

Aboriginal consultation in child protection

Research in the context of evolving understandings and practice



Over representation

- **Significant over-representation** of Aboriginal children and young people (Arney et al 2015)
 - Rate in out-of-home care 11 times higher
 - In NSW rate of removal for non-Aboriginal children has stabilised, but continues to increase for Aboriginal children
- **Legacy of past practices:** inter-generational trauma, family and cultural disconnection, structural inequality
- **Cultural differences** in child rearing practices

Child Placement Principle

- **Prevention** - the right to be brought up within family and community
- **Partnership** - participation of external community representatives at key child protection decision-making points
- **Placement** - priority given to family and community placements
- **Participation** - children's and families' right to participate in child protection decisions affecting them
- **Connection** - support for Aboriginal children in out-of-home care, especially children placed with non-Indigenous carers, to remain connected to their family, community and culture (SNAICC 2013 a).

Legislative requirements for participation

	ACT ⁸²	NSW ⁸³	NT ⁸⁴	QLD ⁸⁵	SA ⁸⁶	TAS ⁸⁷	VIC ⁸⁸	WA ⁸⁹
Aboriginal and Torres Strait Islander self-determination is a recognised principle in the Act.	NO	YES s11(1)	YES s12(1)	NO	NO	NO	YES s12	YES s13
Aboriginal and Torres Strait Islander participation and/or consultation is a decision-making principle in the Act.	NO see s7(d) <small>(participation requirements not specific to decision-making)</small>	YES s11(1)	YES s12(2)	YES s6	NO	NO	YES s12	YES s13,14
Consultation/participation of an external Aboriginal and Torres Strait Islander agency is expressly required for all significant decisions.	NO see s10(b) <small>(submissions considered)</small>	YES s12 <small>(organisations and means of participation not specified)</small>	NO	YES s6(1)	NO See ss5(2) (a) & (b) <small>(submissions considered)</small>	NO See s9(2) <small>(submissions considered)</small>	NO ⁹⁰	NO
Consultation with an external Aboriginal and Torres Strait Islander agency is expressly required prior to placement decisions.	NO	YES s12, s13 (1)(d) s13 (7) <small>(exceptions)</small> s78A(4)	NO	YES s83(2)	YES s5(1)	YES s9(1)	YES s12(1)(c)	NO see s81 <small>(internal or external consultation)</small>
Input from external Aboriginal and Torres Strait Islander agencies is expressly required in judicial decision-making	NO see s483(g)	NO	NO	YES s6(4)(a)	YES ss5(1) & (2)	YES s9, s51	YES s323(b) <small>(for permanent care orders only)</small>	NO

GREEN – Legislation aligned

YELLOW – Legislation not aligned

GREY – limited / significantly qualified alignment

Compliance remains problematic

- **Placement hierarchy:** average 64% are in line with first three options (kin, Aboriginal carers/orgs)
- NSW around 80%
- Qld only comprehensive review: showed full compliance in **12.5% of cases**
- Various inquiries have confirmed **concerns about compliance**

Barriers to compliance

- Unclear legislation
- Lack of implementation standards
- Structural inequality through funding arrangements
- Limited role of Aboriginal agencies in consultation
- Limited skills in Aboriginal agencies to cope with complex role, limited training to support them
- Limited cultural competence of non-Aboriginal staff
- Narrow focus on placement hierarchy
- Resistance to kinship placements
- Limited information sharing by government
- Insufficient monitoring

Why consultation?

- **Right**, needed to address past wrongs
- **Better outcomes** for children and families and access to and engagement with services (SNAICC, 2013b)
- Connection to community and culture can
 - act as a protective factor (Healing Foundation 2013)
 - strengthen positive self-identity (Healing Foundation 2013)
 - reduce the likelihood of substance abuse and contact with the criminal justice system (Dockery 2012)
 - positively contribute to physical safety (Arney et al 2015, p.3), wellbeing (Libesman 2014, 9), educational attainment and employment (Dockery, 2012).

NSW context and PACT

- 2008: Special Commission of Inquiry
- Noted NSW focus on Aboriginal workforce
- Need also to
 - Improve understanding of Aboriginal perspectives in casework
 - Increase external consultation
 - Build capacity of Aboriginal people to participate in decision-making
 - Move carefully, by degree toward delegated responsibility

KTS: a five year plan

2009: *Keep Them Safe*: 2 of 8 principles target Aboriginal families:

- **Support services** to ensure safety and connection to family, community and culture
- **Participation in decision making** with as much self-determination as possible and **steps taken to empower** communities to that end

Specific KTS actions

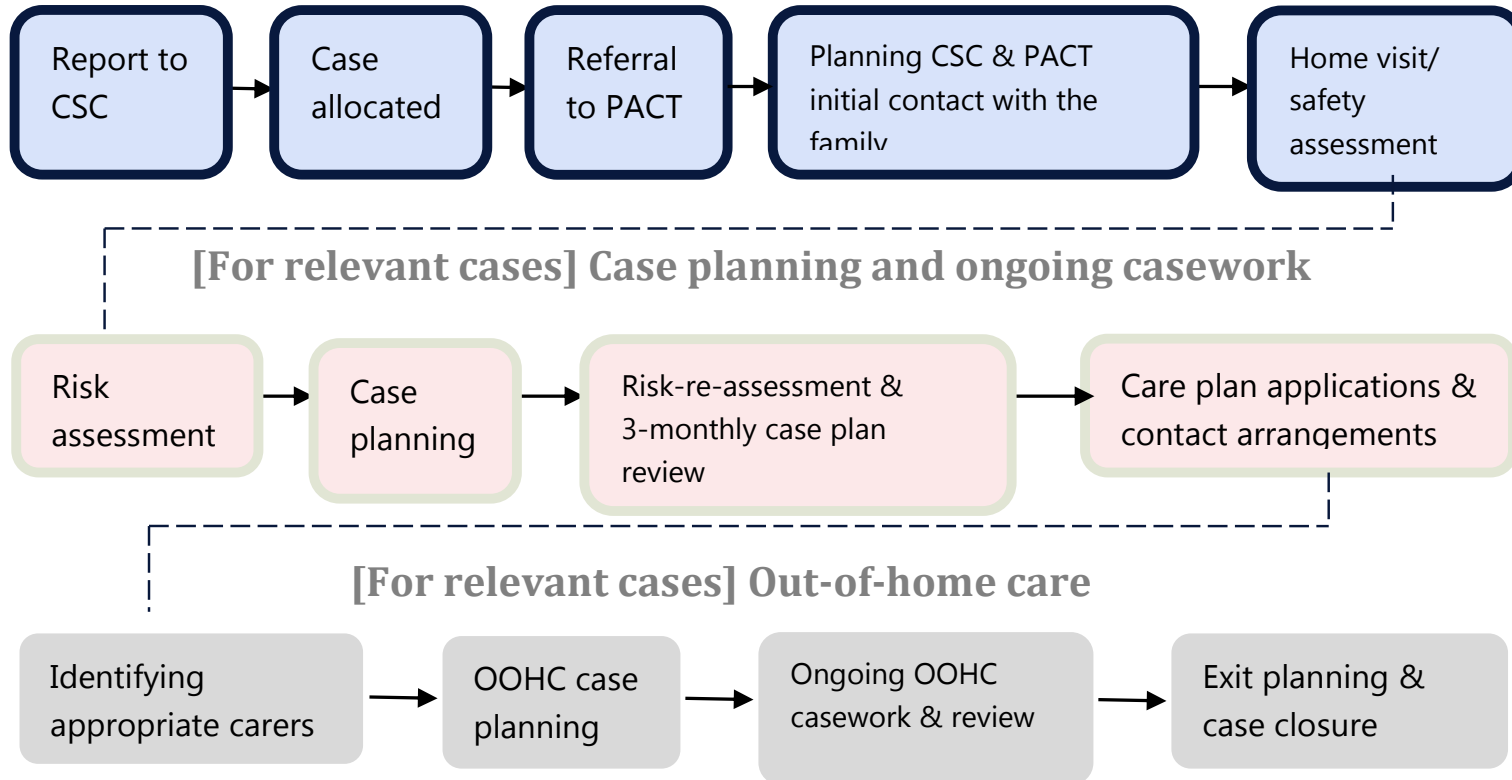
- **Partnership** with AbSec through a Memorandum of Understanding
- **Capacity building** of Aboriginal NGOs Aboriginal Consultation Practice Guide and implementation strategy
- **Lakidjeka type model of consultation** to provide an Aboriginal perspective in relation to the best ways of keeping Aboriginal children and young people safe.

Developing the NSW model

- 2010: Project commenced
- 3 main components:
 1. Developing the model and piloting it in two sites
 2. Evaluating the model to determine effectiveness
 3. Developing future options for implementation, including consideration of legislative change

Early contact, all key decision points

Entry to the child protection system

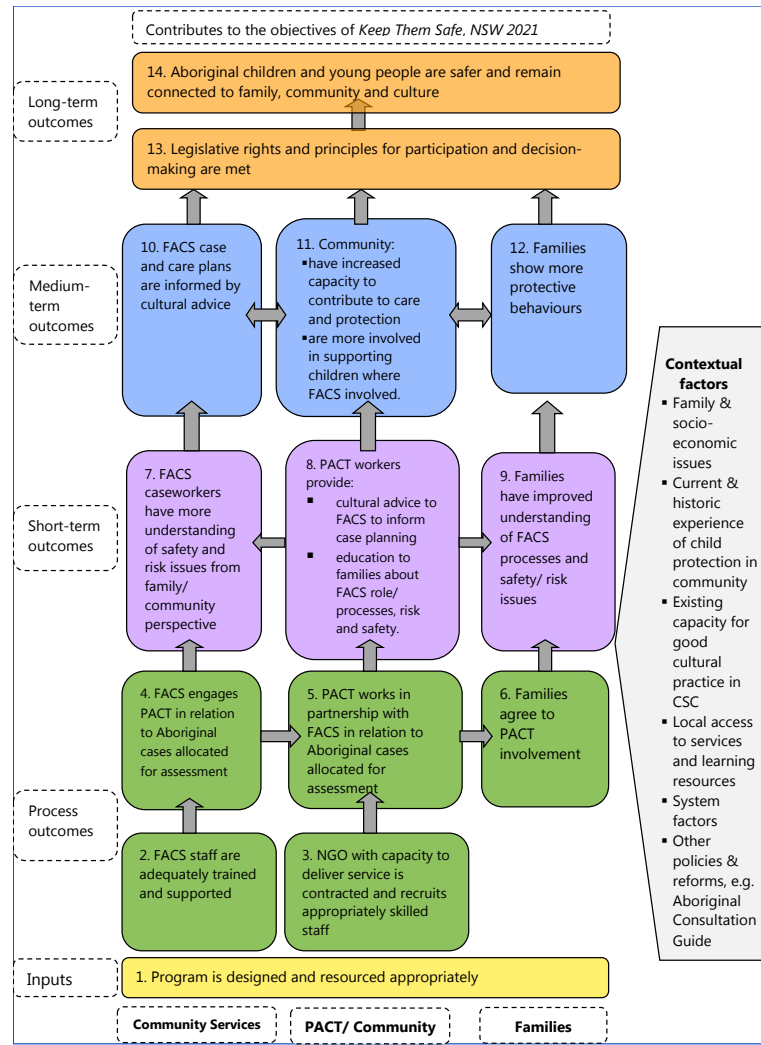


Intended outcomes

Long-term goals to be safe, connected and legislative requirements met

Medium term outcomes for:

- FACS casework
- Community participation
- Family behaviours



Final evaluation

To understand:

- how PACT is operating in the pilot sites, in particular families' perceptions of the support they have received and its impact on their lives, as well as enablers and barriers to effective consultation between Aboriginal communities and FACS
- how PACT compares to the other models of consultation in operation in FACS Districts across NSW, their strengths, weaknesses and gap

Evaluation

1. Is PACT being implemented as intended?
2. What is the experience of PACT clients?
3. How do local community view PACT?
4. How does PACT compare to other models of consultation?
5. What are the policy implications of the findings?

Methods

PACT sites: PACT managers (n=2) and advisors (n=5), CSC managers (n=est. 6) and staff (n=8), families (n=14), community elders/ service stakeholders (n=20)

PACT service data

FACS District Directors or delegates (n=14) and Aboriginal caseworkers (n= tbc)

Policy and literature review

Development of **assessment framework**

Partnership and consultation framework

Six domains:

1. Leadership, management and resourcing
2. Shared purpose and understanding
3. Shared processes
4. Skills for the partnership
5. Shared decision-making
6. Monitor, measure and learn

Leadership, management and resourcing

- **Clear, long-term commitment** to the partnership from the senior level management of each partner
- **Core group of staff** that continues over the life of the partnership
- Sound and **robust management systems** , including mechanisms for resolving disputes
- **Sufficient resources** for partnership activities

Shared purpose and understanding

- **Perceived need** for the partnership in terms of common interest, community need and complementary capacity
- **Clear purpose** and vision
- Belief by partners they can better **achieve their purpose together** than alone
- **Shared values**, interests and understanding of how cultural knowledge, history, lived experience and connection to community and country should inform their work
- **Roles, responsibilities** and expectations of partners **clearly defined** and understood

Shared processes

- Partners have **shared processes** for joint work
- Processes enable **Aboriginal perspectives** to inform decision making
- **Information sharing** processes are clear and effective
- Partners make changes to their **organisation's practices** to meet the needs of the partnership

Skills for partnership

- Partners have the **necessary skills**, knowledge and understanding to implement the partnership
- There are **strategies to enhance** the skills of the partnership
- Partners have **strategies to induct** new staff into partnership activity

Shared decision-making

- **Partners involved** in forming the vision and setting priorities for the partnership
- Partners **share decision-making** in a way that is accountable, responsive and inclusive

Monitor, measure, learn

- Partners have a **shared arrangements** to **monitor and review** how its service aims and objectives are being met
- Monitoring and review findings are **shared amongst partners**
- The partnership **refines** working arrangements in light of monitoring and review findings

Outcomes for families

Families felt PACT has helped:

- Engage through shared language, empathy and understanding
- Support to meet case plan goals, though this can overstep boundaries for FACS
- Facilitate links to services, though role for PACT in service linkage is contested
- Empower through access to information, which according to PACT staff and some family members led to children/grandchildren staying within the family.

Outcomes for FACS knowledge and practice

- FACS staff
 - recognise that practical case support can be useful
 - but generally have high level of confidence in system and their own ability to work with Aboriginal families
 - and feel PACT has had limited impact on their skills, knowledge or practice
- PACT staff and some family members thought PACT had impacted on FACS adherence to placement hierarchy
- PACT at one site also felt a small number of CSC staff had changed the way they worked with Aboriginal families.

Other FACS models

- Majority of FACS districts use an internal panel
- Strengths of internal model: child protection knowledge, no privacy issues, involving senior staff gives gravitas
- Specialist teams/ roles in 5 districts: anecdotally stronger (skilled and resourced response, enhanced profile for consultation)
- Some did not see the value of external consultation. Some did but identified practical difficulties e.g. privacy and confidentiality concerns and identifying who to consult with.
- Only a few districts have models involving external stakeholders (OOHC/ NSW agencies).
- Challenges in consultation included defining the consultation role, valuing of community perspective in the context of statutory assessment, skills for consultation (providing and using advice), fitting consultation in with CS processes and workloads. These reflect challenges encountered in PACT.

Developments in other states

- Victoria, Queensland and South Australia all have a state-wide Aboriginal consultation model for Aboriginal children and families.
- There are concerns about the resourcing and outcomes of Victoria's Lakidjeka.
- Queensland and Victorian reviews have identified the need to give Aboriginal communities more of a voice in child protection processes.
- The Victorian Inquiry recommended a staged move to delegated authority.
- Delegated authority has been trialled on an 'as if' basis, with positive early outcomes.

Policy implications

- Clarify requirements
- Build a case, make links to other practice
- Strengthen accountability
- Address learning and development needs
- Consider moves to devolved authority
- Address key service gaps

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