

CREATE Submission to Turning the Tide: Designing a new plan to address the over-representation of Aboriginal and Torres Strait Islander children and young people in out-of-home care

April 2021

CREATE Foundation

A Level 1, 3 Gregory Terrace

Spring Hill QLD 4000

T 07 3062 4860

E create@create.org.au



Introduction

CREATE Foundation is grateful for the invitation to inform the development of the 10-year Successor Plan to further the objectives of the *National Framework for Protecting Australia's Children 2009-2020* (National Framework). A focus on ending the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care is a fundamental feature of an effective Successor Plan. This focus can only be achieved with the leadership and knowledge of Aboriginal communities and service providers as sought in this consultation.

CREATE Foundation is proud to add the voices of Aboriginal and Torres Strait Islander children and young people with lived experience of out-of-home care to SNAICC's consultation. CREATE's discussions with Aboriginal and Torres Strait Islander children and young people in research, consultations, and Youth Advisory Groups provide a diverse wealth of knowledge about their experiences in out-of-home care. Many children and young people's experiences relate directly to SNAICC's key questions on the design and development of the Successor Plan. Children and young people share the barriers, opportunities, and solutions that relate to their individual out-of-home care experience as well as systemic issues. Shaped by the voices of Aboriginal and Torres Strait Islander children and young people in out-of-home care, this submission addresses three overarching areas identified in a number of the critical questions to guide co-design. These are:

- Youth participation
- Prevention and early intervention (critical questions to guide co-design 3, 5, and 6)
- Aboriginal community leadership and service delivery (critical questions to guide co-design 1, 2, and 6)


Youth participation: Embedding children and young people's voices in the Successor Plan

CREATE believes that the out-of-home care system must ensure that Aboriginal and Torres Strait Islander children and young people are active participants in decision-making about their lives. The Successor Plan provides an opportunity to embed youth participation into out-of-home care policy, practice, and monitoring so that children and young people's voices and experiences are actively sought, valued and acted upon by the adults in their lives. Youth participation is the core of CREATE's purpose, and this drives our programs, practices, and extensive research in the field (CREATE 2019b; McDowall, 2016; 2018; 2020). **CREATE is available to work with SNAICC and other relevant groups to develop the mechanisms to include youth participation throughout the Successor Plan.**

Involving children and young people in the decisions that affect their lives has vast benefits for their individual out-of-home care experience and overall wellbeing, such as:

- understanding themselves as an active agent in their lives;
- increased self-esteem through feeling valued for their opinions and experiences;
- development of decision-making skills and;
- awareness of their rights and options in life through practising advocacy for themselves and often, their siblings, family and community members. (G-Force, 2015)

Children and young people are experts in their own experiences, and understanding their lives is crucial to supporting their well-being and connection while in out-of-home care (CREATE, 2019b). Youth participation research (McDowall, 2016, 2018; YACVic, 2013) demonstrates that when children and young people's voices are listened to, and acted upon, they are more likely to receive the types of supports, placements, and opportunities that enable them to thrive.



When my carer and caseworker have come to my brother and I [and asked] “Do you want any family visit or contact?” and I will be able to have a say about our family contact and if we want to see them or not. (Female, 14 years; McDowall, 2018)

[In my] Current placement I have had the ability to have more of a say, in terms of getting close to leaving care (turning 18), I chose my education, and I’m doing the searching for accommodation. (Female, 17 years; McDowall, 2018)

Youth participation also plays an integral role in systemic change. Understanding children and young people’s experiences with out-of-home care supports and systems provides an important opportunity to change planning and delivery of services, and broader structures of the out-of-home care system, to better suit children and young people’s needs (CREATE, 2019b; G-Force, 2015).

The importance of youth participation for children and young people is well recognised in legislation internationally (UNCRC, 2009), nationally (COAG, 2009) and at a state level (Child Protection Act [QLD], 1999; QLD Government, 2020). These rights and policies should enable children and young people to participate in meaningful decision-making that affects their lives. This is particularly important for children and young people in out-of-home care, who often feel silenced and spoken for by case workers, carers, and other authority figures in the out-of-home care system (McDowall, 2018).

The *National Framework* (2009) includes the key principle that “children and their families have the right to participate in decisions affecting their lives.” Despite federal and state governments, as well as civil service organisations committing to this principle, children and young people in out-of-home care continue to be overlooked in conversations about their own lives. CREATE’s study of children and young people’s views in out-of-home care after five years of National Standards shows that many children and young people are not involved in decision-making (McDowall, 2018). Overall, two thirds of participants claimed they were able to have a say at least “Reasonably often”; however, 16% reported they had this opportunity “Rarely” or “Never.” Participation was lower in formal settings, such as departmental meetings, where children and young people were involved 38% of the time. These results demonstrate that despite the importance of youth participation being recognised in rights and policies, the mechanisms and practices required to meaningfully include children and young people’s voices are lacking.


In CREATE’s consultations, Aboriginal and Torres Strait Islander children and young people in out-of-home care expressed the importance of having a say in their lives, especially in conversations with workers and when decisions are being made about placements, support services and planning:

[on case workers] I think this goes with a lot of things, when working with kids, really listen to us and take our opinions into account. (Female, 16 years; CREATE, 2019a)

I was scared of males so living with different ones all the time, or getting in a taxi driven by a male wasn't an option for me, but no one listened... I would have to go back to wherever they thought appropriate. Usually the police would take me and I would get in trouble but no one understood why I was doing what I was doing. I was always the one at fault. (Female, 23 years; McDowall, 2020)

[I want workers to] Provide support with reaching out, listen when I ask to be connected and learn more, they always said they [workers] would work on it but didn't actually do anything. (Female, 21 years; CREATE, 2019a)

We don't get respected and treated fairly in residential care which causes issues that end up with the children and young people getting angry and police being involved. (Female, 19 years; McDowall, 2020)



CREATE's discussions with Aboriginal and Torres Strait Islander children and young people in out-of-home care show the need for children and young people, alongside their families and communities, to have more opportunities for participation. Embedding formal and informal youth participation principles, policy, and practice in the Successor Plan has the potential to transform Aboriginal and Torres Strait Islander children and young people's experience in out-of-home care and the system itself.

Primary prevention and early intervention: Aboriginal and Torres Strait Islander children and young people's experiences

Ending the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care is a systemic issue that requires change at all levels of the child protection system. As SNAICC's work makes clear, the most significant reduction in over-representation of Aboriginal and Torres Strait Islander children in out-of-home care can be made by providing early supports that prevent initial entry into the system (SNAICC, 2020, p. 13). Unless the drivers of contact with Child Protection are addressed with culturally safe prevention and early intervention support, over-representation will continue to increase across all Australian jurisdictions (SNAICC, 2020, p.13). To address this, CREATE supports a Successor Plan to include a strong focus on prevention and early intervention services with matching resources, but reinforces this should not reduce funding nor lose focus on the 45,000 children and young people (40% of whom are Aboriginal or Torres Strait Islander) who are currently in out-of-home care in Australia.

As CREATE's remit is focused on supporting children and young people already in out-of-home care, our consultations do not specifically extend to early intervention and prevention support. However, our breadth of research with children and young people who have recently left out-of-home care (McDowall, 2020) illustrates the high unmet need for prevention and early intervention support, which can contribute to a cycle of disadvantage and removal across multiple generations, particularly for Aboriginal and Torres Strait Islander families. Discussions with young people in CREATE's post-care research demonstrate that many children and young people experience the key drivers of contact with the Child Protection system, such as poverty, homelessness, and youth justice involvement once they leave out-of-home care (McDowall, 2020). For many, marginalisation worsens upon independence as the supports of out-of-home care are removed:


I was homeless and paying \$80 a week for bus tickets... I'd used the sink and the soap dispenser in the public toilets to wash my clothes, and I still went to school every day without anyone knowing my position. It all got too much, I just kept going downhill. My life eventually fell in to turmoil. (Male, 21 years; McDowall, 2020)

Don't feel like I'm getting enough support I need. I'm doing literally everything, I have to choose jobs myself, concerned about accommodation. I just don't know why I can't get enough help. So, I'm 17, everything is so full on. I'm starting Uni, have to manage my jobs, and I don't know why more people can't help me. (Female, 17 years; CREATE, 2019c)

How I will financially support myself without a job, transport, youth worker/foster carer support. How will I save for a car if I can't get a job? (Female, 17 years; CREATE, 2019c)

This comes at a stage of life when many children and young people are beginning their own families, with partners and/or children of their own. The following mother, a recent care leaver, describes how a lack of early supports resulted in child removal:

[The Department] was not helping. They were doing the opposite... They assume that I am my mother because of my mother's past. They haven't given my any family support, and it's not fair, and it's not understanding or nice. A "mums and baby" service, with a qualified social worker and nurses, around the clock, to tell them how to care for the baby, rather than take



the kid. It's financially draining in the courts, and for the family and the services. Obviously, I am going to fight for my kid. (Female, 21 years; McDowall, 2020)

Early supports are particularly important for Aboriginal and Torres Strait Islander children and young people with an out-of-home care experience as they may be more likely to have children of their own in the first few years of independence (McDowall, 2020). Among participants in CREATE's 2020 post-care consultation, 23% of the 72 Aboriginal and Torres Strait Islander young people were parents compared with 12% of their non-Aboriginal peers, numbers that are broadly consistent with national statistics (AIHW, 2020). A number of parents expressed a fear of disconnection due to intergenerational removal, with 15% concerned about contacting their own children already in out-of-home care (McDowall, 2020).

Intergenerational removal significantly contributes to the overrepresentation of Aboriginal and Torres Strait Islander children and young people in out-of-home care. Research by the then Family and Community Services NSW demonstrates that intergenerational child protection involvement particularly affects Aboriginal and Torres Strait Islander families (FACS, 2017). The study concluded that 55% of Aboriginal and Torres Strait Islander children and young people involved in Child Protection had an intergenerational link¹ compared with a quarter of non-Aboriginal children (FACS, 2017). This link was more pronounced among children who had been removed, with approximately 60% of Aboriginal and Torres Strait Islander children having a parent known to child protection compared with 43% of non-Aboriginal children.

Many Aboriginal children and young people leave out-of-home care experiencing high rates of entrenched disadvantage, a legacy of historical and modern colonial policies. This leaves children and young people experiencing the key drivers of family contact with the out-of-home care system, and at a higher risk of child protection contact for their own children (O'Donnell et al., 2019). Substantive focus on early intervention and prevention work is essential to end the cycle of disadvantage, child removal, and the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care. While a particular focus on care leavers and intergenerational contact with out-of-home care is important, effective supports must be widely available to those with and without an out-of-home care experience. An effective Successor Plan should involve culturally safe, trauma-informed services that support families to remain together, avoiding the harm of punitive, statutory responses (Healing Foundation & Emerging Minds, 2020).


Children and young people's voices on Aboriginal and Torres Strait Islander leadership and service delivery

Prioritising Aboriginal and Torres Strait Islander service delivery in the Successor Plan is an important step to achieve structural change that will enable Aboriginal and Torres Strait Islander children and young people to access the culturally-safe services they need in order to thrive. In consultations with CREATE, Aboriginal and Torres Strait Islander children and young people consistently express the benefits of accessible, culturally safe services, with many children and young people voicing their preference for Aboriginal and Torres Strait Islander organisations and/or workers:

Aboriginal people need Aboriginal staff. Kids would connect more to CSO's that are Indigenous. It's a spiritual connection. (Young person; CREATE, 2018a)

Have more Aboriginal and Torres Strait Islander run placements. The placements run by ATSI organisations understood the importance of keeping us connected as a family. We (siblings) could go over to each other's placements if we weren't living together. Young person; CREATE, 2018a)

¹ At least one parent who had been reported to Child Protection or in out-of-home-care as a child.



I think there should be more Indigenous workers/carers in the care system as well as case workers. (Female, 19 years; McDowall, 2020)

[it would help to have] Face to face meeting including someone who is Aboriginal to help identify opportunities. (Female, 18 years; CREATE, 2019a)

(The Department) need to let us learn our parent's language and connect more to other family members to learn the traditions and spend more time with them. (Young person; CREATE, 2018a)

In the current *National Framework, Supporting Outcome Five* aims to ensure Aboriginal and Torres Strait Islander children are safe and supported in their families and communities, with particular emphasis on access to culturally appropriate responses, including Aboriginal and Torres Strait Islander service delivery. Despite this, many children and young people are harmed by culturally unsafe experiences when interacting with statutory bodies and accessing mainstream services. The following experiences of racism and denial of community and culture demonstrate the importance of strengthening access to culturally safe, Aboriginal and Torres Strait Islander-led services in the Successor Plan:

Child Safety say they're culturally appropriate but they're not when there's just an Aboriginal and Torres Strait Islander picture hanging up. (Young person; CREATE, 2018b)

There's lots of white people [in child services], they need more people of colour. (Young person; CREATE, 2018b)

Want to know what mob I'm from but my case worker won't help me find out. (Female, 12 years; CREATE, 2018b)

Australians always judgemental towards Aboriginal peoples. Comes across in our workers - in a way - sometimes. (Male, 21 years; CREATE 2019b)


It's important that the Department try to teach us where we're from and what tribe we are from. If we don't know, then that's pretty much the stolen generation all over again. (Young person; CREATE, 2018a)

They [Child Safety] need to facilitate family contact. It got to the point where I had to start taking myself to Palm Island because Child Safety wouldn't do anything and wouldn't listen to me when I asked to see family. It wasn't until I started absconding that they started to listen. (Young person; CREATE, 2018a)

Certain people not necessarily acknowledging the fact that dark stuff [colonisation] has happened in the past. People say it's the past and we should just get over it, but it still happened. (Female, 17 years; CREATE, 2019a)

[workers] Not giving any advice on who I could go to or talk to, not actioning my requests to be involved with my culture. (Female, 18 years; CREATE, 2019a)

Consultations with children and young people show that Aboriginal and Torres Strait Islander organisations are best placed to connect children and young people with their family, community, and culture. CREATE shares SNAICC's concern that, in its current form, the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP) is a vastly inadequate mechanism for upholding Aboriginal and Torres Strait Islander children's rights to family, community, and culture (SNAICC 2013). A number of children and young people felt that having non-Aboriginal and Torres Strait



Islander workers or organisations or carers led to less or no contact with their birth family, community, and culture:

Certain carers stopped me [connecting with culture] when in care. Now I'm post care I have lost the connection I had, so it's hard to get connected again. (Female, 24 years; CREATE 2019b)

Provide support with reaching out, listen when I ask to be connected and learn more, they [case workers] always said they would work on it but didn't actually do anything. (Female, 21 years; CREATE 2019b)

(If I was happy with my connection to culture) I would be surrounded by people with the same ideas and thoughts and I would be learning about what it's actually like to be Aboriginal. I don't know anyone who could help. (Female, 18 years; CREATE 2019b)

I'm not sure if my caseworker and I have talked much about my culture. I don't think it has come up in conversation. If it has, I don't remember. (Female, 17 years; CREATE 2019b)

Not giving any advice on who I could go to or talk to, not actioning my requests to be involved with my culture. (Female, 18 years; CREATE 2019b)

Important for case worker to work with carer to connect me in a bit more. No contact with Mum or other family members. (Female, 16 years; CREATE 2019b)

In contrast, many children and young people spoke positively about Aboriginal and Torres Strait Islander carers, particularly kinship carers, who assist in maintaining connection to culture and having a safe, positive placement:

It's a great feeling knowing your family still love you. I felt like I still had a family. I think kinship care should be a priority. Family contact was much easier. (Young person; CREATE, 2018a)

I don't know what I'd do or where we'd all be if we didn't have each other (in reference to her biological siblings and extended family members). It was good to have kinship carers who kept us connected to family and who never discouraged us from keeping contact. When we did our road trip, it felt like it was our very own NAIDOC Week because we were learning about our heritage. (Young person; CREATE, 2018b)


After leaving Aunty [Aboriginal kinship carer] we lost all connection. We just lost it over the years. Was proud but it's not as connected as we used to be. (Female, 17 years; CREATE, 2019a)

Going to foster families made me appreciate kinship care even more. I loved that I was with my family and wasn't put with five other kids who weren't related to me. There's a sense of comfort in being with family. (Young person; CREATE, 2018a)

I would love an Indigenous carer. (Young person; CREATE, 2018a)

Unfortunately, as Arney et al. (2015) pointed out, the limited number of suitable Indigenous carers is one of the barriers to appropriate implementation of the ATSI CPP.

Despite the preference for Aboriginal and Torres Strait Islander-run services, many children and young people in out-of-home care are unable to access them. Of the Aboriginal and Torres Strait Islander participants in CREATE's post-care research (McDowall, 2020), 80% had not used any



culturally aligned service during their time in out-of-home care. This finding is consistent with experiences of Aboriginal and Torres Strait Islander children and young people across CREATE's work:

I never really been able to go somewhere and say I'm Aboriginal and teach me. (Female, 17 years; CREATE, 2019a)

[It would help if case-workers] Connect you with Aboriginal services. I have been going to the [Aboriginal] health service in town since I became independent. (Female, 16 years; CREATE, 2019a)


Using the Successor Plan to enable and resource increased Aboriginal and Torres Strait Islander service delivery will help children and young people access the types of supports, care and services they need while in out-of-home care. Increased Aboriginal and Torres Strait Islander leadership and services in the out-of-home care system must also be embedded, to ensure that the system can better meet the needs of Aboriginal and Torres Strait Islander children and young people, their families and communities.

Conclusion

The Successor Plan presents a number of opportunities to reduce the over-representation of Aboriginal and Torres Strait Islander children and young people in out-of-home care. Involving children and young people in decision-making by embedding youth participation is essential to meeting their needs on an individual level and to drive systemic change. Aboriginal and Torres Strait Islander children and young people share SNAICC's priorities for prevention and early intervention and encouraging Aboriginal and Torres Strait Islander leadership and service delivery. These priorities represent an essential shift in focus and resources to address the key drivers of over-representation, reducing removals and contact with Child Protection systems as well as improved services and wellbeing for Aboriginal and Torres Strait Islander children in out-of-home care. CREATE welcomes any future opportunities to work with SNAICC and other organisations to further the voice of Aboriginal and Torres Strait Islander children and young people in these reforms.

References

- AIHW. (2020). *Australia's mothers and babies data visualisations*. Australian Institute of Health and Welfare. <https://www.aihw.gov.au/reports/mothers-babies/australias-mothers-babies-data-visualisations/contents/demographics-of-mothers-and-babies/maternal-age>
- Arney, F., Iannos, M., Chong, A., McDougall, S., & Parkinson, S. (2015). Enhancing the implementation of the Aboriginal and Torres Strait Islander *Child Placement Principle*. *Child Family Community Australia Paper No. 34*. Australian Institute of Family Studies.
- Council of Australian Governments (COAG). (2009). *Protecting children is everyone's business: National Framework for protecting Australia's children 2009-2020*. https://www.dss.gov.au/sites/default/files/documents/child_protection_framework.pdf
- CREATE. (2018a). *First Nation voices summary of key findings: Hearing from Aboriginal and/or Torres Strait Islander young people across Queensland about their out-of-home care experiences*. (Unpublished manuscript). CREATE Foundation.
- CREATE. (2018b). *National Week of Action - Ending the overrepresentation of Aboriginal and Torres Strait Islander children in out-of-home care*. (Unpublished manuscript). CREATE Foundation.

- 
- CREATE. (2019a). *Cultural connectedness: Tasmanian Aboriginal and Torres Strait Islander young people living in out-of-home Care*. (Unpublished manuscript). CREATE Foundation.
- CREATE. (2019b) *Position Paper: Participation*. CREATE Foundation. <https://create.org.au/wp-content/uploads/2019/04/CREATE-Position-Paper-Participation.pdf>
- CREATE. (2019c). *Submission to the Northern Territory Social Policy Scrutiny Committee: Care and Protection of Children Amendment Bill 2019*. (Unpublished manuscript). CREATE Foundation.
- Family and Community Services. (2017). *The prevalence of intergenerational links in child protection and out-of-home care in NSW*. NSW Government. https://www.facs.nsw.gov.au/_data/assets/pdf_file/0016/421531/FACS_SAR.pdf
- G-Force. (2015). *Children and young people's Participation Strategy*. Queensland Government. <https://create.org.au/wp-content/uploads/2015/02/2.7-CYP-Participation-Strategy.pdf>
- Healing Foundation & Emerging Minds. (2020). *Improving the social and emotional wellbeing of Aboriginal and Torres Strait Islander children: Development of resources to support service providers working with Aboriginal and Torres Strait Islander infants, children and families*. Authors. https://healingfoundation.org.au/app/uploads/2020/07/Children_Report_Jun2020_FINAL.pdf
- McDowall, J. J. (2016). *Are we listening? The need to facilitate participation in decision-making by children and young people in out-of-home care*. *Developing Practice*, 44 (April), 77–93.
- McDowall, J. J. (2018). *Out-of-home care in Australia: Children and young people's views after five years of National Standards*. CREATE Foundation
- McDowall, J. J. (2020). *Transitioning to adulthood from out-of-home care: Independence or interdependence?* (Available after May 2021). CREATE Foundation.
- O'Donnell, M. Taplin, S. Marriot, R. Lima, F., & Stanley, F. (2019). Infant removals: The need to address the over-representation of Aboriginal infants and community concerns of another 'stolen generation'. *Child Abuse and Neglect*, 90, 88–98. <https://doi.org/10.1016/j.chiabu.2019.01.017>
- Queensland Government. (2020). *Child Protection Act 1999 (QLD): s5E and the Charter of Rights Schedule 1*. <https://www.legislation.qld.gov.au/view/pdf/inforce/2018-07-23/act-1999-010>
- SNAICC. (2013). *Aboriginal and Torres Strait Islander Child Placement Principle*. SNAICC. <https://www.snaicc.org.au/aboriginal-and-torres-strait-islander-child-placement-principle/>
- SNAICC. (2020). *Family Matters Report 2020*. SNAICC. https://www.familymatters.org.au/wp-content/uploads/2020/11/FamilyMattersReport2020_LR.pdf
- UN Committee on the Rights of the Child (2009) *General comment No. 12: The right of the child to be heard*. CRC/C/GC/12, April 9 2021. <https://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.pdf>
- YACVic. (2013). *Why it makes sense to involve young people*. YERP. Youth Affairs Council Victoria. <https://yerp.yacvic.org.au/why-it-matters/involve-young-people/why-it-makes-sense-to-involve-young-people>



About CREATE

CREATE Foundation is the national peak consumer body for children and young people with an out-of-home care experience. We represent the voices of over 45,000 children and young people currently in care, and those who have transitioned from care up to the age of 25. Our vision is that all children and young people with a care experience reach their full potential. Our mission is to create a better life for children and young people in care.

To do this we:

- **CONNECT** children and young people to each other, CREATE and their community to
- **EMPOWER** children and young people to build self-confidence, self-esteem, and skills that enable them to have a voice and be heard to
- **CHANGE** the care system, in consultation with children and young people, through advocacy to improve policies, practices and services and increase community awareness.

We achieve our mission by providing a variety of activities and programs for children and young people in care, and conducting research and developing policy to help us advocate for a better care system.