



# Principle focus

A continued commitment to systemic accountability for the safety and wellbeing of Queensland's First Nations children from 2021 to 2024.



QUEENSLAND  
**Family & Child**  
Commission



OFFICE OF THE ABORIGINAL  
AND TORRES STRAIT ISLANDER  
CHILDREN'S COMMISSIONER

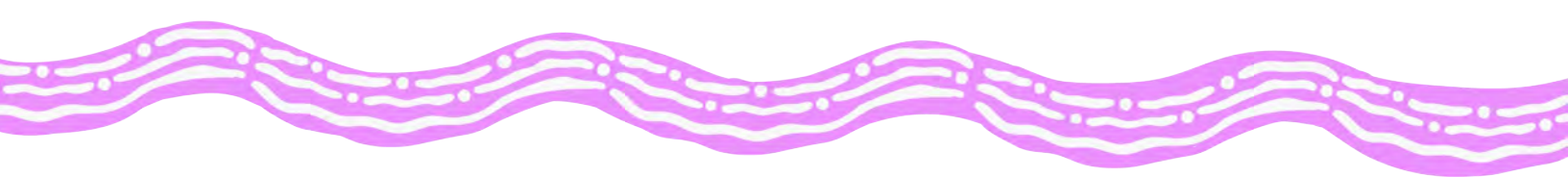


**Queensland**  
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## Acknowledgement of **Country**

The Office of the Aboriginal and Torres Strait Islander Children's Commissioner acknowledges Aboriginal and Torres Strait Islander peoples as the Traditional Custodians across the lands, seas and skies where we walk, live and work.

We recognise Aboriginal and Torres Strait Islander people as two unique peoples, with their own rich and distinct cultures, strengths and knowledge. We celebrate the diversity of Aboriginal and Torres Strait Islander cultures across Queensland and pay our respects to Elders past, present and emerging.

We acknowledge the important role played by Aboriginal and Torres Strait Islander communities and recognise their right to self-determination, and the need for community-led approaches to support healing and strengthen resilience.



## Acknowledgement of **child rights**

The Office of the Aboriginal and Torres Strait Islander Children's Commissioner acknowledges the special rights of children which are recorded in the United Nations Convention on the Rights of the Child (UNCRC), guided by its four principles: the right of all children to survival and development; respect of the best interests of the child as a primary consideration in all decisions relating to children; the right of all children to express their views freely on all matters affecting them; and the right of all children to enjoy all rights of the UNCRC without discrimination of any kind.



## Foreword from the Commissioner

In the first release of *Principle focus (2021)*, I reflected with a degree of optimism on the *Our Way 2017–37* strategy for Aboriginal and Torres Strait Islander children and families and the clear goal of eliminating the over-representation of Aboriginal and Torres Strait Islander children in the child protection system. In 2026, the status of the strategy, subsequent action plans and ongoing level of commitment to key reforms is unclear. What we can say with certainty is that the status quo is unacceptable.

There are strong calls from many sectors for change that is truly transformational. The Queensland Government has indicated that it will consider the forthcoming recommendations of the Commission of Inquiry into the Child Safety System alongside the findings of the *In Plain Sight* report, to provide a blueprint for reform.<sup>1</sup> However, at half of all children in out-of-home care, the disproportionate representation of First Nations children remains a defining feature of Queensland's statutory child protection system. I remain concerned about an over-reliance on the outcomes of review processes that were not explicitly tasked with examining the impacts of the child protection system on Aboriginal and Torres Strait Islander children and young people.

Queensland now spends more than one billion dollars each year on residential care.<sup>2</sup> This scale of investment in a high-cost, late-stage response indicates a system that has become heavily reliant on managing children once they enter care, rather than preventing entry through family support, early intervention and culturally safe alternatives.

It is rational to conclude that the concentration of resources at the point of placement indicates the system may be organised around the need to place children somewhere, rather than around the individual needs and long-term best interests of children. The current reform process presents an opportunity, and frankly an obligation, to re-orient the system toward children and the rights it exists to promote and protect.

Children's rights are not optional. Aboriginal and Torres Strait Islander children have the right to grow up safe, to know who they are, to maintain their cultural identity and to participate in decisions that affect them. These rights are recognised in law through the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP). Its purpose being to increase the level of self-determination and strengthen children's safety by embedding prevention, partnership, participation, placement and connection into every significant decision.

It is concerning that some debate has framed the ATSICPP as being in tension with the paramount principle of a child's safety and best interests. This framing misunderstands both the law and the evidence.

The *National Agreement on Closing the Gap* is clear that self-determination is not a competing priority, but central to improving outcomes. When Aboriginal and Torres Strait Islander children and families, communities and community-controlled organisations are meaningfully involved in decisions about their children, safety and wellbeing are strengthened. Prevention first, cultural connection, family participation and community partnership are not optional extras; they are protective factors that support stability, identity and long-term resilience. Far from weakening the paramount principle, self-determination makes it real in practice by addressing the structural drivers of harm and supporting children to grow up safe within their culture.

The ATSICPP is the solution. The real issue is not the policy itself, but the quality and consistency of its implementation. Where outcomes have not improved, this reflects gaps in power sharing, accountability and resourcing rather than a flaw in the ATSICPP. Blaming good policy for poor implementation risks shifting attention away from the structural reform that is required.

Improving outcomes requires shifting power, not just adjusting policy. Where self-determination is genuine and supported with resources and authority, better decisions follow and children are safer as a result.



**Natalie Lewis**  
Commissioner



## Executive summary

Queensland has previously committed to a generational reform agenda to eliminate the over-representation of Aboriginal and Torres Strait Islander children in the child protection system.

Despite this commitment, which includes legislative recognition of all five elements of the ATSI CPP, the data shows that **over-representation remains entrenched and worsening**.<sup>3</sup>

Entry rates remain high. The trend continues to confirm more Aboriginal and Torres Strait Islander children have entered out-of-home care than exited. Admissions increased sharply between 2018–19 and 2019–20 and have continued to rise. At the same time, children are staying in care for longer. The proportion of children exiting after five or more years has grown, while exits within two years have declined. Once a child remains in care beyond two years, they are increasingly likely to stay for five years or more.

This matters because the total number of children in care is shaped not only by how many enter, but by how long they stay. When duration increases, overall numbers grow even if entry rates are stabilised. Longer stays create cumulative pressure on the system and make it harder to reduce over-representation in the short term. Past decisions continue to drive current numbers. Addressing only one side of this equation will not reduce overall numbers. Even with strong implementation now, improvements in disproportionate representation will take decades to resolve because the system carries forward the effects of earlier decisions.

Placement patterns are also concerning. Growth in non-Indigenous residential care placements for First Nations children has far outpaced growth in placements with Aboriginal and Torres Strait Islander carers. At the same time, longstanding concerns remain about declining kinship placements and inconsistent access to family-led decision-making. The *Reviewing Implementation of the Aboriginal and Torres Strait Islander Child Placement Principle QLD 2025* confirms that while the ATSI CPP is legislated, implementation gaps persist, including limited public data on referral rates and outcomes for the Family Participation Program.

Investment patterns reinforce this trajectory. Queensland's residential care budget has grown to more than \$1 billion per year, while funding for prevention, early intervention and Aboriginal and Torres Strait Islander community-controlled services remains comparatively limited. This signals a continued reliance on late-stage, high-cost responses rather than the sustained structural reform of *Our Way 2017–37: A generational strategy for Aboriginal and Torres Strait Islander children and families*.

There is also a growing narrative suggesting that the ATSI CPP conflicts with the paramount principle. This is a false dichotomy. A fully implemented ATSI CPP increases self-determination and strengthens safety by embedding prevention, partnership, participation, placement and connection to the standard of active efforts across all significant decision points. Self-determination, cultural connection and family participation are protective factors that safeguard against systemic decision-making, not competing interests.

The evidence points to systemic issues at screening and intake, inconsistent diversion to early support, and a lack of independent oversight of compliance with the ATSI CPP.<sup>4</sup> Without transparent reporting and accountability, legislative reform alone has proven ineffective in delivering change in practice.<sup>5</sup>

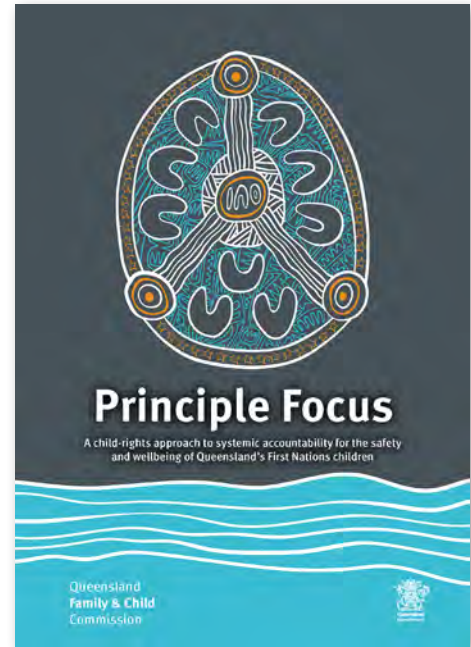
Transformational change requires full implementation of the ATSI CPP to the standard of active efforts across all system elements (legislation, policy, programs, processes, and practice).<sup>6</sup> Most importantly, reform must embed a genuine rights-based approach that measures success not by activity, but by the clear and demonstrable exercise of Aboriginal and Torres Strait Islander self-determination. That is, where cultural authority is privileged through Aboriginal and Torres Strait Islander peoples having the necessary resources and structural mechanisms to keep their children safe, connected and thriving within family, culture, community and Country.





This paper is the second in a series produced by the **Office of the Aboriginal and Torres Strait Islander Children's Commissioner (OATSICC)** about this issue, building on decades of independent Aboriginal and Torres Strait Islander-led advocacy, cultural and organisational leadership, research and evidence.<sup>7</sup>

Commissioner Lewis is deeply concerned about the disproportionate over-representation of Aboriginal and Torres Strait Islander children across all points of the Queensland child protection system, including out-of-home care. An analysis of public data confirms that decisions to remove Queensland's Aboriginal and Torres Strait Islander children from their parents and place them in out-of-home care continues at significantly greater rates than for non-Indigenous children. This disproportionate representation continues to be a rights issue of the highest magnitude.



## In response, the Commissioner asserts:

- 1. Children are rights holders.** Their rights are inalienable and indivisible. The full enjoyment of their rights should not be limited at the discretion of duty bearers nor subject to constraints or the convenience of responsible parties, the system or its actors.
- 2.** The disproportionate representation of Aboriginal and Torres Strait Islander children **continues to escalate** across the continuum of the statutory child protection system.
- 3.** The disproportionate rates of Aboriginal and Torres Strait Islander children in out-of-home care and the disparate impacts suggest that the **system is discriminatory either in its design or in its application.**
- 4.** The continuing growth in both representation and outcome disparity demonstrates a **failure to address structural inequity.**
- 5.** The ATSICPP is a **key legislative and operational safeguard** for the rights, including distinct cultural rights, of Aboriginal and Torres Strait Islander children and young people who are involved with, or at risk of entering the statutory child protection system.
- 6.** Effective operation of the ATSICPP is contingent on **active efforts to redress the structural inequity** that exists within multiple systems to reduce the disproportionate disadvantage experienced by Aboriginal and Torres Strait Islander children and young people.
- 7.** The rights of Aboriginal and Torres Strait Islander children are infringed by the **inconsistent interpretation and application of the ATSICPP** across Queensland, the impact of direct and indirect discrimination within the system, and the inherent cultural bias of the systems and people responsible for making decisions regarding the safety and wellbeing of children.
- 8.** Responsible parties involved in universal and targeted service provision for Aboriginal and Torres Strait Islander children and families and the statutory child protection system must **consistently implement the ATSICPP to the standard of active efforts** to safeguard the rights of Aboriginal and Torres Strait Islander children and reduce the harm experienced by these children.



## Introduction

Between 1910 and 1970, government policy aimed at assimilation enabled forcible removal of Aboriginal and Torres Strait Islander children from their families.

There have been many discussions and initiatives developed to address the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care, such as the *Bringing them home report* (1997) and the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP).

In 2018, the Queensland Government embedded the five elements of the ATSICPP in legislation:

- › Prevention
- › Participation
- › Placement
- › Partnership
- › Connection

Further information on the ATSICPP can be found in **Appendix 1**.

The enduring intention of the ATSICPP has been to preserve Aboriginal and Torres Strait Islander human rights across all elements of the child protection system via an explicit recognition of the vital role that Aboriginal and Torres Strait Islander children, families, communities, and their cultures play in decisions about the safety and wellbeing of children.

Despite the ATSICPP being implemented into legislation approximately eight years ago, Aboriginal and Torres Strait Islander children in Queensland are being removed from their parents and placed in out-of-home care at rates more than nine times greater than non-Indigenous children.<sup>8</sup>

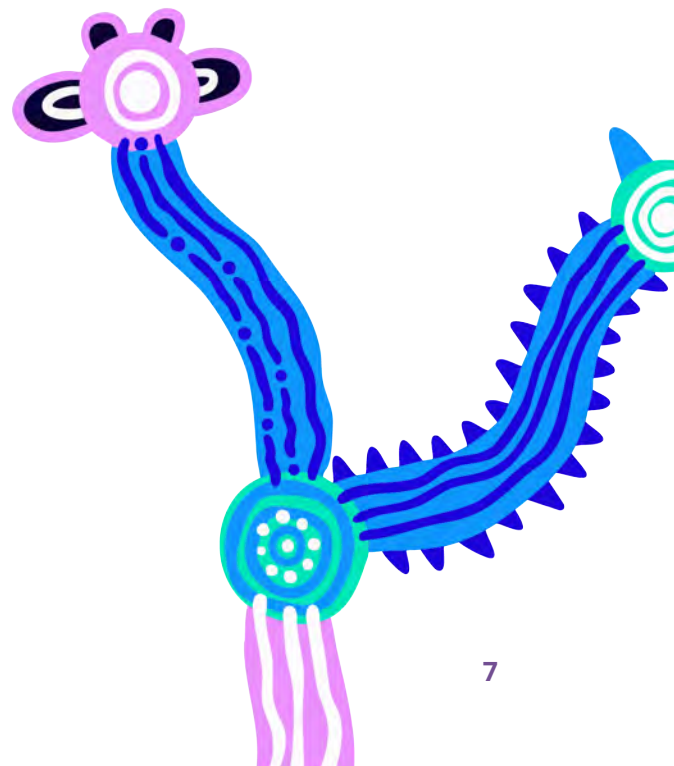
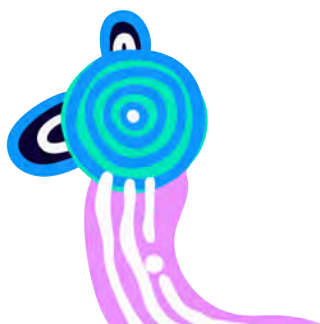
This paper presents evidence about the actions of the government led child protection system responses that influence children's entry into, experience within, and exit from out-of-home care.

This information updates the original 2021 baseline measures to continue to monitor inequity and identify whether the ATSICPP is being optimally implemented to achieve its two intended outcomes:

- › adequately safeguards Aboriginal and Torres Strait Islander children's rights.
- › contributes to a reduction in the over-representation of Aboriginal and Torres Strait Islander children in child protection.

The available data and evidence highlighted in this review continue to inform the OATSICC's position on aspects of the child protection system as it relates to Aboriginal and Torres Strait Islander children and their rights. This work continues to form part of our equity agenda and reflects a rights-based approach to our oversight functions.

The review highlights the importance of continued scrutiny of how the ATSICPP is understood and implemented across legislation, policy, process and practice.





## Disproportionate representation of Aboriginal and Torres Strait Islander children

Aboriginal and Torres Strait Islander children have historically been over-represented in the child protection system, with disparity growing in correlation with the more intrusive nature of interventions.

Despite this situation, the terms of reference in the Queensland Child Safety Commission of Inquiry (2025) did not formally review the reasons the system has failed to reduce over-representation, particularly in out-of-home care.<sup>9</sup>

### As of 30 June 2020, Aboriginal and Torres Strait Islander children comprised:<sup>10</sup>

- › 44.3% of children in out-of-home care
- › 8.2% of **all** Queenslanders aged 0–17.

### As at 30 June 2024, Aboriginal and Torres Strait Islander children now comprise:

- › 42.9% of children in out-of-home care
- › 9.5% of **all** Queenslanders aged 0–17.

The latest available data shows that over-representation of Aboriginal and Torres Strait Islander children in out-of-home care in Queensland remains entrenched. Entry rates have not meaningfully improved. Despite reforms, Aboriginal and Torres Strait Islander children continue to be removed at disproportionately high rates.

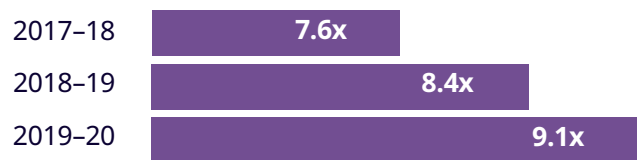
The Commissioner is concerned that out-of-home care remains the primary response to child protection concerns. This data demonstrates that even the most basic interpretation of the ATSI CPP, as applying it to placement decisions, is not being properly implemented. This continues to have disproportionate and harmful impacts on Aboriginal and Torres Strait Islander children, families and communities. Poorly implemented reforms have not reduced entries to care or shifted the system away from removal as the default response.

The ATSI CPP is still applied inconsistently across legislation, policy, programs and frontline practice. Without a clear shift toward prevention, early support and genuine shared decision-making with

Aboriginal and Torres Strait Islander peoples, over-representation will remain a defining feature of Queensland’s child protection system.

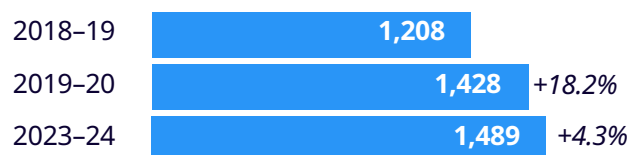
Aboriginal and Torres Strait Islander children in Queensland are more likely to enter out-of-home care than non-Indigenous children.

The rate of entry for Aboriginal and Torres Strait Islander children compared to non-Indigenous children has become disproportionately worse, rising to 9.1 times more likely to be admitted to out-of-home care during this period.



**This clearly shows a widening gap between Aboriginal and Torres Strait Islander children and non-Indigenous children entering out-of-home care.**

Further, the number of Aboriginal and Torres Strait Islander children admitted to out-of-home care increased from:



Diverting families to early and secondary support is sound policy, but the continued rise in admissions shows it is not working. Reforms have not reduced reliance on the statutory system. Nor have they ensured timely, high-quality and culturally safe supports to keep Aboriginal and Torres Strait Islander children safely with their families. Instead, more children are entering out-of-home care.



This reflects systemic problems. Screening and intake practices are inconsistent.<sup>11</sup> Professional discretion is applied unevenly.<sup>12</sup> Families referred to mainstream secondary services are less likely to engage.<sup>13</sup> Access to culturally safe and appropriate supports remains largely at the discretion of the department responsible for child safety (the department).<sup>1</sup> Taken together, these conditions create a system where access to support is uneven and where decisions that profoundly affect families are not applied with consistent fairness or cultural safety.

Rising admissions signpost the need to monitor more closely how decisions are made at the point of entry to the system.

The sharp increase between 2018–19 and 2019–20, followed by continued growth, shows that intake and decision-making processes are not aligned with the prevention, family preservation and self-determination aims of the ATSI CPP. An independent review of screening tools, thresholds and intake decision-making policy, processes and practices is urgently needed.

The Commissioner is concerned that this data signals a systemic failure to implement the ATSI CPP in a way that protects the rights of Aboriginal and Torres Strait Islander children. Unequal access to culturally appropriate supports and inconsistent diversion decisions undermines the elements of prevention and partnership. If admissions continue to rise, over-representation will deepen for years to come, with lasting impacts on children, families and communities.

Aboriginal and Torres Strait Islander children exiting out-of-home care after five or more years increased from:



22% of all exits in 2018–19 to 24% of all exits in 2019–20 to 25% of all exits in 2023–24.

There is a trend change for Aboriginal and Torres Strait Islander children exiting with less than two years in out-of-home care:



53% of all exits in 2018–19 to 55% of all exits in 2019–20 to 46% of all exits in 2023–24.

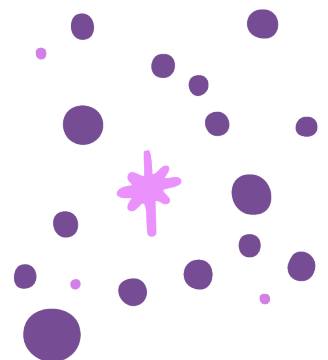
Similarly, the percentage of children exiting out-of-home care after two years but before five years comprised:



26% of all exits in 2018–19 to 21% of all exits in 2019–20 to 29% of all exits in 2023–24.

The latest available data shows continued growth in the length of time Aboriginal and Torres Strait Islander children are staying in out-of-home care. The percentage exiting after five or more years has increased from 22 per cent in 2018–19 to 25 per cent in 2023–24. This reflects an increase in average duration and demonstrates children are remaining in the system for longer once they enter.

<sup>i</sup> The *Child Safety Practice Manual* frames cultural supports as practice options rather than guaranteed rights or services. The former Department of Child Safety, Seniors and Disability Services (2023–24) and the current Department of Families, Seniors, Disability Services and Child Safety (2026)





At the same time, there has been a trend reversal in early exits from our last review. Exits within two years have fallen sharply since 2019–20, from 55 per cent to 46 per cent in 2023–24. This shows that fewer children are leaving care quickly. A reducing rate of children experiencing short stays will increase the average time children remain in the system.

Exits between two and five years have also grown overall, rising to 29 per cent in 2023–24. This shows growth in medium-term stays. This is a reversal in trend from 2020 which may demonstrate either a reduction in, or inefficiency of active efforts to reunite a child in the first two years of care.

**Taken together, this shows a clear shift toward longer stays. Once a child remains in care beyond two years, they are increasingly likely to stay for five years or more.**

The number of children in care at any point in time (stock) is shaped not only by how many enter (flow in), but by how long they stay. When duration increases, stock grows, even if entry rates remain stable. A child who stays five years contributes five times to the annual count. Small increases in average length of stay therefore produce proportional increases in the total number of children in care.

This creates cumulative pressure on the system. Longer stays limit turnover, reduce flexibility and make it harder to bring numbers down. Past decisions continue to drive current totals, as children admitted years ago remain in care.

Over-representation is therefore being reinforced by two departmental decision-making dynamics: more children entering care than exiting, and children staying longer before they exit. Addressing any single side of this equation will not reduce overall numbers. Even with strong reforms, implemented now, the impact on total representation will take years to materialise because the system carries forward the legacy of earlier entry and duration decisions.

### **Reducing the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care will require:**

- › exits to exceed entries
- › a reduction in the duration of time children spend in care
- › a short-term focus on reunification to increase exits from out-of-home care
- › a long-term focus on reunification to reduce duration of time in out-of-home care.

Refer to **Appendix 2** for the full data analysis.

Again, it is important to highlight the Carmody recommendation to reduce drift in care remains an important safeguard of children's rights.<sup>14</sup> For Aboriginal and Torres Strait Islander children, true stability is not merely about time spent in care or placement continuity, but about maintaining connections to family, kin, culture and Country. When children cycle through placements without anchors, their identity and wellbeing are undermined.<sup>15</sup>

The *Include me, don't exclude me* report highlights ongoing concerns that the rights of children are not consistently upheld while they are living in out-of-home care.<sup>16</sup> Children in care experience school suspension and exclusion at rates three times higher than their peers. The report highlights that when children in out-of-home care experience an intersection of attributes we see further risk of receiving an SDA<sup>ii</sup>, despite the state acting as their corporate parent and holding responsibility for protecting their wellbeing and supporting their development.

The findings show that disciplinary responses often fail to account for trauma, placement instability and care experience, resulting in children being excluded from education rather than supported to participate. For many children, decisions affecting their schooling occur without meaningful participation or consideration of their individual circumstances.

<sup>ii</sup> Thirty-three per cent of First Nations students who live with a disability and are living in out-of-home care, received an SDA between 2018–23.



These outcomes indicate that children in out-of-home care are not consistently able to realise fundamental rights, including the right to education, participation and development. We remain deeply concerned about the intersectional circumstances coinciding with children who spend increasing durations of time in care. State care does not always translate into improved protection of children's rights in practice.

*The primary concern of the [Queensland Law] Society and members practising in the children's jurisdiction, is the Department of Child Safety frequently fails to give proper consideration to the child placement ATSICPP.<sup>17</sup>*

The **2025 SNAICC Review** shows that long-standing concerns about departmental decision-making have still not been fixed, pointing to ongoing problems in how the ATSICPP is being put into practice. While Queensland has legislated all five elements of the ATSICPP, outcomes have not improved at the pace or scale required.

Although the department has stated an aim to increase the proportion of children in kinship care to 70 per cent by 2026, just 42.6 per cent of children were placed with relatives or kin as of June 2024. While the percentage of children placed with kin has increased since 2019 (34.8%), the lack of a specific target to reduce residential care means the 70 per cent target will not be achieved.<sup>18</sup> The structural barriers to increasing kinship and community-controlled placements remain. These include underinvestment in Aboriginal and Torres Strait Islander community-controlled organisations and limited system capacity to properly support family-based care options.<sup>19</sup>

This is especially concerning given current data showing that Aboriginal and Torres Strait Islander children are staying in out-of-home care for longer. When longer stays are combined with limited culturally connected placement options, the impact on children's identity, belonging and wellbeing is profound.<sup>20</sup> Indirect harms created by system contact are also well established, with findings that child removal and forced disconnection from family, culture, and Country produce lifelong impacts including trauma, broken kinship connections, impaired identity development and community cohesion, increased risk of generational contact with child protection services and poorer long-term life trajectories.<sup>21</sup>

The evidence shows that without sustained efforts to implement legislation to the level of active efforts, the intent of the ATSICPP will continue to be undermined.

Despite the evidence about the importance of the ATSICPP, there is no independent body with sufficient powers to monitor or investigate whether the ATSICPP is being properly applied. Compliance is largely self-reported by the department, and families and communities have no clear, accessible pathway to raise concerns when the ATSICPP is not followed. There continues to be a serious accountability gap.

Consistent with ***Safe and supported: the national framework for protecting Australia's children*** which calls for strengthened Aboriginal and Torres Strait Islander-led oversight and accountability for implementation of the Child Placement Principle, monitoring non-compliance should be a core function of an independent and appropriately empowered Aboriginal and Torres Strait Islander Children's Commission.<sup>22</sup> Independent monitoring by a culturally safe body with the requisite resources and delegation of appropriate powers within existing statute would strengthen transparency, improve consistency in decision-making, and ensure the legislative intent of the ATSICPP is applied in practice.

The OATSICC will continue to identify and challenge the systemic issues that produce this inequity. We remain committed to raising awareness of the factors affecting the rights and wellbeing of Aboriginal and Torres Strait Islander children and young people, advocating for structural reform, and promoting accountability across systems that impact their lives.





## Drivers and impacts of disproportionate representation

Any systemic interventions that have inequitable effects, impacts or outcomes are discriminatory, regardless of their motivations or intention.<sup>23</sup>

**Aboriginal and Torres Strait Islander children are placed in out-of-home care at rates 9.1x greater than non-Indigenous children.**

As such, the magnitude of the disproportionate representation of Aboriginal and Torres Strait Islander children in out-of-home care continues to demonstrate the system is discriminatory in either design or application.

### Administrative data reveals the system

Performance measurement in child welfare has increasingly relied on administrative data, such as case counts, placement durations, and investigation timelines. These data reflect the behaviour and priorities of the system rather than the experiences or wellbeing of children and families.<sup>24</sup> Indicators are not neutral because they frame what is visible, valued, and acted upon.

Narrow administrative measures prioritise procedural compliance over outcomes such as family support, prevention, and even the safety of children. For this reason, they also obscure inequities affecting vulnerable populations.

This is important to understand because the analysis of administrative data is too often used to ascribe the experiences or wellbeing of children and families, rather what it actually measures—the behaviour of the child protection system.

We are concerned how the Queensland Government will achieve such ends through the next budget cycle given the lack of accurate, timely and disaggregated data available to measure impact and monitor outcomes. In particular, the absence of transparency with Aboriginal and Torres Strait Islander community-controlled organisations, peak bodies, and oversight agencies undermines their ability to independently assess progress, identify emerging risks, and advocate for corrective action, and is inconsistent with the full and faithful implementation of the ATSICPP.

At a time when the state has committed to eliminating over-representation and advancing self-determination, full transparency must be the minimum standard. The Queensland Government must urgently restore comprehensive public reporting and ensure that datasets accurately reflect the experiences of Aboriginal and Torres Strait Islander children in Queensland. Without reliable data, reform cannot be measured, and without measurement, accountability cannot be achieved.

### Data secrecy

The Commissioner is concerned that when governments hide their data, they are hiding their decisions. Transparency is not optional in a child protection system; it is a fundamental obligation.<sup>25</sup> The Queensland Government's failure to provide complete and timely child protection data for national reporting undermines public confidence and weakens independent oversight at a time when scrutiny is most needed.<sup>26</sup>

Aboriginal and Torres Strait Islander children remain dramatically over-represented in out-of-home care. Entry rates remain high, durations in care are increasing, and residential care placements have grown significantly. Without accurate and publicly available data, it is impossible to properly monitor the impact of government responses in the child protection system.

Ensuring that the best interests of the child are a primary consideration requires governments to embed continuous child impact assessment and evaluation into policy and budget decisions.<sup>27</sup>



## Racial bias and discrimination in decision-making is real

*Practitioner discretion did not mitigate inequitable FRA recommendations [...] High rates of false positives for Indigenous children exacerbates Indigenous overrepresentation in child protection.*<sup>28</sup>

In 2021, the Office of the Chief Practitioner (Department of Children, Youth Justice and Multicultural Affairs) partnered in a study with Doctor. Brian Jenkins and Professor. Clare Tilbury (Griffith Criminology Institute). The study evaluated the actuarial self-reporting risk instrument known as the Family Risk Assessment (FRA) in order to assess for potential differences in the assessment of family risk outcomes achieved by the department when considering racial equity.<sup>29</sup>

The study found that the FRA instrument fails both equity criteria: it relies on factors correlated with race (thus likely embeds indirect discrimination) and performs less accurately for Indigenous children than for non-Indigenous children.<sup>30</sup>

The authors warned that the high rate of false positives for Indigenous children may exacerbate over-representation of Indigenous children in the child protection system. They also highlight that when accounting for practitioner discretion there was no significant mitigation of inequities experienced when using the FRA.<sup>31</sup>

That is, bias was present in decision-making about an Aboriginal or Torres Strait Islander child whether the decisions relied on the FRA tool alone or an intervention with practitioner discretion, when compared against outcomes in case decisions about a non-Indigenous child.

Disproportionality is evident at every key decision point in the child protection system. Both implicit bias (unconscious beliefs) and explicit bias (overt discrimination) shape how Aboriginal and Torres Strait Islander families are assessed and responded to. Cultural and racial bias, whether intentional or not, can influence decisions made by mandatory reporters, practitioners and service providers. These biases can affect decisions at every stage of the system across entry, duration and exit.<sup>32</sup>

Surveillance bias happens when some families are more likely to be reported to authorities simply because they are more visible to services and not because they are harming their children more than others.<sup>33</sup>

Aboriginal and Torres Strait Islander families are often more visible to the system because they are more likely to interact with social services due to structural disadvantage. Seeking help during a crisis or for ongoing needs can increase contact with mandated reporters. If parents believe asking for help may lead to child protection involvement, they may avoid seeking support altogether.<sup>34</sup> This fear is real and grounded in lived experience. For many Aboriginal and Torres Strait Islander families, the broader service system has historically caused harm rather than help.

While changes have been made to the use of the FRA tool, risk-based assessment tools continue to shape decision-making at multiple points across the child protection system.<sup>35</sup> This raises important questions about what broader reforms have been implemented to address bias in professional judgement and structured decision-making processes.

Governments have an obligation to ensure child protection decision-making processes are free from discrimination and actively safeguard children's cultural rights.<sup>36</sup>

It is a concern that the department's poor implementation of the ATSICPP is diminishing the effectiveness of safeguards designed to counter known bias and discrimination in child protection decision-making.





## The **ATSICPP** as a safeguard for the rights of Aboriginal and Torres Strait Islander children

The ATSICPP is a key legislative framework for safeguarding the rights, including distinct cultural rights, of Aboriginal and Torres Strait Islander children and young people involved in or at risk of entering the child protection system. Application of the ATSICPP at all decision-making points is critical to ensuring the immediate and long-term safety and wellbeing of Aboriginal and Torres Strait Islander children and young people.

Unfortunately, inconsistent interpretation and poor implementation continue to be the greatest risk to the success of Aboriginal and Torres Strait Islander-focused policies and programs. Without proper implementation of the ATSICPP, the child protection system will continue to compromise the inalienable rights of Aboriginal and Torres Strait Islander children and young people in Queensland.

To effectively address the disproportionate representation of Aboriginal and Torres Strait Islander children in out-of-home care through the implementation of the ATSICPP, the child protection system must undergo a radical paradigm shift that accepts the status of children as rights holders and facilitates all children to fully enjoy their rights.

The Queensland Government's commitment to implement systemic reform must include their legislative accountability for the ATSICPP to give practical effect to Aboriginal and Torres Strait Islander people's right to enjoy, maintain, control, protect and develop their kinship ties.

This means public entities acting in the child protection system, including service providers, must not force the assimilation of Aboriginal and Torres Strait Islander peoples or cause the destruction of their culture.<sup>37</sup>

However, removal data shows that less than half of Aboriginal and Torres Strait Islander children stay within cultural kinship structure.<sup>38</sup>

Aboriginal and Torres Strait Islander children are more likely to experience a decision that places them with carers who have no familial or cultural connection to them. The evidence clearly shows Aboriginal and Torres Strait Islander children are increasingly more likely to spend longer periods in out-of-home care with non-Indigenous, non-relative carers or in residential care placements. This includes a 123 per cent increase in the number

of Aboriginal and Torres Strait Islander children in residential care between 2019 and 2024. This has dire consequences for Aboriginal and Torres Strait Islander children's cultural rights, given systemic interventions more often result in the removal of children from their kinship and cultural connections.

Refer to **Appendix 3** for the full data analysis.

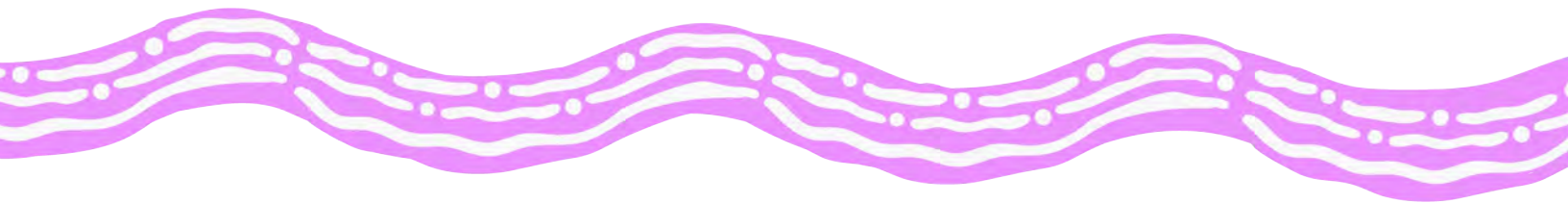
The continued removal of Aboriginal and Torres Strait Islander children into statutory care with non-relative, non-Indigenous carers or in residential care will require consistent, high-quality, cultural support planning processes to preserve or restore familial and cultural connections. This reform requires more than acknowledgement. Full implementation of ATSICPP demands active, documented efforts to maintain cultural connection, ensuring that agencies can demonstrate how they are putting the ATSICPP into practice rather than simply recognising it in theory.

The 2023 amendments to the Child Protection Regulation now require placement agreements to actively support Aboriginal and Torres Strait Islander children to stay connected to their culture, family and community. This change moves cultural connection from a general expectation to a clear legal requirement, meaning agencies must take deliberate action rather than treat culture as optional.<sup>39</sup>

This is important because appropriate focus on connection increases the opportunity for family restoration and the likelihood for safe reunification. However, the evidence indicates that the active implementation of cultural continuity remains below standard.<sup>40</sup> It is a concern that the potential to deprioritise these processes in the context of system demand and resource constraints.



More broadly, children's participation in decision-making is both an inalienable right as well as a transformative mechanism that empowers children to influence families, communities, and institutions. The Commissioner remains deeply concerned about reports which indicate constrained implementation of the participation element of ATSICPP due to accessibility issues, departmental referral practices, and the under-resourcing of culturally safe services remain.



## Active efforts

In 2022, Queensland amended the *Child Protection Act 1999* to require active efforts in applying the ATSICPP, recognising that its effective operation is contingent on active efforts to redress the structural inequity that exists within systems to reduce the disproportionate disadvantage experienced by Aboriginal and Torres Strait Islander people.

In this context, active efforts refer to purposeful, thorough, and timely efforts that are supported by legislation and policy and enable the safety and wellbeing of Aboriginal and Torres Strait Islander children.<sup>41</sup>

Ensuring the indivisibility, inalienability and universality of children's rights is paramount. Until responsible parties routinely and consistently implement the ATSICPP to the standard of active efforts, it is unsafe and untrue to suggest that the ATSICPP operates as an effective safeguard for the rights of Aboriginal and Torres Strait Islander children.

The data continues to demonstrate a lack of consistent implementation of the ATSICPP to the standard of active efforts.<sup>42</sup> Oversight bodies currently lack sufficient powers to intervene in

individual matters, compel action or access the data required to assess system performance. Children in statutory systems require individual advocacy capable of navigating intersecting systems and intervening where preventable harm is occurring.<sup>43</sup>

In this context, there is also a need for stronger judicial oversight of decisions affecting Aboriginal and Torres Strait Islander children, supported by clear evidentiary standards that enforce decision-makers to demonstrate meaningful engagement with all five elements of the ATSICPP.



## Conclusion

Since our first review of *Principle focus* in 2021, one point remains unmistakably clear—the over-representation of Aboriginal and Torres Strait Islander children in Queensland's child protection system is not improving. Despite legislative recognition of the ATSICPP and repeated commitments to full implementation of the reform, the underlying drivers of over-representation remain largely unchanged.

More Aboriginal and Torres Strait Islander children enter out-of-home care than leave it. At the same time, children are staying in care for longer periods. Together, these two trends are reinforcing and entrenching disproportionate representation across the system. Once children enter care, the system struggles to return them safely to family or support culturally connected alternatives. The result is a cycle of past decisions continuing to shape present outcomes.

Placement patterns and investment decisions further highlight the structural nature of this challenge. The rapid growth in residential care and the comparatively slow growth in placements with Aboriginal and Torres Strait Islander carers signal a system that remains focused on managing children once they are removed, rather than preventing removal or strengthening family and community care. This pattern sits uneasily with the commitments made under the *Our Way strategy*, the *National Agreement on Closing the Gap* and the legislative intent of the ATSICPP.

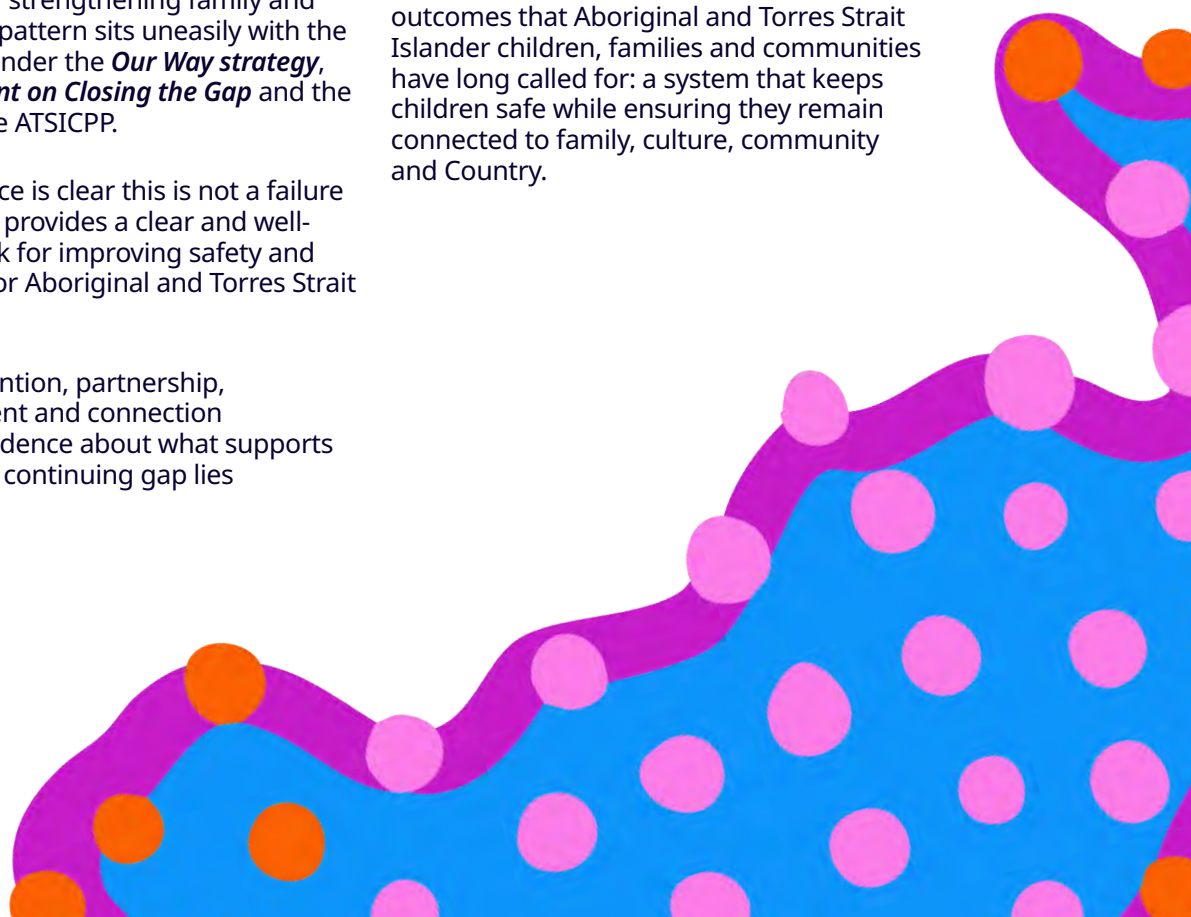
The qualitative evidence is clear this is not a failure of policy. The ATSICPP provides a clear and well-established framework for improving safety and wellbeing outcomes for Aboriginal and Torres Strait Islander children.

Its emphasis on prevention, partnership, participation, placement and connection reflects decades of evidence about what supports children to thrive. The continuing gap lies in implementation.

Transformational change cannot be achieved through incremental adjustments or further policy commitments alone. It requires a deliberate shift in how the system operates. These shifts must include greater transparency, stronger accountability and genuine power sharing with Aboriginal and Torres Strait Islander peoples. Full implementation of the ATSICPP must be demonstrated across legislation, policy, programs, processes and practice.

The forthcoming recommendations of the Child Safety Commission of Inquiry present an important opportunity to reset the direction of reform. This shift towards a renewed reform agenda must recognise that self-determination remains central to improving outcomes. This moment should be used to centre children's rights and to build a system organised around prevention, cultural authority and long-term wellbeing rather than crisis response.

When Aboriginal and Torres Strait Islander communities, families and community-controlled organisations are resourced and empowered to participate meaningfully in decisions affecting their children, the conditions for safety, stability and cultural continuity are strengthened. Queensland's child protection system must move beyond commitments to reform and demonstrate the outcomes that Aboriginal and Torres Strait Islander children, families and communities have long called for: a system that keeps children safe while ensuring they remain connected to family, culture, community and Country.





## Appendix 1

### Aboriginal and Torres Strait Islander Child Placement Principle

Language is incredibly important to ensure we preserve the intent of the five elements of the ATSI CPP and to safeguard against poor interpretation, which can have catastrophic impacts for children, young people, and their families. The Commissioner takes the position that the incongruence between Queensland's legislative definitions, and the nationally accepted definitions of the five elements also contributes to the inconsistency or quality of practice across the state. For this reason, the oversight program supports the following nationally accepted definitions of the five elements and will review implementation against the original policy intent.

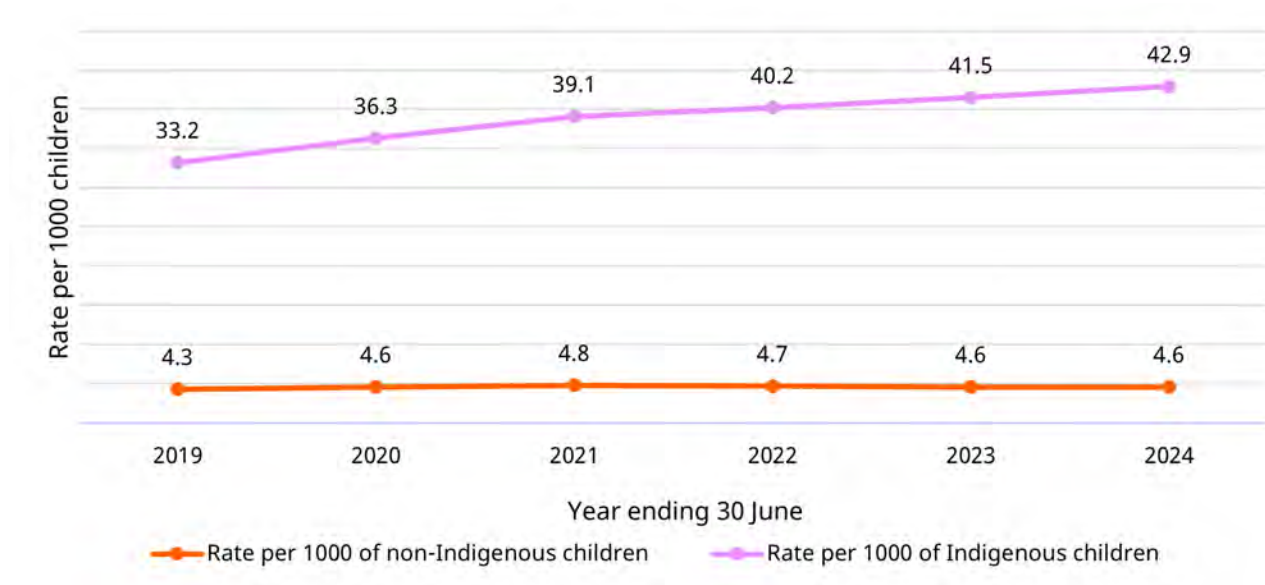
<b>Prevention</b>	There are short- and long-term wellbeing and economic benefits to investing early in the life of a problem and early in a child's life. For Aboriginal and Torres Strait Islander children, prevention encompasses the right of every child to be raised in their own family and community. This includes equitable access to quality, universal prevention and early intervention services to heal and strengthen families and communities, keeping them together.
<b>Partnership</b>	There must be independent community representatives participating in and jointly making decisions about the safety and wellbeing of Aboriginal and Torres Strait Islander children (including intake, assessment, intervention, placement and care, and judicial decision-making). This is broader than community representatives providing cultural advice, information or being consulted. This element also encompasses partnership with Aboriginal and Torres Strait Islander organisations and communities in the design and delivery of service responses.
<b>Placement</b>	Children who need to be in statutory care must be placed in accordance with the agreed hierarchy of out-of-home care placement options, with decisions underpinned by community and family participation.
<b>Participation</b>	The evidence shows that when children, parents and other family members participate in the decisions that affect their lives—decisions about intervention, placement and care, and orders—they are more appropriate and more likely to work. Participation extends to participation by community and cultural leadership in decisions that impact children and families.
<b>Connection</b>	Every effort must be made to support and maintain family, cultural and community connections for Aboriginal and Torres Strait Islander children in out-of-home care. The child's enduring right to connection to kin, Country and culture must be a central concern in making decisions about their immediate and long-term wellbeing.  Taking the time to work with family to identify kin for full-time or shared care, supporting frequent family contact with parents for children placed with kinship carers, and working to reunify children and families, especially children placed with kinship carers, are actions that would ensure Aboriginal and Torres Strait Islander children maintain their family and community connections while in care and exit the system in a timely manner.





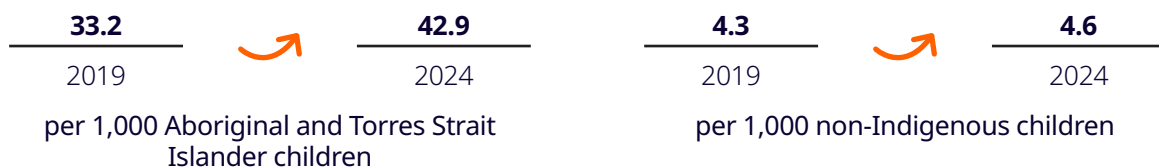
## Appendix 2

**Figure 1. Rate per 1,000 children (ages 0–17) in out-of-home care as at 30 June, by Aboriginal and Torres Strait Islander Status, Queensland 2019 to 2024**



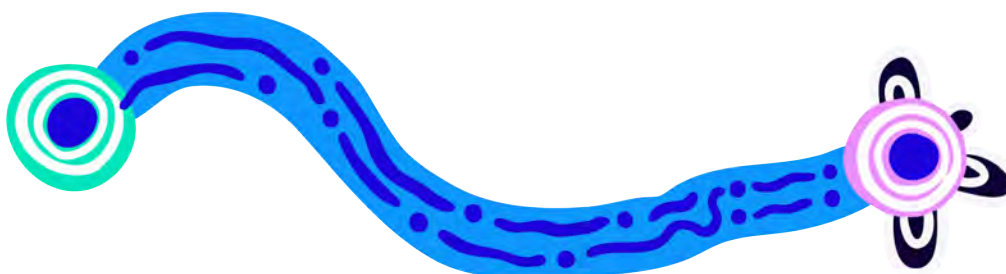
Source: Steering Committee for the Review of Commonwealth and State Service Provision 2025. T 16A.2.

Figure 1 shows the rate of children in out-of-home care increased from:



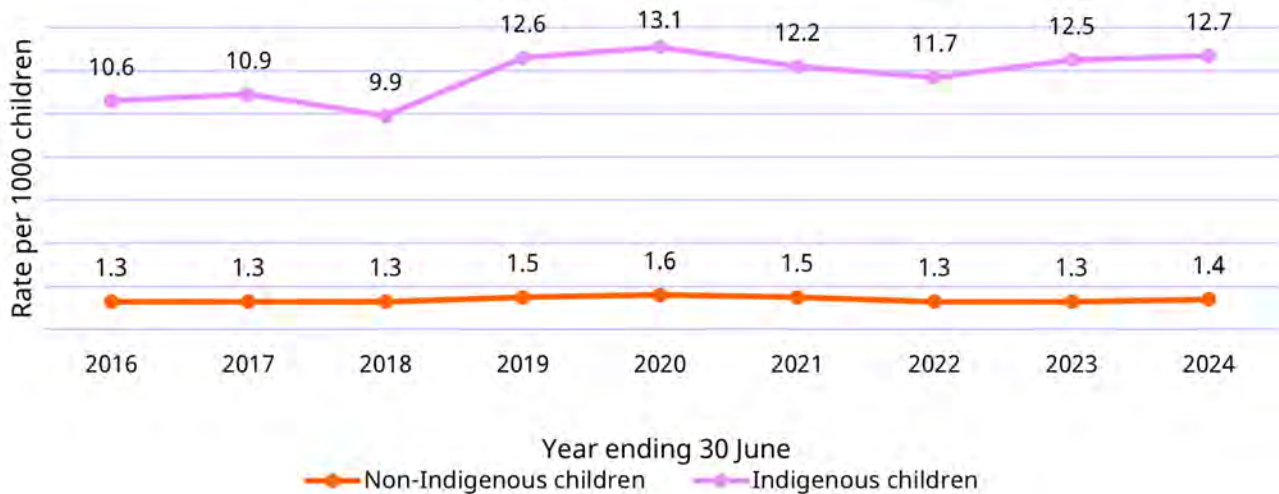
33.2 children per 1,000 Aboriginal and Torres Strait Islander children aged 0 to 17 years in 2019 to 42.9 children per 1,000 in 2024. In comparison, the rate of non-Indigenous children in out-of-home care increased from 4.3 per 1,000 non-Indigenous children aged 0 to 17 years in 2019 4.6 children per 1,000 in 2024.

The level of disproportionality for Aboriginal and Torres Strait Islander children in out-of-home care continues to grow at an alarming rate. This is a key indicator that shows performance against the intent to reduce over-representation is worsening, not improving. It raises questions about whether existing strategies purporting to reduce the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care are appropriately aligned to systemic need, are being ineffectively implemented, or are being undermined or overpowered by other policies, procedures, and practices within the department.





**Figure 2. Rate per 1,000 children (ages 0–17) entering care, by Aboriginal and Torres Strait Islander status, Queensland 2016 to 2024**



Source: AIHW Table S5.19; State of Queensland (Department of Families, Seniors, Disability Services and Child Safety) (2025). Our performance: Improving care and post care support.

Figure 2 shows a comparison of the rates at which Aboriginal and Torres Strait Islander and non-Indigenous children entered out-of-home care for every 1,000 children.

Between 2016 and 2024 entry into out-of-home care for non-Indigenous children slightly increased from 1.3 to 1.4 children per 1,000 non-Indigenous children.



**The rate of entry for non-Indigenous children remained relatively flat over time.**

This is in stark contrast to the situation for Aboriginal and Torres Strait Islander children for whom the rate increased from 10.6 to 12.7 children per 1,000 Aboriginal and Torres Strait Islander children.



**This represents a significant upward trend.**

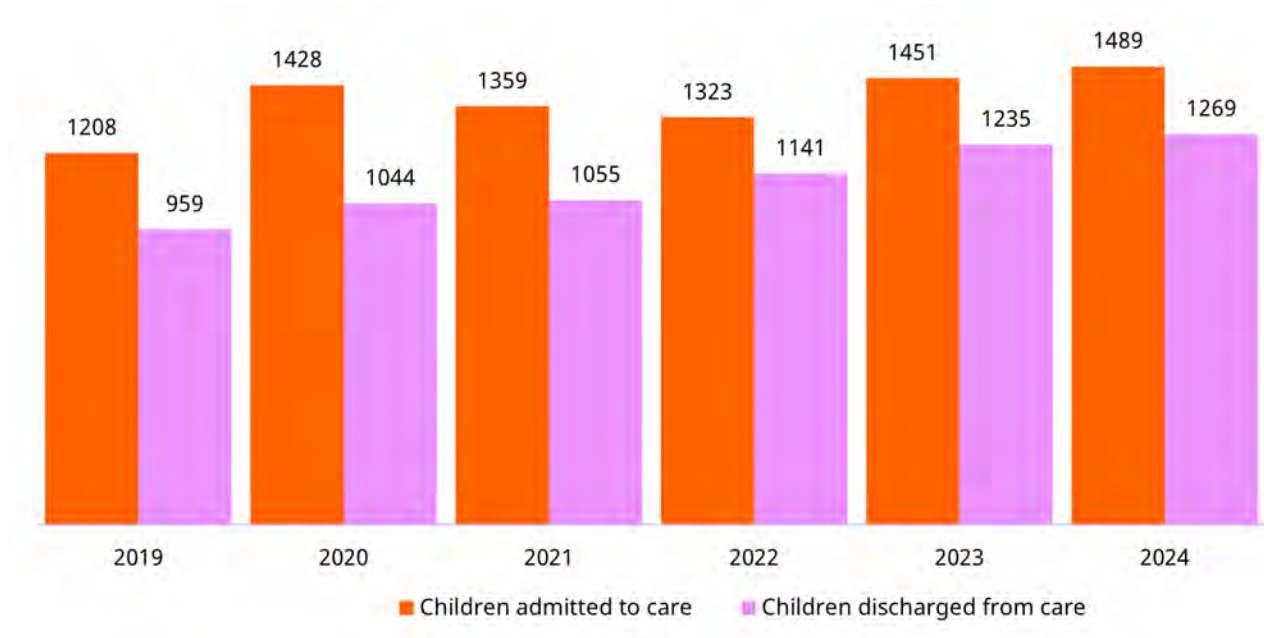
In 2024, an Aboriginal or Torres Strait Islander child was 9.1 times more likely to enter out-of-home care in Queensland than a non-Indigenous child; that is, for every non-Indigenous child entering out-of-home care, there were approximately 9 Aboriginal and Torres Strait Islander children entering.

The gap is widening between Aboriginal and Torres Strait Islander children and non-Indigenous children entering out-of-home care, contrary to reform intent.





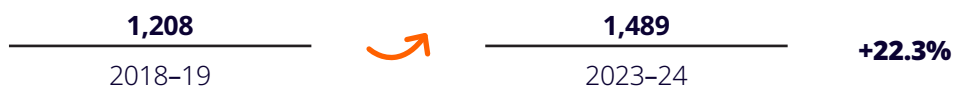
**Figure 3. Number of Aboriginal and Torres Strait Islander children admitted to and discharged from out-of-home care, Queensland 2019 to 2024**



Source: Steering Committee for the Review of Commonwealth and State Service Provision 2025. T 16A.4.

Figure 3 compares the number of Aboriginal and Torres Strait Islander children in Queensland admitted to and discharged from out-of-home care between 2019 and 2024.

The number of children admitted to out-of-home care increased from 1,208 children in 2018–19 to 1,489 children in 2023–24 an increase of 22.3% in this period.



This shows that actions taken to reduce entries to care have not been effective. The continued growth in admissions warrants serious attention. The screening and intake stages of the child protection system in Queensland, inclusive of the decision-making frameworks and processes used to open statutory cases and admit children to out-of-home care require urgent, independent review.

In 2022, Child Safety conducted an internal review in relation to the screening of families in the intake space. The findings from this internal review identified poorer systemic outcomes for First Nations families. In response, the department introduced into practice the new Enhanced Intake and Assessment Approach (EIAA) in April 2025. The Commissioner is concerned that this approach has the potential to impact children’s and families’ rights to self-determination as well as their right to inform and participate in significant decisions, as expressed through the ATSICPP.

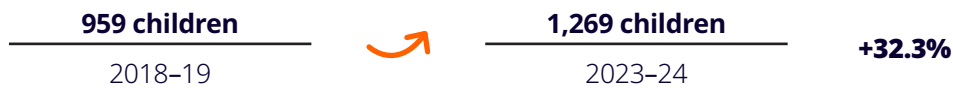
The new process may also increase pressure on an already overwhelmed community-controlled sector through increasing the demands of Family Wellbeing services.

Without clear safeguards, transparency, and measurable diversion outcomes, there is a risk that EIAA could function as an additional gateway into the statutory system rather than a genuine alternative to it.



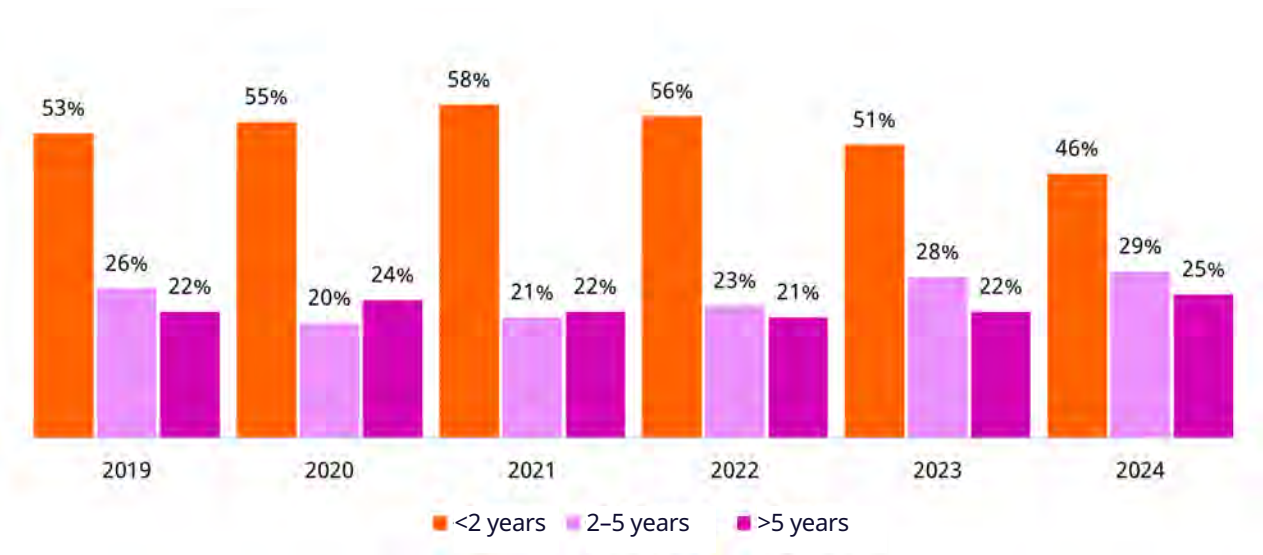
Getting it right is vital given entry data continues to demonstrate a systemic failure to implement the ATSI CPP to a standard that safeguards the rights of Aboriginal and Torres Strait Islander children and inadequate action to reduce over-representation. The level of over-representation in out-of-home care is set to increase for many years into the future.

Figure 3 also shows the number of Aboriginal and Torres Strait Islander children discharged from out-of-home care increased from 959 children in 2018–19 to children in 2023–24 an increase of 32.3% in this period.



The most important trend continues to be the persistent imbalance between entries and exits, where more children are entering out-of-home care each year than are leaving it. The ability of the system to reduce over-representation will require a reversal of this trend so that exits consistently outnumber entries. Several key performance indicators will achieve this, including reducing entries to out-of-home care and increasing the number of timely family reunifications.

**Figure 4. Percentage of Aboriginal and Torres Strait Islander children discharged from out-of-home care, by length of time in care, Queensland 2019 to 2024**



Source: Steering Committee for the Review of Commonwealth and State Service Provision 2025. T 16A.19.

Figure 4 shows the length of time Aboriginal and Torres Strait Islander children have been in out-of-home care at time of exit, as a proportion of all exits for Aboriginal and Torres Strait Islander children.



The data demonstrates the proportion of children who exit after five or more years increased from 22% of all exits in 2019 to 25% in 2024.



22% of all exits in 2019 to 25% in 2024.

A similar pattern in the percentage of children exiting out-of-home care after two to five years increased from 26% of all exits in 2019 to 29% in 2024.



26% of all exits in 2019 to 29% in 2024.

In contrast, children exiting with less than two years in out-of-home care decreased from 53% of all exits in 2019 to 46% in 2024.



53% of all exits in 2019 to 46% in 2024.

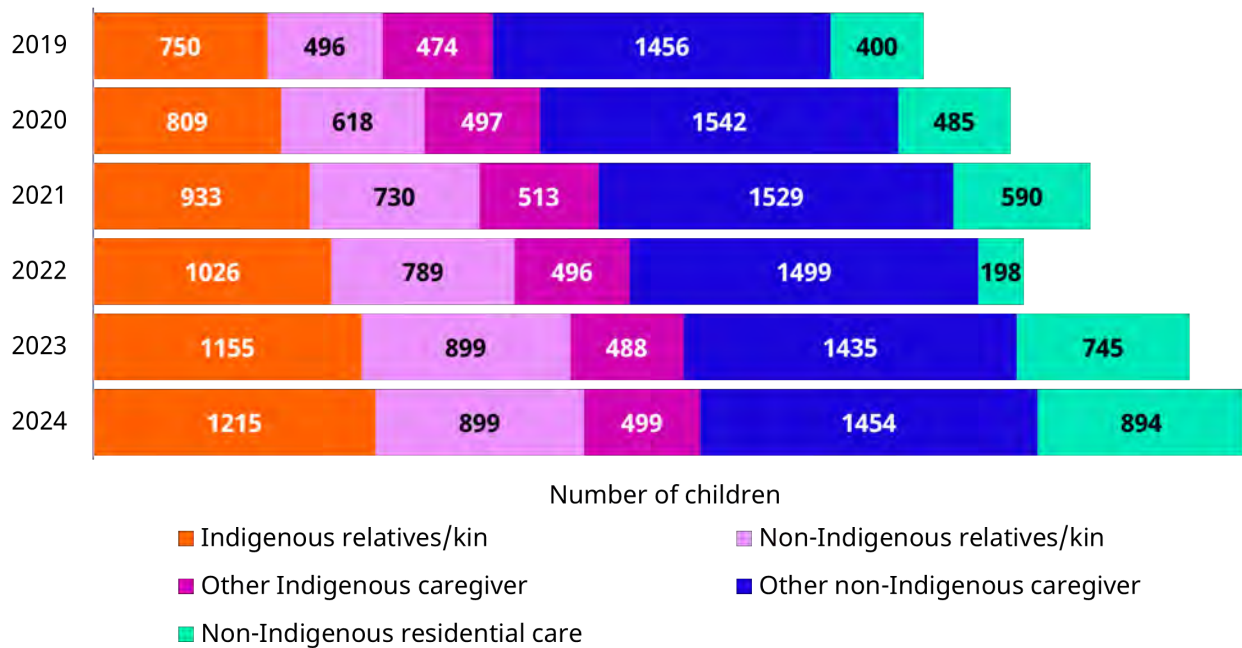
The data shows a clear shift toward longer stays in care. Once a child remains in care beyond two years, they are increasingly likely to stay for five years or more. The total number of children in care is shaped not only by how many enter, but by how long they stay. When duration increases, overall numbers rise, even if entry rates remain steady. Small increases in length of stay can therefore significantly increase the total population in care. This creates cumulative pressure on the system. Longer stays reduce turnover and make it harder to bring numbers down. Past decisions continue to affect current totals as children admitted years ago remain in care.

Over-representation is being reinforced by two factors: more children entering care than exiting and longer stays once they enter. Attempts to address either factor in isolation will not reduce overall numbers. Even with strong reforms now, change will take time because the system carries forward the effects of earlier decisions. The need to further investigate the level of participation of Aboriginal and Torres Strait Islander children and families during significant decision-making points in the system is recognised. Concerns that family-led decision-making is not offered consistently, and that referrals to the Family Participation Program are lower than expected, remain unresolved. These concerns are heightened by the **2025 SNAICC review**, which notes there is still no publicly available data on referral rates, participation or outcomes.



## Appendix 3

Figure 5. Number of children in out-of-home care, by relationship to carer, by Aboriginal and Torres Strait Islander Status, Queensland 2019 to 2024



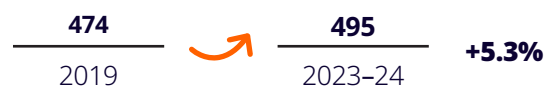
Source: Steering Committee for the Review of Commonwealth and State Service Provision 2025. T 16A.23.

Figure 5 shows the proportion of children placed in the care of other non-Indigenous carers decreased from:



40.7% in 2019 to 29.3% in 2024.

The number of children placed with other Aboriginal and Torres Strait Islander carers increased from:



474 children in 2019 to 494 children in 2024 an increase of 5.3% over this time.

Alarming, the number of children placed in non-Indigenous residential care facilities increased from:



400 children in 2019 to 894 children in 2024 an increase of 123% over this time.

Aboriginal and Torres Strait Islander children's growth in non-Indigenous residential care placements has vastly outpaced growth in placements with Aboriginal and Torres Strait Islander carers, both in percentage terms and in actual numbers.

**This represents a significant shift toward more institutional, non-culturally connected care arrangements.**



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