

**MEMORANDUM OF UNDERSTANDING**  
**between the**  
**DEPARTMENT OF HUMAN SERVICES NSW,**  
**COMMUNITY SERVICES**  
**and the**  
**ABORIGINAL CHILD, FAMILY AND**  
**COMMUNITY CARE STATE SECRETARIAT (NSW)**

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**1. PARTIES TO THIS MEMORANDUM OF UNDERSTANDING**

The parties to this Memorandum of Understanding (MOU) are:

- The *Department of Human Services NSW, Community Services*, represented for the purposes of this MOU by Ms Annette Gallard, Chief Executive and,
- The *Aboriginal Child, Family and Community Care State Secretariat NSW* (AbSec), represented for the purposes of this MOU by Mr Bill Pritchard, Chief Executive Officer.

**2. PURPOSE OF THIS MEMORANDUM OF UNDERSTANDING**

The purpose of this MOU is to:

- Establish the respective roles and responsibilities of the parties and of their agents in the development of an Aboriginal child specialist advice and support model of consultation based on the Victorian Lakidjeka model and in providing advice for the establishment of four new Intensive Family Based Services in the non-government sector.
- Ensure all activities under this MOU are in line with the activities outlined in *Keep Them Safe: A Shared Approach to Child Wellbeing*.
- Formally recognise the partnership required to ensure that a culturally appropriate and effective response to protecting Aboriginal children at risk of harm is provided across both the government and non-government sectors, with the help of extended family members and the community, to reduce the number of children who come in contact with the child protection system when other means of family and community intervention might be more appropriate.
- Ensure that the Secretariat National Aboriginal and Islander Child Care (SNAICC) endorsed Aboriginal and Torres Strait Islander Child Placement Principles are acknowledged and where applicable inform policy and service provision.

**3. COMMITMENT TO PARTNERSHIP**

This MOU recognises AbSec as a peak organisation responsible for assisting relevant Aboriginal organisations and mainstream non-government organisations (NGOs), by working in partnership with the state peaks, the Association of Childrens Welfare Agencies (ACWA), and its member organisations, to provide culturally appropriate services and support to Aboriginal communities to achieve a secure and caring environment for their children and young people.

The parties are committed to working together to improve service delivery for Aboriginal children, young people their families and communities at risk of harm, through better consultation and service design.

In recognition of the role of mainstream NGOs who provide support and/or services to Aboriginal children, young people, their families and communities, the scope of this MOU includes supporting mainstream NGOs to develop their capacity to play a larger and more active role in child protection related decisions, service delivery and planning. However, this provision should not be at the

expense of Aboriginal-specific agency/community capacity building initiatives currently underway or planned.

The parties acknowledge and respect established and evolving relationships and will seek to remove any impediments to effective collaboration by fostering and promoting open dialogue. The parties:

- Recognise their responsibility and leadership role in reducing the over-representation of Aboriginal children in the child protection system.
- Recognise the importance of engaging the expertise of Aboriginal communities and child welfare professionals, and empowering and involving Aboriginal communities to take the lead in the design and delivery of child protection and family support services (inclusive of family preservation and restoration) for Aboriginal children, families and communities.
- Acknowledge that the participation of all parties is required in order to improve outcomes for Aboriginal children, families and communities.
- Recognise that local (regional) staff from Community Services will be involved at key points throughout identified projects.
- Acknowledge the specific roles and respective responsibilities as negotiated and agreed upon in the endorsed Project Plans and Service Specifications.

#### 4. SETTING THE CONTEXT

Community Services and AbSec acknowledge and are committed to upholding the overall context of the following international, national and state legislation and policy directions:

- The *United Nations Convention on the Rights of the Child* (ratified by the Australian Commonwealth Government in 1990<sup>1</sup>). This sets out the undertakings of the international community in recognising children as independent persons with their own integrity and human rights.
- The *United Nations Declaration on the Rights of Indigenous Peoples* (2007)<sup>2</sup>. The Declaration is a set of principles which describe equality, non-discrimination, partnership, consultation and cooperation between Indigenous peoples and governments. It is a comprehensive standard on human rights for Indigenous Peoples.
- The *Aboriginal and Torres Strait Islander Child and Young Person Placement Principle* developed by SNAICC as one of the key underpinning principles for NSW legislation, government policies and related Aboriginal-specific child placement practices.
- The *Children and Young Persons (Care and Protection) Act 1998* [Chapter 2, Part 2, clauses 11 to 13 (Attachment A)]. This Act sets out the objectives and principles that guide how Community Services staff are required to implement the Act as it relates to the placement of Aboriginal and Torres Strait Islander children in NSW.
- The *NSW State Plan*<sup>3</sup>. This is the NSW Government's long term plan to deliver the best possible services to the people of NSW. The *NSW State Plan* sets clear priorities for Government action, reflecting the vision of communities across NSW for the future of the state.
- *Keep Them Safe: A Shared Approach to Child Wellbeing*. This is the NSW Government's five year Plan to improve the safety, wellbeing and welfare of children and young people. It was developed in response to the Report of the Special Commission of Inquiry into Child

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<sup>1</sup> [www.hreoc.gov.au](http://www.hreoc.gov.au)

<sup>2</sup> [www.hreoc.gov.au](http://www.hreoc.gov.au)

<sup>3</sup> [www.nsw.gov.au](http://www.nsw.gov.au)

Protection Services in NSW that was conducted by the Hon James Wood AO QC during 2008.

*Keep Them Safe* represents a genuine, comprehensive effort by the NSW Government to engage, consult and partner with stakeholders across the government and non-government sectors, to establish a new framework for caring for children and families.

The Plan recognises the need to address the underlying factors that lead to abuse and neglect such as poverty, isolation, domestic violence, mental illness and drug and alcohol abuse. The Plan also recognises that we need to get help to families earlier so that problems do not escalate into the statutory child protection system.

*Keep Them Safe* reforms set out a new way for government and NGOs working together to support and protect vulnerable children. A particular aim is to work to address the unacceptable over-representation of Aboriginal children in the child protection system. Part of this will involve the Government working with Aboriginal community-controlled NGOs to build their capacity to play an enhanced role in the provision of prevention, family support and out-of-home-care services.

## **5. PRINCIPLES UNDERLYING THIS MEMORANDUM OF UNDERSTANDING**

### *A Shared Responsibility*

Protecting children from harm is a shared responsibility between families, the general community, Aboriginal communities, community agencies, peak Aboriginal and non Aboriginal peak agencies, other human services government agencies, the NSW Police Force and other professionals working with children, particularly health and education professionals.

This MOU is underpinned by the principles outlined in *Keep Them Safe* and will set out practical mechanisms for real consultation and collaboration in the following key areas:

- Building the capacity of Aboriginal NGOs, including workforce development, to deliver child protection services to Aboriginal clients.
- Expanding the capacity of mainstream NGOs, including workforce development and cultural training, to foster partnerships with Aboriginal agencies and deliver culturally appropriate child protection and family support (inclusive of preservation and restoration) to Aboriginal clients.
- Developing models for effective consultation and service delivery across the spectrum of child protection services.
- Developing and trialling new consultation and engagement model/s to ensure Aboriginal community input and participation in key decisions about keeping Aboriginal children and young people safe, while retaining responsibility with Community Services.
- Developing and implementing a viable model for the four new Intensive Family Based Services (IFBS) to be established in and auspiced through the non-government sector, and

### *Activities*

Upon signing of this MOU a Steering Committee will be established and will adopt an alliance model. This will allow other parties to be co-opted in to participate as required. This will facilitate proactive work with Aboriginal communities and provide a forum for them to be heard. The membership of the Steering Committee will be discussed and agreed upon by Community Services and AbSec. The Steering Committee will provide leadership and oversee the implementation of this MOU and the commitments therein. The Steering Committee will:

- Develop terms of reference, including clearly defined reporting, governance and accountability mechanisms to monitor progress and the achievement of results.
- Identify priority areas for collaboration.
- Produce an ongoing annual work plan that includes activities and actions that relate to the identified priority areas for collaboration, and
- Develop performance indicators to measure progress of this process.

The Steering Committee will consist of Principal Members, with other organisations invited to participate as required. The Principal Members include:

- Aboriginal Child, Family and Community Care State Secretariat
- Association of Children's Welfare Agencies, and
- Community Services, Department of Human Services.

ACWA has been included as a part of the Principal Membership as it is the NSW non-government peak body representing the voice of community organisations working with vulnerable children, young people and their families.

ACWA work with its members, partners, government and non-government agencies and other peak bodies to bring about positive systemic reform that will deliver better outcomes to the lives of children and young people, including those living in out-of-home care.

Note: Standing representatives of the proposed Principal Membership of the steering committee should include The Chief Executives and/or delegates nominated by the three agencies, the Chairpersons or other nominated board member/s of ACWA and AbSec and the Director, Aboriginal Services Branch (Community Services).

In order to achieve a more inclusive and proactive decision-making process and acceptance of initiatives by the broader Aboriginal community, other peaks and agencies will be invited to participate in the Steering Committee as required. Invited members may include:

- Aboriginal Affairs, Department of Human Services
- Aboriginal Education Consultative Group (AECG)
- Aboriginal Health and Medical Research Council, NSW
- Aboriginal Housing Office, Department of Human Services
- Aboriginal Land Council, NSW
- Aboriginal Legal Service, NSW/ACT
- Ageing, Disability and Homecare, Department of Human Services
- Education and Training, NSW Department of
- Health (NSW Health), NSW Department of
- Housing NSW, Department of Human Services
- Council of Social Services NSW (NCOSS)
- Link-Up NSW, and the
- Murdi Paaki Regional Assembly.

The Steering Committee will also consult with the NSW Ombudsman on an ongoing basis as determined by the Committee.

Specific representation from each organisation will be clearly outlined within the Terms of Reference, which will be developed by the Principal Membership of the Steering Committee upon establishment. The Terms of Reference will be agreed upon by all parties affected by them.

Community Services will be responsible for convening the Steering Committee and will provide ongoing secretariat support. As required, financial support for NGO members to attend Steering Committee meetings will be met by Community Services.

## **6. INFORMATION EXCHANGE AND CONFIDENTIALITY**

The parties agree not to disclose to persons, other than those on the Steering Committee, any confidential information without prior written approval from the Steering Committee.

‘Confidential Information’ refers to information that is, by its nature, confidential, or is designated by the Steering Committee as confidential, or the parties know or ought to know is confidential. It does not include information which is or becomes public knowledge other than by breach of this MOU.

## **7. UNDERSTANDING OF THE PARTIES**

### ***Department of Human Services NSW, Community Services***

Community Services is an agency within the Department of Human Services NSW. It works in cooperation with other government and community groups to help build a safer and stronger community for everyone. The organisation is the leading community service agency in NSW and the largest child protection agency in Australia with over 4500 full time and part-time staff located in 80 community services centres and in the other offices across NSW.

Community Services aims to protect children and young people from risk of harm and to provide care for children and young people who are not able to live with their families.

Community Services also supports the wider community by providing services for those who are affected by substance dependency, homelessness and natural and other disasters.

*Service Capacity Division* has a focus on both internal and external capacity building. Service Capacity also encompasses Aboriginal Services Branch which provides strategic direction and advice to Community Services as a whole concerning the interests and needs of Aboriginal children, families and communities.

*Operations Division* delivers frontline services across NSW and supports the introduction of new policies, procedures and improvements in professional practice to caseworkers. Operations are also responsible for managing service funding delivery and for statewide specialist services such as the Community Services Helpline, adoption services, psychology services, Joint Investigation and Response Teams and disaster recovery with partner organisations.

### ***Aboriginal Child, Family and Community Care State Secretariat (NSW)***

AbSec is the peak NSW body providing child protection and out-of-home care (OOHC) policy advice to the government and non government sector on issues affecting Aboriginal families involved in child protection and OOHC system. AbSec also advises on funding decisions related to service provision by local Aboriginal community controlled organisations that provide or seek to provide Aboriginal child protection and associated services. AbSec also auspices the Aboriginal Statewide Foster Care Support Service. This service provides advice and advocacy for carers of Aboriginal children and also assists in local communities in establishing Aboriginal foster carer support groups.

## **8. DURATION OF THIS MEMORANDUM OF UNDERSTANDING**

This MOU will have effect for the duration of the Project/s – anticipated to be for a period of up to four (4) years from the 17 March 2010. Once the Project/s are completed, this MOU will cease.

This MOU may, however, be varied in any respect and at any time subject to proper negotiation and agreement of the parties. Any variation must be in writing with sixty (60) days notification to the other party prior to signing, and any variation must be signed by both the parties.

A process to review, amend or replace this MOU must be undertaken within a timeframe agreed to by all parties at the commencement of that process. The MOU will be reviewed every two years.

## **9. TERMINATION OF THIS MEMORANDUM OF UNDERSTANDING**

This MOU and the obligations it entails may be terminated by Community Services or AbSec by the giving of ninety (90) days notice in writing to the other party, with the necessity to provide reason for the termination.

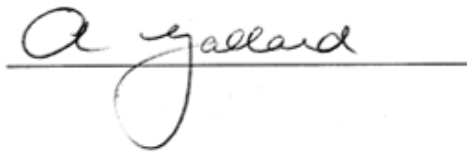
Where a dispute arises between the parties to this agreement (and it is recognised that that dispute may lead to the termination of the MOU), all efforts should be made to conciliate or mediate the dispute within the 90 day period to ameliorate the likelihood of the agreement being terminated.

## **10. LEGALITY**

Despite any other provisions of this MOU, this MOU is not a legally binding agreement between the parties, and is not intended to be a legally binding agreement between the parties (with the exception of Section 6).

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The parties have executed this  
Memorandum of Understanding  
This 17th day of March 2010  
By

Ms Annette Gallard  
Chief Executive  
Community Services  
NSW Department of Human Services

Handwritten signature of Annette Gallard in cursive script, written over a horizontal line.

Mr Bill Pritchard  
Chief Executive Officer  
Aboriginal Child, Family and  
Community Care State  
Secretariat NSW

Handwritten signature of Bill Pritchard in cursive script, written over a horizontal line.

**Attachment/s**

1. Aboriginal and Torres Strait Islander principles *Children and Young Persons (Care and Protection) Act 1998* (Chapter 2, Part 2, clauses 11 to13)