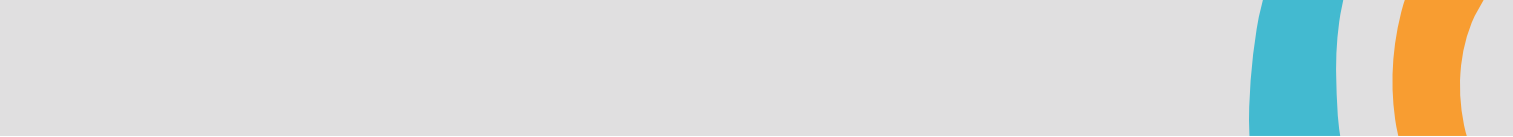


Successor Plan to the National Framework for Protecting Australia's Children 2009-2020

Submission

July 2021



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Background

The Queensland Family and Child Commission (QFCC) is pleased to provide a submission regarding *Implementing the Successor Plan to the National Framework for Protecting Australia's Children 2009-2020* (the discussion paper).

The QFCC's purpose is to build awareness of and accountability for the rights, safety and wellbeing of Queensland's children, within the child and family support system and across the Queensland community.

The QFCC acknowledges the successor plan to the *National Framework for Protecting Australia's Children 2009-2020* will seek to support all levels of government, Aboriginal and Torres Strait Islander peoples, the child and family sector, and the broader community to work together to make a positive difference to the lives of children.

Children's rights should be at the heart of the successor plan. As a signatory to the United Nations *Convention on the Rights of the Child* (UNCRC), all Australian governments must make sure all children are supported to enjoy full access to all their rights. While this includes children's right to safety, it also includes their rights to culture, education, health care and participation in decisions made about them.

It is pleasing to see the successor plan identify early intervention and targeted support as a priority area. Children at risk of entry into the child protection system need support across the broad child and family support system, including disability, early childhood education and care, health and mental health, drug and alcohol, domestic and family violence, justice, housing and employment service systems. Improvements to child protection services alone will not be enough to protect children's access to their rights.

For this reason, the successor plan should set targets across the broader service system, with the intention of protecting children's enjoyment of their rights. While this could go beyond the scope of the current agreement between Community Services Ministers, it would be an important way to truly strengthen the interface between these systems to support and protect children across Australia.

The successor plan should also include a clear framework for reporting and evaluation, including key outcome indicators. States and territories must be required to report regularly on these key indicators, as well as their progress on implementation of actions.

The QFCC acknowledges the importance of the ongoing consultation and co-design with Aboriginal and Torres Strait Islander communities, and targeted consultation with children. This consultation and co-design should continue throughout the life of the successor plan, to make sure the plan and associated actions continue to meet the needs of the children and communities impacted by the systems that seek to support them.

Strategic Priority: Addressing the over-representation of Indigenous children in child protection systems

Summary

- To present a consistent pathway to address the over-representation of Aboriginal and Torres Strait Islander children in child protection systems, the Successor Plan should align with the four building blocks of the *Family Matters Roadmap*.
- The Successor Plan should also contain actions for states and territories to implement all five elements of the Aboriginal and Torres Strait Islander Child Placement Principle to the standard of Active Efforts.

The continued over-representation of Aboriginal and Torres Strait Islander children and young people in child protection systems across Australia requires urgent attention of every state and territory government. It is appropriate that the successor plan continue to address over-representation as a key priority.

To provide true and meaningful support to Aboriginal and Torres Strait Islander children, we must make sure their rights are protected throughout childhood. There must be a requirement for all governments – federal, state and territory – to balance Aboriginal and Torres Strait Islander children’s right to safety against their rights to family, culture and community (article 30 of the UNCRC).

It is also important to make sure that Aboriginal and Torres Strait Islander children and families have access to all of their rights under the UNCRC, including to health (article 24), housing (article 27) and education (article 28), which are necessary to prevent children from coming into contact with statutory child protection systems and to support long-term wellbeing.

Across Australia in 2017-18, Aboriginal and Torres Strait Islander children were 6.5 times more likely to be the subjects of substantiated notifications than non-Indigenous children.¹ Structural factors, such as intergenerational trauma from the legacy of colonisation and dispossession,² higher incidence of poverty, cultural bias in child protection services,³ and the failure to enable genuine self-determination for Aboriginal and Torres Strait Islander communities,⁴ contribute to these higher numbers.

The discussion paper notes the guiding principles of the successor plan are informed by the *Family Matters Roadmap* (the Roadmap). The Roadmap was released by the Family Matters campaign in 2017, outlining

¹ Australian Institute of Family Studies 2020, *Child protection and Aboriginal and Torres Strait Islander children*, CFCA Resource Sheet, <https://aifs.gov.au/cfca/publications/child-protection-and-aboriginal-and-torres-strait-islander-children>, accessed 22 July 2021.

² Australian Law Reform Commission 2018, *Pathways to Justice: Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (ALRC report 133), <https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/2-context/social-determinants-of-incarceration/>, accessed 22 July 2021.

³ Australian Institute of Family Studies 2020, *Child protection and Aboriginal and Torres Strait Islander children*, CFCA Resource Sheet, <https://aifs.gov.au/cfca/publications/child-protection-and-aboriginal-and-torres-strait-islander-children>, accessed 22 July 2021.

⁴ Family Matters 2017, *The Family Matters Roadmap*, <https://www.familymatters.org.au/the-way-forward/>, accessed 22 July 2021.



evidence-based pathways to eliminate the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 2040.⁵

It is grounded in strengths-based, Aboriginal and Torres Strait Islander-led solutions to challenges facing children and families. The Roadmap takes a child rights approach, to achieve full and sustained realisation of Aboriginal and Torres Strait Islander children's rights to safety, culture, family and an adequate standard of living.⁶

The Roadmap identifies four building blocks to reduce over-representation:

- all families enjoy access to quality, culturally safe universal and targeted services necessary for Aboriginal and Torres Strait Islander children to thrive
- Aboriginal and Torres Strait Islander people and organisations participate in and have control over decisions that affect their children
- law, policy and practice in child and family welfare are culturally safe and responsive
- governments and services are accountable to Aboriginal and Torres Strait Islander people.⁷

The successor plan should consider aligning its strategy and actions clearly with the four building blocks of the Roadmap, to present a clear and consistent pathway to improving outcomes for Aboriginal and Torres Strait Islander children and young people.

The value of culture also needs to be explicitly recognised, considering the vital role it plays in the lives of Aboriginal and Torres Strait Islander children, their families and communities. As a clear and meaningful action to maintain children's connection to culture, the Successor Plan should contain actions for each state and territory to fully implement the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP) to the standard of Active Efforts.

In Queensland, s. 5C of the *Child Protection Act 1999* (Qld) outlines the five elements of the ATSICPP:

- the *prevention principle* that a child has the right to be brought up within the child's own family and community
- the *partnership principle* that Aboriginal or Torres Strait Islander persons have the right to participate in significant decisions under this Act about Aboriginal or Torres Strait Islander children
- the *placement principle* that, if a child is to be placed in care, the child has a right to be placed with a member of the child's family group
- the *participation principle* that a child and the child's parents and family members have a right to participate, and be enabled to participate, in an administrative or judicial process for making a significant decision about the child

⁵ Family Matters 2017, *The Family Matters Roadmap*, <https://www.familymatters.org.au/the-way-forward/>, accessed 22 July 2021.

⁶ Family Matters 2017, *The Family Matters Roadmap*, <https://www.familymatters.org.au/the-way-forward/>, accessed 22 July 2021.

⁷ Family Matters 2017, *The Family Matters Roadmap*, <https://www.familymatters.org.au/the-way-forward/>, accessed 22 July 2021, p.5.e

- the *connection principle* that a child has a right to be supported to develop and maintain a connection with the child's family, community, culture, traditions and language, particularly when the child is in the care of a person who is not an Aboriginal or Torres Strait Islander person.⁸

This is consistent with action 1.1 of the *Fourth Action Plan 2018-2020* of the *National Framework to Protect Australia's Children 2009-2020*, which required the five elements to be implemented in legislation, policy and/or practice.⁹

The ASTICPP helps to protect a number of key rights for Aboriginal and Torres Strait Islander children, including the right to be protected from harm including through preventative social programs (article 19), to the enjoyment of their cultures in community with their cultural groups (article 30) and the rights of Aboriginal and Torres Strait Islander children, families, and communities to participate in decisions that impact upon them (article 12).

Implementation of all five elements in Queensland legislation was a significant step forward in furthering legal recognition and protection of Aboriginal and Torres Strait Islander children's connections to family, community, culture and country. Each state and territory should be encouraged to include all five domains in their child protection legislation, to implement the ATSI CPP to its full intent.

Further to this, the National Framework should encourage each state and territory to adopt the standard of Active Efforts when implementing all five elements of the ATSI CPP. This is consistent with the agreement by Community Services Ministers across Australia, on 1 June 2018, 'to implement "active efforts" in jurisdictions to ensure compliance with all five elements'.¹⁰

The standard of Active Efforts has been introduced in the United States, through the *Indian Child Welfare Act 2016*. It requires all child protection staff to take affirmative, active, thorough, and timely efforts intended primarily to maintain or reunite a child with their family.¹¹

Statutory authorities should be required to clearly document their active efforts and prove these to the courts prior to an order being granted. Courts should only make an order if satisfied that active efforts have been undertaken to support the child to stay with their family. This responsibility will be particularly important for permanency decisions, such as adoption.

Active Efforts will require the states and territories to make sure the ATSI CPP is fully and properly implemented at every point of contact with a child, from early intervention services through to tertiary intervention. Demonstration of active efforts must be required for all decisions, for all Aboriginal and Torres Strait Islander children.

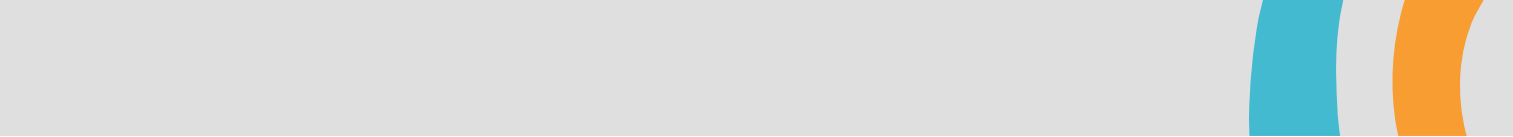
As required under the four building blocks of the Roadmap, the successor plan should require states and territories to be accountable to Aboriginal and Torres Strait Islander people. The successor plan should include require states and territories to report against key indicators of success in reducing over-representation. These

⁸ *Child Protection Act 1999* (Qld), s. 5C.

⁹ Department of Social Services 2018, *Protecting Children is Everyone's Business: National Framework for Protecting Australia's Children 2009-2020 – Fourth Action Plan 2018-2020*, <https://www.dss.gov.au/families-and-children-programs-services-children/protecting-children-is-everyones-business-national-framework-for-protecting-australias-children-2009-2020-fourth-action-plan-2018-2020>, accessed 22 July 2021.

¹⁰ Australian Government 2018, *Community Services Ministers' Meeting Communiqué*, media release by the Hon Jane Prentice MP, <https://formerministers.dss.gov.au/17966/community-services-ministers-meeting-communique-2/>, accessed 22 July 2021.

¹¹ SNAICC – National Voice for our Children 2019, *The Aboriginal and Torres Strait Islander Child Placement Principle: a guide to support implementation*, <https://www.snaicc.org.au/product/the-aboriginal-and-torres-strait-islander-child-placement-principle-a-guide-to-support-implementation/>, accessed 22 July 2021.



reports should be published regularly, to make sure governments are accountable to community and successful strategies can be identified and shared across all jurisdictions.

Strategic Priority: A national approach to early intervention and targeted support for children and families experiencing vulnerability or disadvantage

Summary

- Universal services, such as health, education and housing, are crucial to reducing the risk factors for entry into the child protection system.
- These services should not be beyond the scope of the successor plan, which should contain actions, targets and indicators for the provision of universal services that can help prevent abuse and neglect from occurring.
- Service provision should offer child-centred, wrap around support so children are not expected to navigate complex systems themselves.

The task of securing children's right to protection does not fall to child protection systems alone. The whole of the child and family support system, including disability, early childhood education and care, health and mental health, drug and alcohol, domestic and family violence, justice, housing and employment service systems, needs to work in a unified way to make sure each child has access to all of their rights.

Only through a coordinated broad service system can we give effect to the intent of the clear statement in the *Fourth Action Plan 2018-2020*, that 'the best way to protect children is to prevent child abuse and neglect from occurring in the first place'.¹²

The previous National Framework for Protecting Australia's Children introduced the public health model for understanding a unified system for protecting children.¹³ This model has been heavily influential across Australia, including the 2013 report of the Queensland Child Protection Commission of Inquiry.¹⁴ Accordingly, there is now a broad understanding across the country that service systems and sectors need to work together to provide holistic support for children and families, rather than rely heavily on statutory child protection interventions.

Unfortunately, despite considerable effort to boost universal and targeted supports, there continues to be a strong reliance on statutory intervention to protect children's immediate safety needs.

In 2019-20, \$6.9 billion was spent on child and family support services, of which \$5.8 billion was spent on protective intervention and out-of-home care services. In contrast, \$576.5 million was spent on family support services and \$523.1 million was spent on intensive family support services.¹⁵

¹² Department of Social Services 2018, *Protecting children is everyone's business: national framework for protecting Australia's children 2009-2020 – fourth action plan 2018-2020*, <https://www.dss.gov.au/families-and-children-programs-services-children/protecting-children-is-everyones-business-national-framework-for-protecting-australias-children-2009-2020-fourth-action-plan-2018-2020>, accessed 22 July 2021.

¹³ Department of Social Services 2009, *Protecting children is everyone's business: national framework for protecting Australia's children 2009-2020*, https://www.dss.gov.au/sites/default/files/documents/child_protection_framework.pdf, accessed 22 July 2021, p. 8.

¹⁴ Queensland Child Protection Commission of Inquiry 2013, *Taking responsibility: a roadmap for Queensland child protection*, <http://www.childprotectioninquiry.qld.gov.au/publications/index.html>, accessed 22 July 2021.

¹⁵ Productivity Commission 2021, *Report on government services: child protection services*, Table 16A.8, <https://www.pc.gov.au/research/ongoing/report-on-government-services/2021/community-services/child-protection>, accessed 22 July 2021.



The large proportion of spending on statutory intervention comes after significant increases in total funding for child protective services. As the discussion paper states, between 2014-15 and 2018-19 the number of children receiving overall child protective services increased by 12 per cent between 2014-15 and 2018-19.¹⁶ Additionally, between 2013-14 and 2018-19, expenditure on child and family services in Queensland increased by an average of 9.5 per cent per annum.¹⁷

An integrated solution is required to provide the holistic targeted support for children and families at risk of having their rights infringed, with the core agencies working together to address the complex needs of children and uphold their right to safety. The intention should be to reduce the proportion of spending on statutory intervention, in favour of universal and targeted supports that reduce the risk factors of harm to children.

The successor plan should work to strengthen universal and targeted services beyond the scope of the narrowly defined child protection system. While the National Framework and successor plan are agreed by Community Services Ministers, consideration must be given to including clear actions, targets and indicators in provision of health and mental health services, drug and alcohol support, housing and engagement in education. These are all known to be areas of risk for families to begin having contact with the child protection system.¹⁸ A framework limited to child protection responses will miss opportunities to strengthen family capability and prevent abuse and neglect from occurring.

In particular, there needs to be consideration of children with disability, who may face the challenge of securing support from Commonwealth-funded National Disability Insurance Scheme (NDIS) services while being subject to state or territory-based child protection intervention. The successor plan should include actions and targets for all governments to improve interjurisdictional access to services across the broad child and family support sector.

Wrap around supports must be provided to children and families. Children should not be expected to navigate complex systems to secure the support they need.

Ultimately, the provision of services should be child centred. We must build a system which places the child in the centre, linking the child to the support they need in ways that are flexible and adaptable. The system should also allow children opportunities to participate in determining how the system can meet their needs, in line with article 12 of the UNCRC, which holds that children have a right to participate in decisions made about them. Consultation with children and families throughout the life of the successor plan will be important to make sure actions identified can provide and maintain a holistic, child-centred approach to service delivery.

This will require participation from agencies beyond those responsible for statutory child protection services, which at present are not parties to the agreement on the successor plan. The capacity for the successor plan to engage, influence and promote accountability across all agencies remains a critical issue.

¹⁶ Department of Social Services 2021, *Consultation paper: implementing the successor plan to the National Framework for Protecting Australia's Children 2009-2020*, <https://engage.dss.gov.au/wp-content/uploads/2021/06/dss-engage-discussion-paper-3-june.pdf>, accessed 22 July 2021.

¹⁷ KPMG 2020, *Child and family support sector workforce environmental scan (Sector Insights Project)*, commissioned by the QFCC, <https://www.qfcc.qld.gov.au/supporting-our-sector/understanding-our-workforce/understanding-our-sector>, accessed 23 July 2021.

¹⁸ Australian Institute of Family Studies 2017, *Risk and protective factors for child abuse and neglect*, CFA Resource Sheet May 2017, <https://aifs.gov.au/cfca/publications/risk-and-protective-factors-child-abuse-and-neglect>, accessed 22 July 2021.

Strategic Priority: Improved information sharing, data development and analysis

Summary

- The successor plan should include actions to strengthen information sharing cultures across organisations, sectors and jurisdictions.
- The successor plan should also set key outcome indicators, requiring all governments to collect data on outcomes for children and young people.
- Where data relates to Aboriginal and Torres Strait Islander people, collection and analysis should be implemented under a framework of data sovereignty, to protect Aboriginal and Torres Strait Islander people's right to exercise control over data and enable effective self-governance.

Since the release of the National Framework in 2009, governments across Australia have sought to improve information sharing across sectors and jurisdictions. Information sharing was a key concern of the 2013 Queensland Child Protection Commission of Inquiry,¹⁹ and the Queensland Government has introduced measures at a legislative, policy and practice level to improve information sharing where this can result in better protection for a child at risk.

However, the QFCC understands there is still some confusion across the sector about when it is appropriate to share information. While some agencies are proactive and confident with information sharing, others across the broad child and family support system may be less certain about best practice.

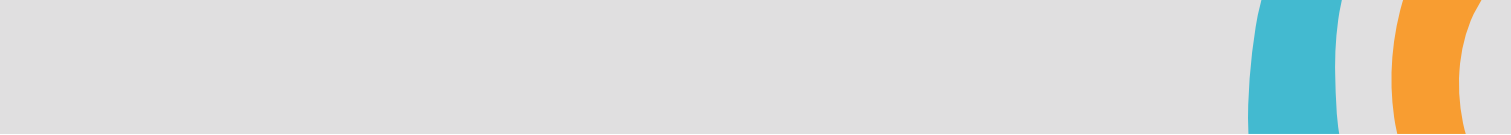
While it may be important for the successor plan to include actions to improve information sharing across all states and territories, there will also be scope for the successor plan to focus on sector and community education to create positive cultures of information sharing. Professionals across the system should be empowered to share information in the best interests of children, with clear guidance and support provided. The successor plan should also include provisions for monitoring and reporting on information sharing, for example through conducting surveys of sector workers, to identify opportunities to improve information sharing cultures across each state and territory.

The successor plan should also focus on data collection. While there are some consistent data sets collected annually – for example, the Productivity Commission *Report on Government Services*²⁰ and reporting for *Closing the Gap*²¹ – reporting on the child and family support system is inconsistent between states and territories. The successor plan should require all Australian governments to report annually on key measures, focussed on outcomes for children rather than outputs from the child protection system. These reports should be made publicly available, to provide accountability for government.

¹⁹ Queensland Child Protection Commission of Inquiry 2013, *Taking responsibility: a roadmap for Queensland child protection*, <http://www.childprotectioninquiry.qld.gov.au/publications/index.html>, accessed 22 July 2021.

²⁰ Productivity Commission, *Report on Government Services*, <https://www.pc.gov.au/research/ongoing/report-on-government-services/2021>, accessed 22 July 2021.

²¹ Australian Government 2020, *National Agreement on Closing the Gap*, <https://www.closingthegap.gov.au/resources>, accessed 22 July 2021.



Under building block 4 of the *Family Matters Roadmap*,²² governments and services must be accountable to Aboriginal and Torres Strait Islander peoples. To give full effect to this requirement, data collection and reporting on outcomes for Aboriginal and Torres Strait Islander peoples should be undertaken in line with the principles of data sovereignty. Under these principles, Aboriginal and Torres Strait Islander peoples have the right to exercise control of the data ecosystem, and to have access to data that is contextual, relevant, accountable and protective, to empower sustainable self-determination and effective self-governance.²³

The 2020 *Closing the Gap* agreement provides an example of this in practice. Action 69 calls for ‘shared access to location specific data and information’, with community participating as equal partners with government in data access and decision-making.²⁴ A similar partnership will be important to make sure the successor plan not only improves outcomes for Aboriginal and Torres Strait Islander peoples, but contributes meaningfully toward the goal of self-determination.

²² Family Matters 2017, *The Family Matters Roadmap*, <https://www.familymatters.org.au/the-way-forward/>, accessed 22 July 2021.

²³ Department of Communities and Justice (NSW), *Indigenous Data Sovereignty and the TEI Program*, <https://www.opengov.nsw.gov.au/publications/19157>, accessed 22 July 2021.

²⁴ Australian Government 2020, *National Agreement on Closing the Gap*, <https://www.closingthegap.gov.au/resources>, accessed 22 July 2021, p. 13.

Strategic Priority: Strengthening child and family sector workforce capability

Summary

- The successor plan should contain actions to strengthen training and development of the workforce to support workers to address the complex needs of children and families.
- The sector workforce should be supported to develop strong professional expertise in issues such as domestic and family violence, mental health, disability and early childhood.

In 2020, the QFCC engaged KPMG to deliver a *Sector Insights Report* regarding the child and family support sector workforce in Queensland. The scan found the number of children and families requiring support is growing rapidly. Children and families with multiple and complex needs are growing at a rate of between 3 and 6.5 per cent annually. Child protection services are growing at a rate of 2.5 per cent, and out-of-home care services grow at a rate of approximately 2.8 per cent annually.²⁵

It is notable the discussion paper suggests the successor plan look at the issues of burnout and turnover in the sector workforce. The *Sector Insights Report* found burnout was sometimes, but not widely, reported as a factor in the child and family sector workforce. Turnover is known to be a concern, often framed in terms of wage disparity and employment opportunities in the public sector or adjacent sectors.²⁶

Recruitment is also a known challenge, with many stakeholders noting they were unable to recruit to roles requiring particular expertise or experience, such as trauma care, domestic and family violence, working with men, addiction counselling and sexual abuse.²⁷

The environmental scan makes suggestions for building the capacity of the workforce sector, including:

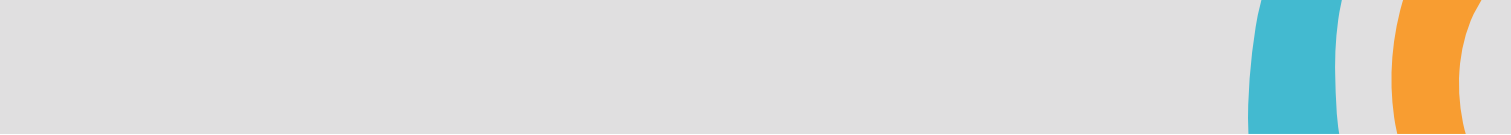
- identifying and aligning the workforce to the service continuum so that a workforce demand profile can be developed
- strengthening strategies around employee wellbeing
- strengthening workforce capabilities in emerging areas of need and to address increasing client complexity
- consider additional resources to support professional development.²⁸

²⁵ KPMG 2020, *Child and family support sector workforce environmental scan (Sector Insights Project)*, commissioned by the QFCC, <https://www.qfcc.qld.gov.au/supporting-our-sector/understanding-our-workforce/understanding-our-sector>, accessed 23 July 2021, p. 3.

²⁶ KPMG 2020, *Child and family support sector workforce environmental scan (Sector Insights Project)*, commissioned by the QFCC, <https://www.qfcc.qld.gov.au/supporting-our-sector/understanding-our-workforce/understanding-our-sector>, accessed 23 July 2021, p. 127.

²⁷ KPMG 2020, *Child and family support sector workforce environmental scan (Sector Insights Project)*, commissioned by the QFCC, <https://www.qfcc.qld.gov.au/supporting-our-sector/understanding-our-workforce/understanding-our-sector>, accessed 23 July 2021, p. 127.

²⁸ KPMG 2020, *Child and family support sector workforce environmental scan (Sector Insights Project)*, commissioned by the QFCC, <https://www.qfcc.qld.gov.au/supporting-our-sector/understanding-our-workforce/understanding-our-sector>, accessed 23 July 2021, pp. 5-6.



The child and family sector workforce is required to make critical decisions in the lives of children and families, taking into consideration complex and intersecting structural and social factors. Sector workers require an understanding of difficult issues, such as domestic and family violence, mental health, disability, and early childhood, which can take a long time to develop. It is not only the size of caseloads, but also this complexity of this work, which can influence the high levels of turnover or burnout.

Sector workers are also required to maintain a high level of understanding of the complex and broad service systems that support children and young people. The introduction of the NDIS transferred responsibility for disability services from states and territories to the Commonwealth. It created a need for sector workers to understand how to navigate children and families through a new, complex system to secure crucial support.

As noted in the *Sector Insights Report*, professional development is also required to empower sector workers to be the key navigational supports for children with complex needs, to ensure the broader child and family system can be child centred, trauma responsive and protective of children's rights.

The successor plan should consider actions to boost the level of training and development provided to sector workers, alongside strengthening the pathways between child protection services and other universal and targeted supports. This will enhance the capacity of the whole system to provide wrap around support so all children, regardless of the complexity of their social and family situations, can enjoy the full suite of their rights.