

Submission

Establishing a Specialist Child Protection Unit Consultation Paper

23 June 2020

AHCWA and its Member Services welcome the opportunity to provide feedback to the Department of Communities (Communities) on their consultation paper (the Paper) for establishing a Specialist Child Protection Unit (SCPU).

The Aboriginal Health Council of Western Australia (AHCWA) is the peak body for 23 Aboriginal Community Controlled Health Services (ACCHS) in Western Australia (WA). AHCWA exists to support and act on behalf of its Member Services, actively representing and responding to their individual and collective needs. WA ACCHS are located across geographically diverse metropolitan, regional, remote and very remote locations. They respond to complex health issues, and deliver prevention, early intervention, and social and emotional wellbeing services, across the life course. ACCHS deliver the most effective model of comprehensive primary health care for Aboriginal people¹, and are in a unique position to identify and respond to the local cultural and health issues of Aboriginal people and their communities across WA.

ACCHS play a key role in supporting Aboriginal families and their communities through the delivery of Family Wellbeing, and Child and Maternal Health Programs. They are also on the frontline in supporting Aboriginal families and communities when a child is removed and placed in Out-of-Home Care (OOHC)². The removal of Aboriginal children has severe impacts on the health and Social and Emotional Wellbeing (SEWB) of children, their families and the community.

AHCWA supports, in principle, the establishment of the SCPU to embed best practice, support evidence-based quality improvement, promote partnerships, and drive structural change in the child protection sector, particularly as related to the wellbeing of Aboriginal children and their families.

In this submission, AHCWA details: concepts to underpin the SCPU; strategies to reduce the number of Aboriginal children in OOHC; gaps in the current system and opportunities for the SCPU; and, other general issues for Communities to consider.

Introductory comments

AHCWA recognises that Communities has established a new direction focussing on partnerships, integrity and cultural competence in the way that it works. New initiatives like the SCPU will complement this direction.

¹ Throughout this submission, AHCWA uses the term 'Aboriginal' to respectfully refer to all Aboriginal and Torres Strait Islander people across Western Australia.

² Aboriginal Community Controlled Health Services (ACCHS) and Aboriginal Community Controlled Organisations (ACCOs) play equally important, but different, roles in the care and protection of Aboriginal children and their families. In this submission, ACCOs are referred to more broadly as they are related to Aboriginal Community Controlled Services that provide community services specifically for children. ACCHS, meanwhile, provide primary health care and support for Aboriginal children and their families.



In alignment with new directions, the Paper explains that “the child protection sector is changing, with key reforms underway”. AHCWA is aware that broader work is being undertaken to reform OOHC in Western Australia and recommends that careful consideration is given to how the SCPU and these reforms will intersect. The SCPU should not be established in isolation of broader reforms.

AHCWA is also aware that Communities is reviewing the *Aboriginal Community Controlled Organisation Strategy to 2022*. As Aboriginal Community Controlled Organisations (ACCOs) should have a pivotal role in working with the SCPU, AHCWA recommends the ACCO Strategy must provide a framework for this important partnership.

Concepts to underpin the SCPU

A holistic view of health and wellbeing

AHCWA and its Member Services assert that a holistic approach to health and wellbeing should inform child protection services’ best practice.

ACCHS are committed to ensuring that culturally appropriate health care is available to all Aboriginal people, their families, carers and communities across Western Australia. Central to ACCHS service provision is the ACCHS Model of Care. It is a holistic model that guides the provision of health and wellbeing services to Aboriginal people within a broader context of culture, family, community, country, language, physical wellbeing, emotional wellbeing, and spiritual wellbeing. Each of these elements is fundamental to the health and wellbeing of Aboriginal people, their families and communities.

Integral to the ACCHS Model of Care is:

- an Aboriginal workforce delivering primary health care;
- a commitment to involving community members in service provision;
- a multidisciplinary team approach ensuring the complex care needs of Aboriginal people are met; and
- the provision of a culturally safe environment where Aboriginal people feel welcome, understood and empowered.

Social and Emotional Wellbeing (SEWB)

Within a holistic model of health and wellbeing is the concept of SEWB. Both the ACCHS Model of Care and SEWB acknowledge that connections to land, language, culture, spirituality, family and community directly contribute to the emotional and physical wellbeing of Aboriginal people, and that a person’s SEWB is directly influenced by historical and contemporary government policies and events. SEWB should underpin the ethos of the proposed SCPU and ensure there is a focus on the SEWB of children, their families and community.

As noted in the Paper, Aboriginal children are over represented in the child protection system in comparison to non-Aboriginal children. Removal of Aboriginal children from their families, community and culture has a detrimental effect on the SEWB of families, the community and the child and their future prospects. Research has consistently found that a strong sense of cultural identity has a positive psychological impact, especially for youth³. Despite this importance, any mention of holistic care or the impact on SEWB is missing from this Paper.

³ Dockery, AM (2020) *Inter-generational transmission of Indigenous culture and children’s wellbeing: Evidence from Australia* in the International Journal of Intercultural Relations (74:80-93)

Strategies to reduce the number of Aboriginal children in OOHC

AHCWA asserts that prevention, early intervention, self-determination, place-based solutions, partnerships and the adaption of learnings from other jurisdictions will strengthen the child protection system and help to reduce the number of Aboriginal children removed from their families. This will positively impact on the SEWB of children, their families and the community. The proposed SCPU, and the child protection system more broadly, must ensure that services are culturally appropriate and that there is ongoing active engagement with ACCOs and communities.

Prevention and early intervention

Prevention underpins the philosophy of comprehensive primary health care and the holistic model of health delivered by ACCHS. ACCHS deliver high quality, flexible and culturally secure services to Aboriginal people, especially preventative and early-intervention services and programs.

Research has found that there should be a focus on prevention and early intervention as best practice to support family wellbeing, rather than later interventions which may result in breakdown of the family unit and child removal which can have a detrimental impact on SEWB⁴. Natalie Lewis, co-chair of 'Family Matters', Commissioner for the Queensland Family and Child Commission and CEO of Queensland Aboriginal and Torres Strait Islander Child Protection Peak has advocated this within the Australian system. She has stated, "We stress the need for an increased investment in prevention and early intervention to redress the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care. Consistently, more funding is invested in child protection services than support services"⁵.

Experience from other Australian jurisdictions also recognises that prevention and early intervention are essential in discussions related to child protection. The Royal Commission into the Protection and Detention of Children in the Northern Territory recommended that the Northern Territory government focus on early intervention to improve outcomes for Aboriginal young people, families and communities⁶.

AHCWA strongly supports an emphasis on a greater partnership between Communities through the SCPU and ACCOs. Notably there should be a shift to divesting more of the work in the early intervention and family support space with an increased and sustainable funding allocation to ACCOs which would improve the SEWB outcomes for young people, Aboriginal families and communities. Prevention activities require a long-term perspective; short-term thinking will not solve the issues faced by Aboriginal people and their communities.

Self-determination

AHCWA affirms that full self-determination of Aboriginal affairs by Aboriginal people must underpin family wellbeing and child protection and any related policies or programs. Self-determination is central to enhancing opportunities, improving SEWB and closing outcome gaps for Aboriginal people.

⁴ Katz, I, Cortis, N, Shlonsky, A and Mildon, R (2015) *Modernising Child Protection in New Zealand: Learning from system reforms in other jurisdictions* Social Policy Research Centre

⁵ Family Matter Media Release (2019) https://www.familymatters.org.au/wp-content/uploads/2019/10/Media_Release-Family_Matters_Report_2019.pdf [Accessed 18 June 2020]

⁶ CFCA Resource Sheet (2020) <https://aifs.gov.au/cfca/publications/child-protection-and-aboriginal-and-torres-strait-islander-children> [Accessed 18 June 2020]

The Paper states that “Communities needs a stronger presence to effectively steward the sector and drive improvement”. However, in order to support self-determination, Aboriginal communities and ACCOs must have a voice and lead the co-design process on child protection policies and reforms, including the establishment of a SCPU, to ensure they are culturally safe and secure.

Learning from other Jurisdictions

AHCWA agrees with the Paper’s position that “it is important to learn what has been successful in other jurisdictions, whilst remembering that no solution is one size fits all”.

AHCWA notes that child welfare services for Indigenous children and families in Canada are provided either by a local agency on behalf of the Federal Government or directly by Indigenous agencies under the Federal Government’s policy on Indigenous self-government. Indigenous child welfare agencies may provide a full range of services, which can include intake and investigation reports, or may focus on family support and guardianship⁷.

In 2019, this approach to Indigenous community control was embedded in law via Bill C-92, *An Act respecting First Nations, Inuit and Métis children, youth and families*⁸. The purpose of this Act is to keep Indigenous children and youth in Canada connected to their families, communities and culture. It includes the right of self-government in relation to child and family services, in line with United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). As Australia is also a signatory to UNDRIP, AHCWA proposes that there is the potential to adapt the principles and learnings from UNDRIP into the SCPU.

There is scope to learn from the Canadian model where Indigenous child welfare agencies provide culturally sensitive services while maintaining children in their own communities. This approach positively impacts on the SEWB of Aboriginal children and their families over time.

Place based solutions

AHCWA supports place-based and localised solutions as proposed in the paper. This demonstrates Communities’ understanding of the diversity of Aboriginal people, their communities and cultures, and assists in challenging the assumption that all Aboriginal communities face the same issues and challenges, or have the same strengths and opportunities. However, AHCWA affirms that these solutions should be within the purview of ACCOs, with specific consultation on the role that ACCHS may play in support to Aboriginal families and children in care, especially in regional and remote Western Australia.

Partnerships

AHCWA strongly advocates for strong and genuine partnerships in designing solutions for child protection reform. In the development of the SCPU, AHCWA:

- Strongly supports the inclusion of a Senior Aboriginal Practitioner in the leadership of the SCPU, and would request that the ACCHS sector is identified as a key stakeholder relationship with this role.
- Recommends that the Senior Aboriginal Practitioner maintains and develops partnerships with ACCOs, and is responsible for providing culturally secure advice to senior leadership levels.

⁷ Katz et al (2015)

⁸ <https://www.canada.ca/en/indigenous-services-canada/news/2019/06/an-act-respecting-first-nations-inuit-and-metis-children-youth-and-families-receives-royal-assent.html> [Accessed 18 June 2020];

https://laws-lois.justice.gc.ca/PDF/2019_24.pdf [Accessed 18 June 2020]



- Recommends the SCPU must fully consider and understand the unique needs and differences of Aboriginal people across metropolitan, rural and remote communities throughout WA.
- Strongly supports that the SCPU should be required to consult with the ACCHS and ACCO sector in regard to relevant child protection and OOHHC legislation, policy and practice.
- Proposes that additional funding is provided to ACCOs to increase their capability to support Aboriginal children and their families through family wellbeing and child and maternal health programs. This will assist ACCOs to work in partnership with the SCPU to translate best practice into communities.
- Asserts that improved outcomes cannot be achieved for Aboriginal children, families or communities without collaboration between Communities and health, education, justice, police and non-government organisations⁹. The SCPU is an ideal opportunity to develop early intervention and prevention strategies with partner organisations, such as ACCHS and ACCOs, and other government agencies.

By developing ongoing and active partnerships, Communities can better promote consistency in practice across family and child wellbeing services, whilst ensuring a localised place based approach.

Gaps and Opportunities

There is an opportunity for WA and the newly proposed SCPU to lead the way in terms of child protection. To achieve this there must be a shift in focus from paternalistic, reactive, top down approaches and strategies that miss opportunities for prevention, to a proactive focus on family, community and culture as a means of ensuring a child's safety and SEWB.

Family and community focus

As previously stated, the ACCHS model of care is underpinned by the eight key elements; family, culture, community, country and language, in addition to physical, spiritual and emotional wellbeing. The removal of Aboriginal children from their families and community adversely affects these elements and connections, and negatively impacts on the SEWB of children, their families and the community. As such, removal of Aboriginal children from their families and community must be a last resort. The SCPU must lead Communities' commitment to place Aboriginal children and young people with immediate family in the first instance, or with other Aboriginal carers where possible.

The main tenet of *the Aboriginal and Torres Strait Islander Child Placement Principle*¹⁰ (the Principle) is to ensure that government intervention does not disconnect children from their family and culture, yet 35% of Aboriginal children throughout Australia (2017-2018) were not placed with Aboriginal relatives or kin, Aboriginal caregivers or Aboriginal residential care¹¹.

Ensuring Indigenous children remain with their culture and kin is prioritised in child protection and OOHHC policy in other jurisdictions. In New Zealand the *Children, Young Persons, and Their Families Act 1989* focusses on the wellbeing of children and youth in the context of their families, whanau (kin group), hapu (extended kin group with many whanau), iwi (descent group with many hapu) and family groups. It recognises that focusing on the kin group and community is a more positive

⁹ Katz et al (2015)

¹⁰ CFA Paper NO. 34 (2015) <https://aifs.gov.au/cfca/publications/enhancing-implementation-aboriginal-and-torres-strait-islander-child/aboriginal-and> [Accessed 18 June 2020]

¹¹ <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2017-18/contents/summary> [Accessed 18 June 2020]

approach to child protection than calculating the risk that parents pose to their children¹². The Act decrees that wherever possible family relationships must be maintained and strengthened. If a child requires placement in OOHC then, wherever practicable, the child must be placed with their extended kin group or descent group or, if this is not possible, they should be placed with a person with the same tribal, racial, ethnic or cultural background¹³.

AHCWA recommends that Communities' reflects on these example legislations as best practice in child wellbeing and child protection, and considers these learnings in the SCPU's design. The Senior Aboriginal Practitioner is potentially best placed to ensure learnings from other jurisdictions and innovative best practice is a key focus of the SCPU.

Cultural continuity

Bill C-92 enshrined in Canadian law states that cultural continuity is essential to the wellbeing of a child, family and community, and that the transmission of languages, practices, customs and traditions is integral to cultural continuity. Further, it states that it is in a child's best interests to reside with family members and maintain a cultural connection¹⁴. AHCWA agrees that this is aligned with principles of self-determination, the ACCHS model of care and SEWB. This should be the foundation for the SCPU's approach to working with Aboriginal people, their families and community.

AHCWA stresses that there must be a shift from a child protection approach that focusses on family surveillance and child removal to systems that are embedded in a broader family and community approach, along with community control over child protection. There must be a commitment by Communities to adhere to cultural principles relating to Aboriginal children and young people, including appropriate assessment and recruitment of potential Aboriginal carers, along with initiatives to increase the number of Aboriginal carers in the system.

Cultural Safety and Best Practice

AHCWA broadly supports the establishment of the SCPU conditional on the commitment by Communities' that cultural safety training for all staff is mandatory. Cultural safety training would assist staff to develop a holistic understanding of wellbeing for Aboriginal children, and the impact of child removals on the SEWB of Aboriginal children their families and communities. This would ensure best practice within the SCPU and could establish the SCPU as a centre of excellence in the child protection space.

The ACCHS and ACCO sectors brings a number of strengths that will support the development of child protection work and the SCPU. This includes an in-depth local and cultural knowledge and an understanding of the SEWB of children and their families. Additionally, ACCOs can bridge the gap between community and government and advise on cultural sensitivities.

Final general comments

AHCWA has reviewed the principles and strongly recommends:

- The SCPU's key principles are implemented in conjunction with ACCOs;

¹² Hyslop, I (2018) *A new paradigm for child protection practice* <https://www.reimaginingocialwork.nz/2018/01/a-new-paradigm-for-child-protection-practice/> [Accessed 18 June 2020]

¹³ *ibid*

¹⁴ https://laws-lois.justice.gc.ca/PDF/2019_24.pdf [Accessed 18 June 2020]



- There are genuine partnerships, with initiatives and programs led by ACCHS and ACCOs to ensure the outcomes of the SCPU meets the needs of Aboriginal people and their communities;
- There is a link to local staff at ACCOs that provide localised experience and context to, and works with, senior leadership levels to develop and build their skills and experience; and
- There is an Aboriginal person in the Communities executive team.

The paper explains that “the Agency Capability Review emphasised the need for Communities to deliver more culturally appropriate services and better engagement with Aboriginal leaders and communities”. To ensure this is achieved:

- ACCHS and ACCOs should be included on the external working group to guide the SCPU and offer cultural guidance;
- ACCHS and ACCOs must be consulted to provide cultural understanding and advise on cultural matters to ensure meaningful engagement and that the outcomes of the SCPU meet the needs of Aboriginal people and their communities;
- Ensure ongoing partnerships with ACCOs;
- Progress the Earlier Intervention and Family Support Services Strategy in partnership with ACCOs.

Conclusion

The establishment of the SCPU is a welcome initiative, however, this submission has outlined some additional design considerations for the SCPU to ensure better outcomes for Aboriginal children and young people.

It is essential that ACCOs are actively engaged at all steps of the process, and the SCPU has an ongoing partnership with, and commitment to, partnership with ACCOs. Furthermore, it is strongly recommended that the SCPU take into consideration the holistic ACCHS model of care and concept of SEWB in its approach to stewarding the child protection sector. The SCPU must have a focus on, and actively facilitate, culturally safe and appropriate care for Aboriginal children and young people.

AHCWA is aware that the establishment of an SCPU is part of a broader suite of activities occurring in reforming the child protection and OOHC system, and recommends greater transparency, and the ongoing engagement of ACCHS and ACCOs in this work.