directorate (CSD) position on the non-adoption of Aboriginal and Torres Strait Islander children for whom the Director-General has parental responsibility on long-term care and protection orders.

Scope

This policy applies to all staff within CYPS. CYPS retains decision making for applications on behalf of children on long-term care orders and for whom the Director-General holds parental responsibility. These also include children and young people being case managed by ACT Together.

In this document

This document contains the following topics.

Purpose of this document.....	1
Scope.....	1

Policy statement	2
Policy principles	2
Related materials	3
Legislation	3
Procedures and practice guides.....	4
Other documentation	4
Document information	4
Version history	4
Definitions.....	4

Policy statement

The Director-General will not make an application for an Adoption Order on behalf of any Aboriginal and/or Torres Strait Islander child or young person who is subject to a long-term care and protection order that confers parental responsibility on the Director-General.

Policy principles

In following the policy on non-adoption for this group of Aboriginal and Torres Strait Islander children and young people, CYPS will:

- Recognise that the best interests of the child or young person are understood in the context of family and community.
- Recognise that provision of early and better support for families is critical in keeping families safe together and that all effort should be made to support families to stay together through family preservation.
- Where a child is in out of home care commit to restoration to the birth family as the first priority and always work towards restoration in exploring permanency options.
- Acknowledge, respect and value the expertise held by Aboriginal and Torres Strait Islander families and community and commit to working better with families and community to make placement decisions that are in the best interests of the child. This acknowledges the expertise held by family and community. For Aboriginal and Torres Strait Islander children and young people, this includes continuing connection to culture and community.
- Place children in out of home care in accordance with the established Aboriginal and Torres Strait Islander Child Placement Principle placement hierarchy. This placement hierarchy prioritises placement with Aboriginal and Torres Strait Islander relatives or extended family members over all other forms of care.

When working with Aboriginal and/or Torres Strait Islander children and families in the area of permanency planning, CYPS will:

- Understand that the *best interests* of Aboriginal and Torres Strait Islander children are defined at s349(1)(g), “for an Aboriginal or Torres Strait Islander child or young person – that it is a high priority to protect and promote the child’s or young person’s cultural and spiritual identity and development by, wherever possible, maintaining and building the child’s or young person’s connections to family, community and culture”.

- Understand that the application of s349(1)(g) and Section 10, must underpin all decision-making for Aboriginal and Torres Strait Islander children.
- Operationalise the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP) in all engagement with the child and family. This will support active efforts in the five interrelated areas of; Prevention, Partnership, Placement, Participation and Connection.
- Make active efforts to seek appropriate cultural identity of child/ren through maternal and paternal extended family and family finding.
- Recognise that the concept of 'family' including 'kin' within Aboriginal and Torres Strait Islander culture is broadly defined, extending beyond the immediate family and embracing a more collective approach to child rearing.
- Recognise the importance of family-led decision making with Aboriginal and Torres Strait Islander families and engage practices, such as Family Group Conferencing and Family Preservation.
- Ensure that permanency options for Aboriginal and/or Torres Strait Islander children are determined in consultation with the child's immediate and extended family and any relevant Aboriginal Controlled Organisations who wish to express their views and/or make submissions.
- Ensure that all Aboriginal and/or Torres Strait Islander children have a comprehensive Cultural Plan developed in partnership with the family and relevant Aboriginal Controlled Organisations in place.
- Ensure that all placements of Aboriginal and/or Torres Strait Islander children are required to comply with the placement hierarchy defined by the ATSICPP and s513 of the *Children and Young People Act 2008*.
- Ensure decisions and actions are consistent with the principles of the *Children and Young People Act 2008*, *Human Rights Act 2004* and CYPS practice standards.

Related materials

The following materials directly relate to this policy.

Legislation

- [Adoption Act 1993](#)

Part 1A Section 6 – Aboriginal and Torres Strait Islander child or young people – additional requirements

In applying the policy on Adoption for Aboriginal and Torres Strait Islander Children and Young People, this section of Act is applicable in the event that a third party makes an application for adoption.

Part 3 Division 3.1 Section 9 – Adoption of a child or young person

Whilst the Act allows for the adoption for Aboriginal and Torres Strait Islander children and young people, CYPS must follow this policy statement.

- [Children and Young People Act 2008](#)

Under section 349 (g) Aboriginal and Torres Strait Islander children and young people have additional considerations regarding maintenance of a child's or young person's cultural and spiritual identity and development by, wherever possible, maintaining and building the child's or young person's connections to family, community and culture.

Procedures and practice guides

- Procedure: Family Preservation
- Procedure: Planned Applications
- Practice guide: Identifying and finding kinship carers
- Practice guide: Kinship carer assessments
- Practice guide: Kinship carers and kinship care placements
- Practice guide: Involving children and young people in decision making
- Practice guide: Legal Authority for a Care Placement and Providing Information to Parties
- Practice guide: Placing a child in care placement
- Practice guide: Preparing for a care placement

Other documentation

- [Secretariat of National Aboriginal and Islander Child Care \(SNAICC\) Aboriginal and Torres Strait Islander Child Placement Principle \(ATSICPP\)](#)
- [Working with Aboriginal and Torres Strait Islander Families: Providing Culturally Responsive Practice](#)

Document information

Authorising officer:	Senior Manager, Practice and Performance, CYPs
Effective date:	14 January 2020
Last reviewed:	June 2020
Next review date:	By June 2022
Access:	Open access – Available to all staff and the public

Version history

The following table details the published date and amendment details for this document.

Date	Amendment details
14/01/2020	First publication of this policy.
09/06/2020	Included reference to children on long-term care and protection orders.

Definitions

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