

New South Wales

Community voices from New South Wales informing *The Family Matters Report 2019*, emphasised that government-led policy and practice reforms have been incapable of addressing the persistent inequity and poor outcomes experienced by Aboriginal children and families. To correct this the NSW Government, (via the Department of Communities and Justice) must be open to listening to the voices of community – at both a direct practice level and in developing systemic change to a system that is currently failing to meet the needs of Aboriginal children and families. The Department of Communities and Justice (DCJ) needs to implement the recommendations to strengthen the Family Matters principles and enable Aboriginal communities to drive their own solutions. Ongoing cycles of government-led statutory interventions are not working.

The data presented by DCJ in response to the Family Matters report reinforces the shortcomings of a system that had lost sight of its mission of safeguarding the interests of Aboriginal children and young people, as defined in the *Family is Culture* report. Data presented can be seen to misrepresent the true care statistics by failing to include children and young people in alternative permanency arrangements, such as those under a guardianship order. In addition to this, there is no breakdown of children and young people in relative kin placements with non-Aboriginal family or kin. This remains a significant concern as the *Family is Culture* report highlighted widespread non-compliance with the Aboriginal child placement principles (Davis 2019).

The independent review of Aboriginal children and young people in out-of-home care, *Family is Culture*, reported its findings in November 2019. In addition to over 3,000 recommendations about the circumstances of children and families it reviewed, the report made 126 recommendations to improve the Aboriginal child and family system, emphasising two key structural reforms – greater recognition of the right of Aboriginal communities to self-determination, and improved transparency and oversight through an empowered independent Child Protection Commission. Other recommendations also focused on urgent legislative reforms to strengthen safeguards for Aboriginal children and families, increased investment in Aboriginal community-controlled prevention, preservation and restoration services, investment in advocacy supports for families navigating the child protection system, and an end to the forced adoption of Aboriginal children from out-of-home care. The roadmap outlined by the *Family is Culture* review is consistent with the Family Matters building blocks.

The government's response included some additional oversight in the form of a Deputy Children's Guardian, (focused on Aboriginal children and young people already in the out-of-home care system), however this role is significantly limited relative to the broad responsibilities considered necessary by the *Family is Culture* review. In particular, the role provides no additional scrutiny of DCJ systems and practice including decision-making regarding Aboriginal children entering care. Other initiatives promoted in the government's response, and echoed in their input to the Family Matters report, include the implementation of the Aboriginal Case Management Policy, the long-standing commitment to direct more targeted earlier intervention resources to Aboriginal organisations (originally a 30% target), and the Aboriginal Investment Strategy. While this ongoing commitment is welcome, it is important that this commitment is matched by action and investment. This will need to include the adequate resourcing of these initiatives through Aboriginal community-controlled organisations – supported by the peak body, AbSec. The initial response to the *Family is Culture* report was considered inadequate by community and AbSec at the time but work

continues with the Minister's Office and DCJ through the establishment of an Independent Knowledge Circle to advise the minister.

Other key initiatives promoted by the government's response reflected those initiatives underway as part of the Their Futures Matter reforms, including the implementation of foreign family preservation programs Multisystemic Therapy for Child Abuse and Neglect (MST-CAN) and Functional Family Therapy – Child Welfare (FFT-CW). However, the implementation of the Their Futures Matter reforms have recently been criticised by the Audit Office of NSW, noting failures of governance, including the involvement of Aboriginal stakeholders in guiding the reforms, and that the international programs were ill-suited to Aboriginal communities, which impacted on engagement with Aboriginal families. Implementation fell significantly short of achieving the NSW Government's commitment of 50% of places for Aboriginal families, and as a result these places have been changed from 'identified' Aboriginal placements to 'targeted'. At the same time, established family support programs delivered by Aboriginal communities' experience ongoing instability due to short funding cycles and are currently not supported to reshape and continuously improve the service model based on their experience and the needs of their communities.

Family is Culture also noted the need for further development of data systems, an issue that is exemplified by the limited data made available to this report. This is also a priority reform under the new *National Agreement on Closing the Gap*. The government's response acknowledged these limitations and has committed to further work to develop these data resources in partnership with Aboriginal stakeholders. This will be an important area of work to improve transparency and support more informed decision-making by Aboriginal communities, further enabling the development of community-led solutions. However, such reforms are ultimately limited if not accompanied by greater recognition of Aboriginal self-determination and the empowered oversight of an independent commissioner to uncover the lived experiences behind the data – with communities having sovereignty of the data.

There remains considerable concern in Aboriginal communities that the opportunity presented by the comprehensive *Family is Culture* review, Closing the Gap agreement and Auditor General's report will be squandered by government given the numerous previous inquiries, reports and plans that have not addressed the ingrained disadvantage of Aboriginal people in New South Wales. Urgent action to implement a program of reform aligned to *Family is Culture* and other recommendations is needed and must be progressed in partnership with Aboriginal communities and their representative peak bodies.

The *Family is Culture* review noted that reforms aligned to self-determination and oversight and accountability would themselves significantly contribute to addressing the over-representation of Aboriginal children in out-of-home care. This is central to the any program of reform and must include a commitment to the review's key recommendation for an empowered an independent Aboriginal commissioner, as has long been advocated by AbSec and the Family Matters campaign. Immediate action to strengthen legislative safeguards for Aboriginal children and young people must also be prioritised. Failing to do so will expose thousands of Aboriginal children to known issues while awaiting a further review. The opportunity presented by the *Family is Culture* review and other reports and agreements must not be allowed to pass by unfulfilled and requires the NSW Government to work in partnership with Aboriginal communities towards long overdue systems change. The experiences of Aboriginal children and families that have informed the review, demands urgent and courageous action.