



Child protection and Aboriginal and Torres Strait Islander children

CFCA Resource Sheet — January 2020



If you require assistance or would like to talk to a trained professional about the issues described in this resource sheet, please call **Kids Helpline** on 1800 55 1800 or **Lifeline** on 13 11 14.

If you believe a child is in immediate danger, call Police on 000.

This resource sheet is designed to assist practitioners, policy makers and researchers with an understanding of the extent to which Aboriginal and Torres Strait Islander children are involved in the Australian child protection and out-of-home care systems. The resource sheet is based on the Australian Institute of Health and Welfare (AIHW) *Child protection Australia 2017-2018* data (AIHW, 2019).

Child protection statistics for Aboriginal and Torres Strait Islander children

Aboriginal and Torres Strait Islander children are over-represented in child protection and out-of-home care services compared to non-Indigenous¹ children. The reasons for this are complex and are connected to past policies and the legacy of colonisation. Poverty, assimilation policies, intergenerational trauma and discrimination and forced child removals have all contributed to the over-representation of Aboriginal and Torres Strait Islander children in care, as has a lack of understanding of the cultural differences in child-rearing practices and family structure (Human Rights and Equal Opportunity Commission [HREOC], 1997; SNAICC, 2016a; Titterton, 2017).

Child protection authorities are required to intervene if a child has been, is being or is at risk of being significantly harmed. A child protection intervention is initiated by a notification being made to an authorised department regarding an allegation of actual abuse or neglect or the likelihood of abuse or neglect (AIHW, 2019). For definitions of child abuse and neglect, see the CFCA Resource Sheet *What is Child Abuse and Neglect?* (aifs.gov.au/cfca/publications/what-child-abuse-and-neglect). Once a report is made to child protection authorities there is a follow-up process of investigation, which may result in a legal order authorising child protection practitioners to supervise the child's placement with their family or to place the child in an alternative care setting. Definitions of these key terms can be found in Box 1.

¹ The terms 'Aboriginal and Torres Strait Islander' and 'non-Indigenous' are used throughout this resource sheet. This reflects the use of these terms in the source publications.



Box 1: Defining notifications, investigations and substantiations

- **Notifications** consist of allegations of child abuse or neglect, or harm to a child, made to an authorised department. In some jurisdictions, all reports made are considered notifications. In other jurisdictions, a report is only considered a notification if the information received suggests that the child requires care or protection.
- **Investigations** are the process whereby the relevant department obtains more detailed information about a child who is subject to a notification and staff make an assessment about the harm and the child's protective needs.
- **Substantiations** of notifications occur when an investigation has concluded and there is reasonable cause to believe that the child had been, was being, or was likely to be, abused, neglected or otherwise harmed.

These definitions have been adapted from the AIHW (2017, pp. 3, 20). For more detailed technical definitions used by the AIHW, see AIHW (2019) p. 22.

Between 1 July 2017 and 30 June 2018, the rate of substantiations of abuse, neglect or risk of harm was 42 per 1,000 Aboriginal and Torres Strait Islander children in Australia. (This rate excludes New South Wales and Tasmania due to data limitations, see Box 2 for more information.) This means that Aboriginal and Torres Strait Islander children were 6.5 times more likely than non-Indigenous children to be the subject of substantiated reports of harm/risk of harm (see Table 1).

Box 2: Limitations of the 2017/18 AIHW data

The AIHW advises the data that are being referred to in this resource sheet should be interpreted with some care. Some variations in data collection and key definitions have occurred in the 2017/18 reporting period, affecting time series analyses. As a result, data from New South Wales and Tasmania have been excluded from the tables in this resource sheet and comparisons, unless otherwise specified.

The variations in data collection and definitions during the 2017/18 reporting period include (AIHW, 2019):

- In the Australian Capital Territory, new or repeat client information has been unavailable since 2016/17.
- New South Wales has revised the definition of an 'investigation' to include only field assessments, with all office-based assessments included as 'dealt with by other means'.
- New South Wales has excluded children on third-party orders since 2014/15.
- New South Wales implemented a new client management system in 2017/18 and has data that are limited or unavailable for:
 - substantiations, including associated characteristics of children subject to a substantiation
 - new or repeat clients
 - issued care and protection orders
 - a breakdown of orders by short-term and long-term orders
 - carer households.
- Tasmania no longer cross-checks Indigenous status with data from other databases, increasing the proportion of clients with an 'unknown' Indigenous status, affecting the reliability of data disaggregated by Indigeneity.
- Victoria excluded children on third-party parental responsibility orders from national out-of-home care reporting to improve data comparability. This resulted in a fall in the reported number of children in out-of-home care, and a rise in the reported number of children discharged from out-of-home care in 2017/18.
- Western Australia has excluded children on third-party orders since 2015/16.

For more detailed notes on data reliability from the AIHW, see the footnotes attached to the AIHW tables reproduced in this resource sheet.



Table 1: Children aged 0–17 years who were the subjects of substantiations of notifications received during 2017/18, by Indigenous status, states and territories (number per 1,000)

State/territory	Indigenous (per 1,000 children)	Non-Indigenous (per 1,000 children)	All children (per 1,000 children)	Rate ratio Indigenous/ non-Indigenous
NSW ^a	N/A	N/A	N/A	N/A
Vic.	91.0	11.1	12.4	8.2
Qld	23.9	3.2	5.1	7.5
WA ^a	53.7	4.5	7.6	12.0
SA	30.7	3.0	4.5	10.3
Tas. ^{b, c, d}	n.p.*	n.p.*	6.3	n.p.*
ACT	22.4	2.4	3.0	9.2
NT	56.2	6.6	27.8	8.5
Total population	42.0	6.5	8.5	6.5

Notes:

(a) NSW substantiation data unavailable for 2017/18. Substantiation data therefore should not be compared to previous iterations of Child protection Australia data. NSW has implemented a new client management system in 2017/18 and has provided limited data. With the new system, NSW is making efforts to improve quality and completeness of data to have a comprehensive set of data for future reporting.

(b) For Tasmania, Indigenous and non-Indigenous rates are not calculated due to the high proportion of clients with an 'unknown' Indigenous status, which affects the reliability of data disaggregated by Indigenous status.

(c) In Tasmania, Indigenous status is no longer being cross-checked with data from other databases. As a result, the proportion of clients with an 'unknown' Indigenous status is larger than in previous years. Therefore, data from 2017/18 are not comparable with data for previous years and any comparisons should be made with extreme caution.

(d) Due to changes in the way in which notifications have been defined in Tasmania, the number of notifications reported for 2015/16 onwards is not comparable with data for earlier years. Tasmania has moved from a caller to an agency-defined approach to the counting of notifications.

* Not publishable because of small numbers, confidentiality or other concerns about the quality of the data.

1. Rates for Indigenous children were calculated using population projections based on the 2016 Census. Rates for 'All children' were calculated using preliminary population estimates based on the 2016 Census. Population data for calculating the rates for non-Indigenous children were derived by subtracting the Indigenous projection count from the 'All children' Estimated Resident Populations. Refer to Table S63 for the populations used in the calculation of rates.

2. Due to the high proportion of Tas. clients with an 'unknown' Indigenous status in 2017/18, Indigenous and Non-Indigenous rates for the total have been recalculated excluding Tas. Therefore, Indigenous and Non-Indigenous rates for the total should not be compared to previous iterations of Child protection Australia data.

3. Rate calculations include unborn children and children of unknown age.

4. Legislation and practice differ across jurisdictions in relation to children aged 17. In some jurisdictions, children aged 17 are not substantiated and this means the number per 1,000 children who were the subjects of substantiations may be lower for those jurisdictions.

Source: AIHW (2019), Table S13.

Box 3 presents a short summary of key findings from the Royal Commission into the Protection and Detention of Children in the Northern Territory (NT). This Royal Commission focused on the specific systemic problems identified within the NT, where the number of notifications for all children have doubled since 2013/14 (see AIHW, 2019 at www.aihw.gov.au/reports/child-protection/child-protection-australia-2017-18/contents/table-of-contents, Table S15).



Box 3: NT – Findings from the Royal Commission

The Royal Commission into the Protection and Detention of Children in the Northern Territory was undertaken to look at how children were treated in detention centres and in the welfare system in the NT, and a final report (see www.royalcommission.gov.au/sites/default/files/2019-01/rcnt-royal-commission-nt-findings-and-recommendations.pdf) was tabled in both the NT and Federal Parliaments on 17 November 2017 (Royal Commission into the Protection and Detention of Children in the Northern Territory [Royal Commission], 2017).

Overall, the Royal Commission found that youth detention centres in the NT were not fit for the accommodation or rehabilitation of children and young people, and that children in detention were subjected to verbal abuse, physical control and humiliation, including being denied access to basic human needs such as water, food and the use of toilets (Royal Commission, 2017). It also found that the Office of the Children's Commissioner Northern Territory is under-resourced to perform its full range of statutory functions in relation to the care and protection of vulnerable children in the NT.

The Royal Commission recommended that the NT Government focus on early intervention and establish a network of at least 20 family support centres across the NT to provide services, information and support where they are most needed (Royal Commission into the Protection and Detention of Children in the Northern Territory, 2017). It also identified that more community engagement is needed with Aboriginal communities when making decisions about the improvement of local youth justice and welfare. In 2018 the NT Government outlined its commitment to children, families and communities in its implementation plan *Safe, Thriving and Connected: Generational Change for Children and Families 2018-2013* (rmo.nt.gov.au/data/assets/pdf_file/0005/498173/Safe-Thriving-and-Connected-Implementation-Plan-Web.pdf). This plan includes a commitment from the NT Government to invest \$11.4 million over four years to establish coordination hubs and expand the number of child and family centres to 17 (Northern Territory Government, 2018b).

The Children and Families Tripartite Forum with representatives from the NT Government, the Commonwealth Government and the community sector has also been established to coordinate and oversee policies and programs for children and young people in youth justice and child protection systems (Department of Social Services, 2018; Northern Territory Government, 2018a). The Commonwealth Government has supported, or supported in-principle, 26 recommendations from the Royal Commission to improve the lives of children, and prevent them from entering the youth justice and child protection systems within the NT, through improved service coordination (Commonwealth of Australia, 2017).

What does child protection data tell us about the extent of abuse and neglect of Aboriginal and Torres Strait Islander children?

Child protection data tell us how many Aboriginal and Torres Strait Islander children come into contact with child protection services. These data are not a measure of the actual prevalence of child abuse and neglect experienced by Aboriginal and Torres Strait Islander children, as there are several problems with these data that result in:

- some children who have been abused or neglected not being included in child protection statistics
- some children who have not been abused or neglected being included in child protection statistics.

See Bromfield and Higgins (2004) for a detailed discussion of the limitations of using statutory child protection data for research into child maltreatment.

In addition to these known limitations with child protection data, there are several issues that contribute to the under-reporting and over-reporting of child abuse and neglect in Aboriginal and Torres Strait Islander communities.

The issues that contribute to under-reporting include:

- fear, mistrust and loss of confidence in the police, justice system, government agencies and the media, including a belief that perpetrators of sexual or family violence will not be punished (Aboriginal Child Sexual Assault Taskforce, 2006; Anderson & Wild, 2007; Bailey, Powell, & Brubacher, 2017; Prentice, Blair, & O'Mullan, 2017; Willis, 2011)
- fear of racism (Closing the Gap Clearinghouse, 2013)
- fear that the child may be removed from the community (Anderson & Wild, 2007; Funston, 2013; Taylor & Putt, 2007; Titterton, 2017)
- community silence and denial (Gordon, Hallahan, & Henry, 2002)
- social and cultural pressure from other members of the family or community not to report abuse or violence, the belief that reporting is a betrayal of the culture and community, and the fear of being shunned by the community (Aboriginal Child Sexual Assault Taskforce, 2006; Funston, 2013; Prentice et al., 2017; Taylor & Putt, 2007)



- a belief in the need to protect the perpetrator because of the high number of Indigenous deaths in custody (Stanley, Tomison, & Pocock, 2003)
- fear of repercussions or retaliation from the perpetrator or their family (Stanley et al., 2003; Willis, 2011)
- personal and cultural factors of shame, guilt and fear (Aboriginal Child Sexual Assault Taskforce, 2006; Anderson & Wild, 2007; Prentice et al., 2017; Taylor & Putt, 2007)
- lack of understanding about what family violence and child abuse and neglect are generally, and lack of understanding about what constitutes family violence and child sexual abuse specifically (Aboriginal Child Sexual Assault Taskforce, 2006; Anderson & Wild, 2007; Prentice et al., 2017)
- high levels of violence and the subsequent normalisation of family violence (Prentice et al., 2017; Willis, 2011)
- lack of culturally appropriate services (Prentice et al., 2017)
- language and communication barriers, lack of knowledge about legal rights and the services available, and lack of services for victims of child sexual abuse (Anderson & Wild, 2007)
- geographical isolation (i.e. nobody to report to, no means of reporting and minimal contact with child welfare professionals) (Gordon et al., 2002; New South Wales Ombudsman, 2012; Stanley et al., 2003).

The issues that contribute to over-reporting include:

- structural drivers present in child protection interventions with Aboriginal and Torres Strait Islander families (e.g. poverty acting as a major driver for contact with the child protection system) (Burton et al., 2018)
- contacts with child protection that can be culturally biased against Aboriginal and Torres Strait Islander communities; who are more likely to experience issues with housing accessibility (including overcrowding) and access to culturally appropriate services (Burton et al., 2018).

In addition to the above, if the child is not correctly identified as Aboriginal or Torres Strait Islander, the child protection data may be unreliable. Finally, as noted in Box 2, there are limitations in some of the data reported by New South Wales and Tasmania in the 2017/18 reporting year. In light of these issues, it is hard to know the true prevalence of abuse and neglect for Aboriginal and Torres Strait Islander children.

What are the most common types of abuse and neglect for Aboriginal and Torres Strait Islander children?

In 2017/18, harm or risk of harm from child abuse or neglect was substantiated or confirmed by statutory child protection services for 8,385 Aboriginal and Torres Strait Islander children aged 0-17 years across Australia^{2,3} (excluding New South Wales). Figure 1 shows the distribution of these substantiations over the four different primary types of child abuse and neglect (neglect, emotional abuse, sexual abuse and physical abuse – see Box 4 for the AIHW definitions of these types of child abuse and neglect) and compares this distribution to substantiations involving non-Indigenous children.⁴

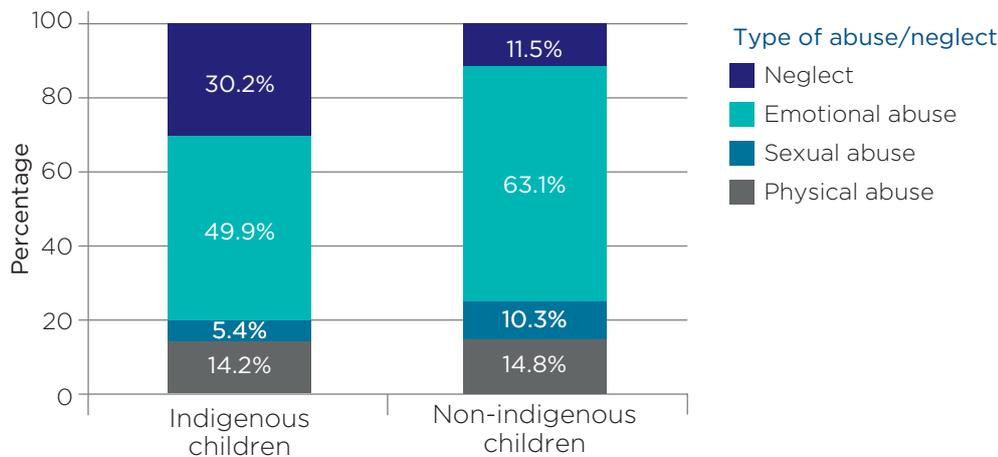
Emotional abuse and child neglect were the most frequent primary types of abuse and neglect experienced by Aboriginal and Torres Strait Islander children in 2017/18. The high rates of neglect are consistent with the disadvantaged socio-economic conditions prevalent in many Aboriginal and Torres Strait Islander communities, such as overcrowding, unemployment and limited access to services (Steering Committee for the Review of Government Service Provision, 2014). For a more detailed discussion of neglect, see the CFCA Paper *Understanding Child Neglect*: aifs.gov.au/cfca/publications/understanding-child-neglect (Scott, 2014).

² For Tasmania, Indigenous and non-Indigenous rates are not calculated due to the high proportion of clients with an 'unknown' Indigenous status, which affects the reliability of the data disaggregated by Indigenous status.

³ In Tasmania, Indigenous status is no longer being cross-checked with data from other databases. As a result, the proportion of clients with an 'unknown' Indigenous status is larger than previous years. See AIHW (2019) Table S13 for full notes relating to these data.

⁴ Primary types of abuse and neglect are the forms of abuse and neglect most likely to place the child at risk or to be most severe in the short term (AIHW, 2016). The co-occurrence of primary types of abuse and neglect with other types of abuse and neglect varies by type. See Table 3.1 of the AIHW (2019) report for more information.

Figure 1: Children who were the subjects of substantiations of notifications received during 2017/18, by Indigenous status and type of abuse (%)



Notes:

1. Excludes New South Wales, which implemented a new client management system in 2017/18, and provided limited data. New South Wales is working to improve the quality and completeness of data for future reporting.
2. Excludes Tasmania, due to the high proportion of clients with an 'unknown' Indigenous status, which affects the reliability of data disaggregated by Indigenous status.

For each child, the type of abuse/neglect reported is the type identified for their first substantiation in the year. Where multiple types of abuse were reported in the same substantiation, the data reflect the abuse type that is most likely to place the child at risk, or be most severe in the short term.

Source: AIHW (2019), Figure 3.8

Box 4: Definitions of the primary types of child abuse and neglect

Emotional abuse	Any act by a person having the care of a child that results in the child suffering any kind of significant emotional deprivation or trauma. Children affected by exposure to family violence are also included in this category.
Neglect	Any serious act or omission by a person having the care of a child that, within the bounds of cultural tradition, constitutes a failure to provide conditions that are essential for the healthy physical and emotional development of a child.
Physical abuse	Any non-accidental physical act inflicted upon a child by a person having the care of a child.
Sexual abuse	Any act by a person having the care of a child that exposes the child to, or involves the child in, sexual processes beyond his or her understanding, or contrary to accepted community standards.

Source: AIHW (2019), pp. 82, 86, 87, 89

How does child abuse and neglect differ between Aboriginal and Torres Strait Islander and non-Indigenous children?

The prevalence of child abuse and neglect of Aboriginal and Torres Strait Islander children is not known; however, child protection data show a consistent pattern of Aboriginal and Torres Strait Islander children being substantially over-represented in every area of the child protection system (AIHW, 2019). Aboriginal and Torres Strait Islander peoples are more likely than others in the community to experience problems commonly associated with child abuse and neglect (e.g. alcohol abuse and domestic violence) (Scott & Higgins, 2011).

Several prominent inquiries conducted in Australia over the last few decades have highlighted concerns that children in some Aboriginal and Torres Strait Islander communities are at high risk of experiencing abuse and neglect (Anderson & Wild, 2007; Atkinson, 1990; Gordon et al., 2002; Memmott, Stacy, Chambers, & Keys, 2001;



Northern Territory Government, 2010; Robertson, 2000). The *Child protection Australia* report showed that children in very remote areas were four times as likely as those in major cities to be the subject of substantiation in 2017/18 (AIHW, 2019). This is an area of current political focus; one response includes a five-point action plan (see newsroom.nt.gov.au/download/10868) released by Territory Families, NT, in order to enhance service responses and keep families safe and supported in the Barkly region of the NT (Davies, 2018). The initiatives of the plan include: enhancing locally based child protection services; working in a connected way with local Indigenous organisations; respecting, listening and acting with community elders; enhancing domestic and family services; and expanding responses to young people (Davies, 2018).

In addition to the over-representation of Aboriginal and Torres Strait Islander children in the child protection system, there are differences between the primary types of abuse and neglect experienced by Aboriginal and Torres Strait Islander children and non-Indigenous children, as shown in Figure 1. A greater number of Aboriginal and Torres Strait Islander children (30.2%) were the subject of substantiations of neglect when compared with non-Indigenous children (11.5%).

Emotional abuse is the most commonly substantiated abuse type for both Aboriginal and Torres Strait Islander children (49.9%) and non-Indigenous children (63.1%). For both groups of children, physical abuse (14.2% for Aboriginal and Torres Strait Islander children and 14.8% in non-Indigenous children) and sexual abuse (5.4% for Aboriginal and Torres Strait Islander children and 10.3% for non-Indigenous children) are the least common forms of substantiated harm. However, these figures may under-estimate the actual prevalence of child sexual abuse (Bailey et al., 2017; Mathews et al., 2016). Additionally, many children are victims of more than one type of harm and these data only represent the primary type of substantiated harm.

Aboriginal and Torres Strait Islander children living in out-of-home care

Aboriginal and Torres Strait Islander children are over-represented in the Australian out-of-home care (OOHC) system. OOHC is overnight care for children aged 0-17, where the jurisdiction pays the carer, or offers to pay but the carer declines the offer (AIHW, 2019).⁵ The different types of OOHC are defined in Box 5. For Indigenous children, preferred placement is with other Indigenous families, in accordance with the Aboriginal and Torres Strait Islander Child Placement Principle: a placement to ensure that children remain connected to their family, community, culture and country. The principle has been adopted by all jurisdictions in legislation and policy (AIHW, 2019; Lock, 1997).

Box 5: Types of out-of-home care

- **Residential care:** Children are placed in a residential building where the purpose is to provide placements for children and where there are paid staff.
- **Family group homes:** Children are placed in homes provided by a department or community-sector agency that have live-in, non-salaried carers who are reimbursed and/or subsidised for providing care.
- **Home-based care:** Children are placed in the home of a carer who is reimbursed (or who has been offered but declined reimbursement) for expenses for the care of the child. This is broken down into: relative/kinship care, foster care, third-party parental care arrangements, and other home-based out-of-home care.
- **Independent living:** This includes private board and lead tenant households.
- **Other:** This includes placements that are not otherwise classified, and unknown placement types, such as boarding schools, hospitals, hotels/motels and defence forces.

Placements for the purpose of respite are included. Respite care is used to provide short-term accommodation for children and young people, where the intention is for the child to return to his or her prior place of residence. This includes respite from birth family and respite from placement.

Source: AIHW (2019), Box 5.1

⁵ 'Excluded from these counts are placements solely funded by disability services, medical services, psychiatric services, juvenile justice facilities, or overnight child care services, and placements in support accommodation, as well as children in placements with parents where the jurisdiction makes a financial payment' (AIHW, 2019, p. 47).



At 30 June 2018, 17,787 children in OOHC were identified as Aboriginal or Torres Strait Islander, at a rate of 59.4 Aboriginal and Torres Strait Islander children in every 1,000 children (see Table 2). This is 11 times the rate of non-Indigenous children, at 5.2 per 1,000. In all jurisdictions (using the available data and excluding Tasmania), the rate of Aboriginal and Torres Strait Islander children in OOHC was much higher than that for non-Indigenous children. The rate of Indigenous children admitted to OOHC has risen and fallen over the past five years: 2013/14 (13.0 per 1,000); 2014/15 (13.8 per 1,000); 2015/16 (14.9 per 1,000); 2016/17 (13.9 per 1,000); 2017/18 (12.8 per 1,000) (AIHW, 2019). Rates of children in OOHC for both Aboriginal and Torres Strait Islander and non-Indigenous children have continued to increase between 2014 and 2018 (AIHW, 2019, Table S61).⁶ The number of Aboriginal and Torres Strait Islander children in OOHC rose from 52.5 per 1,000 children in 2014 to 59.4 per 1,000 children in 2018 (AIHW, 2019). During 2017/18, Aboriginal and Torres Strait Islander children aged 5–9 were 13.2 times as likely as their non-Indigenous counterparts to be in OOHC nationally, while those aged 15–17 were 8.9 times as likely (AIHW, 2019, Table S44). The rate ratios of Aboriginal and Torres Strait Islander to non-Indigenous children in OOHC on 30 June 2018 ranged from 8.5 in Queensland to 20.5 in Victoria.

Table 2: State and territory data comparing rates of Aboriginal and Torres Strait Islander children in out-of-home care compared to non-Indigenous children at 30 June 2018

State/territory	Indigenous (per 1,000 children)	Non-Indigenous (per 1,000 children)	All children (per 1,000 children) ^a	Rate ratio Indigenous/ non-Indigenous
NSW ^b	71.2	6.4	9.8	11.2
Vic. ^c	88.8	4.3	5.7	20.5
Qld	41.5	4.9	7.8	8.5
WA ^d	64.4	3.6	7.4	18.1
SA	72.9	6.9	10.1	10.6
Tas. ^{e, f}	n.p.	n.p.	11.3	n.p.
ACT ^g	101.4	6.2	8.8	16.3
NT	35.6	3.2	17.0	11.2
Total population	59.4	5.2	8.2	11.4

Notes:

(a) 'All children' includes children whose Indigenous status was unknown. (b) NSW data exclude children and young people who are on independent care of their guardian (third-party parental responsibility care arrangement: non out-of-home care funded).

(c) For 2017/18, Victoria out-of-home counts exclude children on third-party parental responsibility orders.

(d) WA data exclude children on third-party parental responsibility orders and from 2015/16 include children placed in boarding schools.

(e) In Tasmania, Indigenous status is no longer being cross-checked with data from other databases. As a result, the proportion of clients with an 'unknown' Indigenous status is larger than in previous years. Therefore, data from 2017/18 are not comparable with data from previous years and any comparisons should be made with extreme caution.

(f) For Tasmania, Indigenous and non-Indigenous rates are not calculated due to the high proportion of clients with an 'unknown' Indigenous status, which affects the reliability of data disaggregated by Indigenous status.

(g) Out-of-home care data for the ACT include some young people 18 years and over whose carers receive a full carer payment. This is generally to facilitate completion of schooling without change to the placement.

1. Rates for Indigenous children were calculated using population projections based on the 2016 Census. Rates for 'All children' were calculated using population estimates based on the 2016 Census. Population data for calculating the rate for non-Indigenous children were derived by subtracting the Indigenous projection count from the 'All children' Estimated Resident Populations. Refer to Table S65 for the populations used in the calculation of rates.

2. Rate and rate ratios calculations include unborn children and children of unknown age but exclude children of unknown Indigenous status.

3. Rate ratios were calculated by dividing the unrounded rate of Aboriginal and Torres Strait Islander children who were in out-of-home care by the unrounded rate of non-Indigenous children who were in out-of-home care. The resulting number is a measure of how many Aboriginal and Torres Strait Islander children were in out-of-home care for every non-Indigenous child who was in out-of-home care. Children whose Indigenous status was unknown are excluded from the calculations.

4. Due to the high proportion of Tasmanian clients with an 'unknown' Indigenous status in 2017/18, Indigenous and non-Indigenous rates for the total have been calculated excluding Tasmania. Therefore, Indigenous and non-Indigenous rates for the total should not be compared to previous iterations of *Child protection Australia*.

Source: AIHW (2019), Table S43

⁶ For a more in-depth discussion of out-of-home care for all Australian children, see the CFA Resource sheet *Children in Care* (aifs.gov.au/cfca/publications/children-care).



The Aboriginal and Torres Strait Islander Child Placement Principle

As Arney, Iannos, Chong, McDougall and Parkinson (2015) note in their CFCA paper (see aifs.gov.au/cfca/publications/enhancing-implementation-aboriginal-and-torres-strait-islander-child/aboriginal-and), the Aboriginal and Torres Strait Islander Child Placement Principle grew from a grassroots community movement initiated by Aboriginal and Islander Child Care Agencies (AICCAs)⁷ during the 1970s. AICCAs strongly advocated for the best interests of Aboriginal and Torres Strait Islander children, and aimed to abolish the harsh practices and policies of forced removal. The fundamental goal of the Principle is to enhance and preserve Aboriginal children's connection to family and community and sense of identity and culture (Tilbury, Burton, Sydenham, Boss, & Louw, 2013).

SNAICC – National Voice for our Children (SNAICC), Australia's peak body for Aboriginal and Torres Strait Islander children, suggests that the aims of the Principle must be conceptualised in broad terms; that is to:

1. recognise and protect the rights of Aboriginal and Torres Strait Islander children, family members and communities in child welfare matters
2. increase the level of self-determination for Aboriginal and Torres Strait Islander people in child welfare matters
3. reduce the disproportionate representation of Aboriginal and Torres Strait Islander children in the child protection system (Tilbury et al., 2013).

From these three broad aims, five inter-related elements of the Principle flow: *prevention, partnership, placement, participation and connection* (Tilbury et al., 2013).

In child protection legislation, policy and practice, the Principle has often been more narrowly conceptualised as a placement hierarchy for Aboriginal children who are not able to remain in the care of their parents. While this hierarchy is important, a focus on the hierarchy alone demonstrates only partial application of the Principle across Australia.

In general, placement priorities in descending order start with:

- the child's family and kinship networks
- the child's Aboriginal and Torres Strait Islander community
- other Aboriginal and Torres Strait Islander carers.

If no other suitable placement with Aboriginal and Torres Strait Islander carers can be found, children are placed with non-Indigenous carers as a last resort, provided they are able to maintain the child's connections to their family, community and cultural identity.

The *National Framework for Protecting Australia's Children 2009–2020* has introduced a broader understanding of the spirit and intent of the Principle in national policy. Through the National Framework's action plans, all Australian governments have committed to implementing all five elements of the Principle (Commonwealth of Australia, 2015, 2018).

The data in Table 3 is only considered a proxy measure for reporting on compliance with the Principle, as it only provides information about where a child is placed and not whether all five elements of the Principle have been implemented. The percentage of Aboriginal and Torres Strait Islander children placed with relatives/kin, other Indigenous caregivers or in an Indigenous residential care facility varied substantially across jurisdictions (see Table 3). In 2017/18, 65.2% of Indigenous children in Australia were placed either with relatives/kin, other Indigenous caregivers or in Indigenous residential care (AIHW, 2019).

⁷ While specific roles of AICCAs vary from jurisdiction to jurisdiction, AICCAs generally provide support to families including family support and family preservation services that aim to keep families together and prevent child removal, advocacy for children and families, and keeping children connected to family and culture if they are to be removed (SNAICC, 2005).



Table 3: Aboriginal and Torres Strait Islander children in out-of-home care, by relationship of carer, states and territories, 30 June 2018, by percentage

Carer relationship (%)	NSW ^{a,b}	Vic. ^c	Qld	WA ^d	SA	Tas. ^e	ACT ^f	NT ^a	Total
Indigenous relative/kin	35.9	43.1	24.7	38.7	32.8	8.7	39.6	27.3	33.4
Other Indigenous caregiver	16.6	4.3	13.3	8.7	12.3	6.3	1.5	5.9	12.3
Other relatives/kin	21.8	31.4	18.5	12.6	20.0	27.6	21.2	0.0	19.5
<i>Total placed with relatives/kin, other Indigenous caregivers or in Indigenous residential care</i>	<i>74.4</i>	<i>78.9</i>	<i>56.6</i>	<i>60.1</i>	<i>65.0</i>	<i>42.6</i>	<i>62.3</i>	<i>33.3</i>	<i>65.2</i>
<i>Total not placed with relatives/kin, other Indigenous caregivers or in Indigenous residential care</i>	<i>25.6</i>	<i>21.1</i>	<i>43.4</i>	<i>39.9</i>	<i>35.0</i>	<i>57.4</i>	<i>37.7</i>	<i>66.7</i>	<i>34.8</i>
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Notes:

(a) Aggregate data were provided by NSW and the NT for this table.

(b) NSW data exclude children and young people who are on independent care of their guardian (third-party parental responsibility care arrangement: non out-of-home care funded).

(c) For 2017/18, Victoria out-of-home care counts exclude children on third-party parental responsibility orders.

(d) WA data exclude children on third-party parental responsibility orders and from 2015/16 includes children placed in boarding schools.

(e) Tasmania is not able to include children in care where a financial payment was offered but was declined by the carer meaning Tasmania's data are slightly lower than would be the case if the counting rule was strictly applied. Tasmanian data also exclude children not under care and protection orders placed with relatives for whom a financial contribution is made under the Supported Extended Family or Relatives Allowance programs.

(f) Out-of-home care data for the ACT includes some young people 18 years and over whose carers receive a full carer payment. This is generally to facilitate completion of schooling without change to the placement.

1. This table does not include Aboriginal and Torres Strait Islander children who were living independently or for whom relationship of carer and/or their Indigenous status were unknown.

2. Percentages in the table may not add to 100 due to rounding.

3. Family group home and residential care are reported under 'Other caregiver'.

4. Due to changes in the way in which notifications have been defined in Tasmania, the number of notifications reported for 2015-16 onwards is not comparable with data for earlier years. Tasmania has moved from a caller to an agency defined approach to the counting of notifications.

Source: AIHW (2019), Table S45

Why would Aboriginal and Torres Strait Islander children not be placed in accordance with the principle?

There are several barriers that prevent some Aboriginal and Torres Strait Islander children from being placed in accordance with the principle. These barriers include:

- the increasing over-representation of Aboriginal and Torres Strait Islander children in the statutory child protection system
- a shortage of Indigenous foster and kinship carers
- poor identification and assessment of carers, due to inconsistencies in practitioners' knowledge and skill
- inconsistent involvement of, and support for, Indigenous people and organisations in child protection decision making
- deficiencies in the provision of cultural care and connection to culture and community
- practice and systemic issues affecting the operation of Aboriginal and Torres Strait Islander child care agencies
- inconsistent quantification, measurement and monitoring of the principle across jurisdictions (Arney et al., 2015).

The shortage of Indigenous foster and kinship carers is one of the major factors preventing the implementation of the principle. Recruitment and retention of carers is a problem across the sector for both Indigenous and non-Indigenous carers (see *Foster Families* by Osborn, Panozzo, Richardson, & Bromfield, 2007 at aifs.gov.au/cfca/publications/foster-families). However, there are several other factors that are unique to Indigenous communities and put severe strain on the ability of OOH services to recruit appropriate Indigenous carers.



The main factors include:

- a 'youth dependency ratio' imbalance due to the high numbers of Indigenous children to adults
- inadequate methods for identifying kin relationships and assessing carers
- carer burnout
- fear and mistrust of child welfare systems among some families
- eligibility criteria that exclude some carers (Arney et al., 2015).

Despite the willingness of Aboriginal and Torres Strait Islander peoples to provide care; overall, there is less capacity to do so due to the multiple forms of disadvantage experienced by Indigenous people (Arney et al., 2015). Even when children are placed in accordance with the Principle they may become disconnected from their culture. This may occur when children are placed with, for example, the non-Indigenous side of the family, an Aboriginal or Torres Strait Islander carer who is not from the child's own cultural group, or kin who may have (because of their own removal) been disconnected from their traditional culture (Arney et al., 2015).

For more information about the Child Placement Principle see *Enhancing the Implementation of the Aboriginal and Torres Strait Islander Child Placement Principle: Policy and Practice Considerations* (Arney et al., 2015; aifs.gov.au/cfca/publications/enhancing-implementation-aboriginal-and-torres-strait-islander-child); and *The Family Matters Report 2018: Measuring Trends to Turn the Tide on the Over-Representation of Aboriginal and Torres Strait Islander Children in Out-of-Home Care in Australia* (Burton et al., 2018; www.familymatters.org.au/wp-content/uploads/2018/11/Family-Matters-Report-2018.pdf).

Why might Aboriginal and Torres Strait Islander children be more likely to be abused or neglected?

The reasons why Aboriginal and Torres Strait Islander children might be more likely to be abused or neglected are complex and need to be approached with consideration of multiple historical, social, community, family and individual factors (AIHW, 2018; Calma, 2008; Cripps & McGlade, 2008; Fien & Charlesworth, 2012; Funston, 2013; Stanley et al., 2003).

The Human Rights and Equal Opportunity Community (HREOC) 1997 report, *Bringing Them Home*, concluded that some of the underlying causes for the poor outcomes experienced by Aboriginal and Torres Strait Islander peoples and for the over-representation of Indigenous children in child protection and OOHC were:

- the legacy of past policies of forced removal and cultural assimilation
- intergenerational effects of forced removals
- cultural differences between child protection agencies' and Aboriginal and Torres Strait Islander peoples' understandings of child-rearing practices (see Box 6).

Historical and ongoing dispossession, marginalisation and racism experienced by Aboriginal and Torres Strait Islander peoples have led to high levels of unresolved trauma and grief (HREOC, 1997). Internalised trauma may be expressed by individuals in various ways including psychological distress and destructive behaviours (Atkinson, 2002; Funston, 2013). Concerns have been voiced that some Indigenous communities are experiencing intergenerational cycles of adversity and trauma, leading to entrenched social problems including poverty, high levels of violence, child abuse and neglect, and individual, family and community dysfunction (Atkinson, 2002; Fien & Charlesworth, 2012; Funston, 2013; Robertson, 2000; Silburn et al., 2006; Sorensen, Fowler, Nash, & Bacon, 2010; Stanley et al., 2003) – but it must be remembered that 'not all Aboriginal communities are dysfunctional' (Sorensen et al., 2010, p. 28).

Box 6: Cultural differences in child-rearing practices

One of the underlying issues that has led to an over-representation of Indigenous children in the child protection system is the cultural differences between Indigenous communities and welfare agencies in their understandings of family structure and child-rearing practices. Historically, this has meant that Indigenous family structures and child-rearing practices have at times been mistakenly perceived as 'unstable' or 'dysfunctional' (HREOC, 1997). However, it is important to recognise that Aboriginal and Torres Strait Islander family structures and approaches to raising children can be a source of cultural strength and not, themselves, a source of dysfunction.

For more information, see CFCA Paper *Strengths of Australian Aboriginal Cultural Practices in Family Life and Child Rearing* (Lohar, Butera, & Kennedy, 2014; aifs.gov.au/cfca/publications/strengths-australian-aboriginal-cultural-practices-fam).



What action is being taken?

The *National Framework for Protecting Australia's Children 2009–2020* (Council of Australian Governments, 2009; www.dss.gov.au/sites/default/files/documents/child_protection_framework.pdf) aims to reduce child abuse and neglect and improve child protection responses for all Australian children but makes specific mention of the needs of Aboriginal and Torres Strait Islander children. The Framework takes a public health approach to improving outcomes for Aboriginal and Torres Strait Islander children through: addressing issues of disadvantage; recognising and promoting family, community and cultural strengths; and using community-wide strategies to address specific risk factors such as alcohol or substance abuse and/or domestic violence.

To help achieve this, the *Fourth Action Plan 2018–2020* (see www.dss.gov.au/sites/default/files/documents/01_2019/dss-fourth-action-plan-v6-web-final.pdf) has a strong focus on improving outcomes for Aboriginal and Torres Strait Islander children and their families throughout the implementation of all Fourth Action Plan initiatives. In particular, an increased and joint commitment to upholding the Aboriginal and Torres Strait Islander Child Placement Principle is emphasised. These priorities are agreed to by the Commonwealth, state and territory Community Services Ministers, and are closely connected to priority areas identified by the Royal Commission into Institutional Responses to Child Sexual Abuse (2017) and the Royal Commission into the Protection and Detention of Children in the Northern Territory.

The first priority area in the Fourth Action Plan features strategies for improving outcomes for Aboriginal and Torres Strait Islander children at risk of entering, or in contact with, child protection systems. Specifically, the Fourth Action Plan calls for: a sustained commitment to upholding the five elements of the Aboriginal and Torres Strait Islander Child Placement Principle (prevention, partnership, placement, participation and connection); to recognise the rights of Aboriginal and Torres Strait Islander children to be raised in their own culture; and the importance and value of their family, extended family, kinship networks, culture and community. In addition to this, the Fourth Action Plan calls for the acknowledgement and support of the important role Aboriginal Community Controlled Organisations and Aboriginal and Torres Strait Islander managed services have in supporting Aboriginal and Torres Strait Islander children and families at risk of entering, or in contact with, child protection systems. For more information, see *Supporting Families, Communities and Organisations to Keep Children Safe: National Framework for Protecting Australia's Children. Fourth Action Plan 2018–2020* (Commonwealth of Australia, 2018; www.dss.gov.au/sites/default/files/documents/01_2019/dss-fourth-action-plan-v6-web-final.pdf).

In addition, the Family Matters: Strong Communities. Strong Culture. Stronger Children (www.familymatters.org.au) is a national campaign led by SNAICC that aims to eliminate the over-representation of Aboriginal and Torres Strait Islander children in OOHC by 2040. The plan to achieve this is based on four building blocks (SNAICC, 2016b):

1. All families enjoy access to quality, culturally safe, universal and targeted services necessary for Aboriginal and Torres Strait Islander children to thrive.
2. Aboriginal and Torres Strait Islander people and organisations participate in and have control over decisions that affect their children.
3. Law, policy and practice in child and family welfare are culturally safe and responsive.
4. Governments and services are accountable to Aboriginal and Torres Strait Islander people (SNAICC, 2016b).

As part of the campaign, a Family Matters report was released in 2016 describing the over-representation of Aboriginal and Torres Strait Islander children in OOHC, and exploring the economic, social and community-level factors that contribute to this over-representation. The second report, released in 2017, raises significant concern that the number of Aboriginal and Torres Strait Islander children living in OOHC 'will more than triple by 2036' if solutions are not 'aggressively pursue(d)', and that the 'trajectory over the next 20 years has worsened since the last Family Matters report' (Burton et al., 2017, p. 5). A third report, released in 2018, echoed these findings; although there had been 'some encouraging new policy commitments, and early stage reforms' (Burton et al., 2018, p. 13), responses remained piecemeal and inconsistent, and key recommendations from previous reports were largely upheld (Burton et al., 2018). These reports make recommendations for policy, practice and systemic reform.

For more information, see *Supporting Families, Communities and Organisations to Keep Children Safe: National Framework for Protecting Australia's Children. Fourth Action Plan 2018–2020* (Commonwealth of Australia, 2018; www.dss.gov.au/sites/default/files/documents/01_2019/dss-fourth-action-plan-v6-web-final.pdf), Family Matters Roadmap (SNAICC, 2016b) and the Family Matters reports (Burton et al., 2018; Burton et al., 2017; SNAICC, 2016a).



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