

WORKING WITH ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE GOOD PRACTICE GUIDE



Communities
& Justice
Youth Justice

ACKNOWLEDGEMENT

The Aboriginal Strategic Coordination Unit would like to express gratitude to the Aboriginal Services Branch, (of the former Family and Community Services), for allowing us to prepare and adapt from their Working with Aboriginal People and Communities: A Practice Resource in our guide.

Youth Justice NSW, Department of
Communities and Justice
Henry Deane Building
20 Lee Street
Sydney NSW 2000

Produced by Aboriginal Strategic Coordination Unit (ASCU)
in consultation with the Aboriginal Strategic Advisory
Committee (ASAC)

Reviewed 2020 by: Shaylee Matthews and Jenny Barrios Lutzen
Prepared 2013 by: Edwina Crawford and Lluwannee George

Graphics by Shaylee Matthews
and Kerry McGurk



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FOREWORD

Youth Justice understands that connection to culture is a vital part in supporting Aboriginal young people to build their identity and form their capacity for change.

Throughout 2019-2020 we have tried different practices to support Aboriginal caseworkers to do their work in a way that is appropriate, and which supports cultural practice. This means recognising the importance of cultural connection in our relationship and work with Aboriginal young people across all areas of Youth Justice, and that casework sometimes looks a little different for Aboriginal staff and clients.

This has been a great initiative, led by our Aboriginal and Torres Strait Islander staff and we are already seeing some results with a reduction in offending and a reduction in the number of Aboriginal young people in custody. However, we still have a long way to go. It is important that we continue to reflect on the personal accounts of our staff and young people and use them to shape and inform a culturally aware practice.

Thank you to all of our Aboriginal staff for their continued dedication and leadership and for helping our young clients form this critical connection to their own culture.

The Good Practice Guide gives staff a practical resource for working with Aboriginal and Torres Strait Islander peoples, to ensure we continue to improve and conduct our service in a manner that is culturally respectful and always appropriate no matter what the setting.

One of the purposes and objectives of the Youth Justice Aboriginal Strategic Plan (ASP) is to collect evidence of our practice with Aboriginal young people and benchmark data from across the state, demonstrating performance over the five key outcome areas of Aboriginal engagement. This data is used to continuously strengthen our approach to Aboriginal engagement, and to inform improvement to our systems to deliver better outcomes for Aboriginal young people and the wider community.

I look forward to continuing this important work, and building strong, culturally respectful relationships through best practice between our staff, clients, their families and communities, ensuring that our Aboriginal young people are connected to their culture and identity at all times.

Paul O'Reilly
Executive Director, Youth Justice

Important information to Note

The NSW Department of Justice - Youth Justice and a number of government agencies have created good practice guides to help staff work better with Aboriginal and Torres Strait Islander peoples and communities.

In developing a Youth Justice specific guide, we have combined the best elements of current practices to develop a resource that provides a consistent approach to working with Aboriginal and Torres Strait Islander peoples and communities within a Youth Justice context.

The information and practice tips in this document are general ideas and do not reflect the opinions of all Aboriginal and Torres Strait Islander peoples and communities in NSW. There may be exceptions to the information provided. As Aboriginal peoples are the original inhabitants of NSW; and as this document applies only to Youth Justice NSW, this document is specifically in reference to Aboriginal peoples of NSW.

References to Torres Strait Islander peoples will be specifically stated where appropriate. It is important to remember that Aboriginal and Torres Strait Islander cultures are very different, with their own unique histories, beliefs and values.

Furthermore, one of the most important issues for Youth Justice in NSW is the significant over representation of Aboriginal young people in our system. There is no overrepresentation of Torres Strait Islander young people in the NSW Youth Justice system.

It is respectful to recognise their separate identities. Youth Justice recognises that Torres Strait Islander peoples are among the First Nations of Australia and represent a part of our client and staff base. The Agency's Aboriginal programs and services are available, without question, to Torres Strait Islander peoples.

Building culturally respectful relationships

Youth Justice is committed to leading the change in best practice for cultural respect and being culturally mindful when working with Aboriginal staff, families and communities in our business.

In support of our Cultural Respect Framework, we acknowledge that Aboriginal and non-Aboriginal people have shared a traumatic history; it is this history that has shaped who we are today. However, we also recognise it is now time to unite, to write a new history and build a positive future together.

Acknowledging the outcomes of past policies gives staff a clearer understanding on how to overcome any barriers they face when working with Aboriginal clients; both while incarcerated and post release.

Understanding how culture intersects with our services and programs, we continue to move forward in building strong and trusting relationships. The relationships are honest and open, recognise each other's' individual life experiences, encourage diversity, and cultivate and value each other's skills.

[1] Consistent with the publication Working with Aboriginal people and communities – a practice resource - Community Services NSW

Protocols referenced in the development of this document:

Human Rights and Equal Opportunity Commission (1997). Bringing them home. Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families.

National Aboriginal and Torres Strait Islander Health Council and National Mental Health Working Group, 2004, A National Strategic Framework for Aboriginal and Torres Strait Islander Peoples' Mental Health and Social and Emotional well being 2004-2009, Social Health Reference Group.

NSW Department of Health, 1995, Ways Forward, National Aboriginal and Torres Strait Islander Mental Health Policy – National Consultancy Report.

Working and Walking together: Supporting Family Relationship Services to Work with Aboriginal and Torres Strait Islander Families and Organisations – Secretariat of National Aboriginal and Islander Child Care Inc

2009 NSW Young People in Custody Health Survey: Full Report – Human Service Juvenile Justice NSW and Justice Health.

Koori Juvenile Justice Program Best practice document: Juvenile Justice and Youth Services, Office for Children, Department of Human Services, May 2005, Victoria

Aboriginal Staff Conference 2011, Juvenile Justice working with Aboriginal and Torres Strait Islander clients and families - Good Practice Guide consultation session

Why we have identified roles in Youth Justice and the wider Public Sector

Identified roles have specific selection criteria that signify that the role has a strong involvement in issues relating to Aboriginal and Torres Strait Islander people. Typically, these roles will involve the development of policies or programs targeted at Aboriginal and/or Torres Strait Islander clients, or which involve direct interaction with Aboriginal and/or Torres Strait Islander communities[2]. Identified roles require Aboriginal and/or Torres Strait Islander expertise in the area.

Aboriginal staff within Youth Justice NSW (YJNSW) represent a total of 8% across the agency. Our Aboriginal staff members represent various areas and bring a wealth of knowledge, expertise and life experiences. They play a major role in consultation, developing policies and providing input into making informed decisions which will affect Aboriginal people and their communities.

In support of self-determination and participation, the agency identifies roles reflecting the strategic priority of making justice more accessible to the NSW Aboriginal community by developing and delivering culturally appropriate programs and services.

Identified roles within Youth Justice require specific skills, knowledge and understanding of the NSW Aboriginal community. It is best practice to carefully consider and determine the appropriate selection criteria for these specific roles. Such roles are an important strategy in the recruitment of Aboriginal and Torres Strait Islander employees with the appropriate skills and knowledge to enable more effective development of policy and delivery of services to Aboriginal young people and their families and communities.

The person in an identified role is required to have a demonstrated knowledge and understanding of NSW Aboriginal communities, society and culture, the issues impacting on it and a demonstrated ability to communicate sensitively and effectively with Aboriginal communities. Aboriginal or Torres Strait Islander people are strongly encouraged to apply for these positions.

Identified roles such as Aboriginal Assistant Managers, Aboriginal Assistant Managers Youth Justice Conferencing, Aboriginal Caseworkers (community), Aboriginal Youth Officers and Aboriginal Project Officers have key requirements of the role specific to the strategy.

It is important to note that where the role is deemed to be an Identified role an exemption under the Equal Opportunity Act (1995) has been sought and received for the filling of the role by an Aboriginal or Torres Strait Islander person only.

It is also important to acknowledge a person's life skills and experiences, particularly when recruiting Aboriginal and Torres Strait Islander staff into identified roles. Many Aboriginal and Torres Strait Islander people may not necessarily have formal qualifications but life experience and cultural knowledge on issues in regard to Aboriginal communities, families and social structures can be more appropriate to the duty of the role.

[2] Identified positions - Retrieved from <http://www.apsc.gov.au/indigenous/identified-positions>

SECTION ONE: GENERAL INFORMATION

What is the Good Practice Guide and why do we need it?

The Good Practice Guide — Working with Aboriginal and Torres Strait Islander Peoples and Communities aims to provide all Youth Justice staff members and our external partners some tools to use when working with Youth Justice Aboriginal clients and their families. It has been developed to improve service delivery to Aboriginal peoples by providing staff with key facts and information appropriate to working with Aboriginal communities in NSW. This resource will assist staff to become more culturally aware and responsive to the needs of Aboriginal people and communities.

We are all responsible for seeking the knowledge and expertise of those who can assist us when working with Aboriginal clients, families and/or communities. It is crucial to our work and how we ensure our client is the centre of all decisions made.

Staff in Youth Justice, Government agencies and relevant NGOs may find it difficult to build open and trusting relationships with Aboriginal people and vice versa. This can often be attributed to a lack of cultural understanding or a lack of awareness of effective practice techniques.

This resource will provide staff with strategies to overcome and break down barriers by offering practical advice and solutions. Many cultural and historical factors need to be acknowledged by professional staff who work closely with Aboriginal people. Having a greater understanding of this background puts us in a better position to appreciate both the current impact these factors have on communities and how we can work with Aboriginal people in the future.

Aboriginal cultures and communities are diverse and there are many different nations, tribes and groups living in NSW. A 'one size fits all' approach will not work, and we need to tailor our ways of working and communicating to meet the needs of the individuals and communities concerned.

Communicating, consulting and collaborating with Aboriginal communities, in particular with their organisations, can allow non-Aboriginal services to adapt programs or services to cater to the needs identified by communities. They can also lead to developing new initiatives or programs offered through collaboration and partnerships.

This is crucial because programs and services developed in partnership and consultation with Aboriginal communities and organisations are more responsive and culturally appropriate. They can be more effective and sustainable because the community will have a greater sense of ownership of the services or programs. A 'Tick-the-box' approach to community consulting, cultural awareness training, or consultation for the sake of meeting funding guidelines or expectations, does not work in forming meaningful partnerships.

However, this good practice guide is not the end of a journey. It should simply be treated as a starting point for learning about Aboriginal and Torres Strait Islander cultures and how to engage and work with the local communities and organisations. As any relationship advisor would acknowledge, to build strong and healthy relationships there needs to be respect and an investment of time and effort spent on them – it is a journey of many steps. This also applies to relationship building between non-Aboriginal organisations and Aboriginal community organisations and their clients.[3]

Cultural Competence

Cultural competence is different from cultural knowledge. It distinguishes between knowledge and the practical application of knowledge. It is enhanced with experience and critical reflection of experience.

CULTURAL COMPETENCE CONTINUUM	
Cultural Destructiveness	See the difference. Stomp it out
Cultural Incapacity	See the difference. Make it wrong
Cultural Blindness	See the difference. Act like you don't
Cultural Pre-competence	See the difference. Respond adequately
Cultural Competence	See the difference. Understand the difference that difference makes
Cultural Proficiency	See the difference. Respond effectively in a variety of settings

[3] Working and Walking Together: Supporting Family Relationship Services to Work with Aboriginal and Torres Strait Islander Families and Organisations, Secretariat of National Aboriginal and Islander Child Care Inc, p4-5

General Information

Cultural Destructiveness

Intentional attitudes policies and practices that are destructive to cultures and consequently to individuals within the culture.

Cultural Incapacity

Lack of capacity to help minority clients or communities due to extremely biased beliefs and a paternal attitude towards those not of a mainstream culture.

Cultural Blindness

The belief that service or helping approaches traditionally used by the dominant culture are universally applicable regardless of race or culture. These services ignore cultural strengths and encourage assimilation

Cultural Pre-Competence

The desire to deliver quality services and a commitment to diversity indicated by hiring minority staff, initiating training and recruiting minority members for agency leadership, but lacking information on how to maximise these capacities. This level of competence can lead to tokenism.

Cultural Competence

Acceptance and respect for difference continuing self assessment, careful attention to the dynamics of difference, continuous expansion of knowledge and resources, and adaptation of services to better meet the needs of diverse populations.

Historical Overview

When we discuss the present, it is important to look at the past, particularly an Aboriginal account of history, which has either been ignored or omitted from the official history of Australia. Some people may believe it is unnecessary however, we are products of our historical experiences, in the same way as we are biologically and socially products of our parents and our upbringing.[4]

History of mistrust of welfare-based agencies

Historically the words 'protection' and 'intervention' have not been linked with positive outcomes for Aboriginal and Torres Strait Islander peoples, even where the actions may have been well intended. There is an understandable mistrust of people who offer services based on these concepts.

Some reasons for this mistrust stem from European colonisation and past policies enacted by the government of the day which led to the forced removal of Aboriginal and Torres Strait Islander children from their families and communities, resulting in the Stolen Generation [5].

Removing children from their families was official government policy in Australia until 1969. Taking children from their families was one of the most devastating practices of white settlement and for many Aboriginal and Torres Strait Islander peoples the impact of this practice is still felt today. There would be very few, if any Aboriginal families who have not been affected by the forced removal of children.

There are a number of other underlying social issues Aboriginal and Torres Strait Islander families face that impact the issue of mistrust; such as power differences, lack of representative structures and a lack of Aboriginal and Torres Strait Islander peoples in influential positions in government.

Having said this, NSW Government organisations and NGOs are developing and implementing policies and programs that identify their commitments to acknowledging and attempting to change these perceptions. However, this is something that is going to take time. Government and non-government agencies are moving towards working in more coordinated and collaborative ways with Aboriginal organisations and communities to develop a range of strategies, programs and initiatives that better meet their needs.

[4] Mainstream Aboriginal Studies Unit, Centre for Aboriginal studies 1997. Referenced from (Working with Indigenous Australians: A handbook for Psychologists page 22)

[5] More information on the Stolen Generations can be found at <http://www.racismnoway.com.au/teaching-resources/factsheets/52.html>

Historical Overview

State and National apologies

On 10 December 1992, the then Prime Minister Paul Keating made a moving speech known as the Redfern Speech [6] at the Australian launch of the International Year for the World's Indigenous People. Although it was not given a lot of media attention at the time it is now regarded by many to be one of the greatest Australian speeches. Paul Keating was the first Australian Prime Minister to publicly acknowledge to Aboriginal and Torres Strait Islander people that European settlers were responsible for the difficulties Aboriginal communities continued to face.

Excerpts from the Redfern Speech

As I said, it might help us if we non-Aboriginal Australians imagined ourselves dispossessed of land we had lived on for fifty thousand years - and then imagined ourselves told that it had never been ours. Imagine if ours was the oldest culture in the world and we were told that it was worthless. Imagine if we had resisted this settlement, suffered and died in the defence of our land, and then were told in history books that we had given up without a fight.

Imagine if non-Aboriginal Australians had served their country in peace and war and were then ignored in history books. Imagine if our feats on sporting fields had inspired admiration and patriotism and yet did nothing to diminish prejudice. Imagine if our spiritual life was denied and ridiculed. Imagine if we had suffered the injustice and then were blamed for it. It seems to me that if we can imagine the injustice we can imagine it's opposite. And we can have justice.' [7]

In 1995, the Commonwealth Attorney General established a National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families, to be conducted by the Human Rights and Equal Opportunity Commission (HREOC). The Inquiry report, *Bringing them home*, was tabled in the Commonwealth Parliament on 26 May 1997.

On 18 June 1997, former NSW Premier the Hon. Bob Carr, issued a formal apology in response to *Bringing them home*. Premier Carr moved that NSW 'apologises unreservedly to the Aboriginal people of Australia for the systematic separation of generations of Aboriginal children from their parents, families and communities' and 'acknowledges and regrets Parliament's role in enacting laws and endorsing policies of successive governments whereby profound grief and loss have been inflicted upon Aboriginal Australians'. [8]

[6] Paul Keating's Redfern Park Speech, 10 December 1992, found at http://www.antar.org.au/issues_and_campaigns/self-determination/paul_keating_redfern_speech viewed 7 February 2012

[7] Excerpt taken from Paul Keating's Redfern Park Speech, 10 December 1992, found at http://www.antar.org.au/issues_and_campaigns/self-determination/paul_keating_redfern_speech viewed 7 February 2012

[8] Human Rights and Equal Opportunity Commission, *Bringing them home*, viewed 7 May 2007, www.humanrights.gov.au/social_justice/bth_report/apologies_state.html in the Working with Aboriginal people and communities: A practice resource, Communities NSW publication

Historical Overview

On 13 February 2008, history was made when newly elected Prime Minister Kevin Rudd issued a formal apology to all Aboriginal and Torres Strait Islander peoples on behalf of current and successive Commonwealth Government/s:

Kevin Rudd's Apology to the Stolen Generation

We apologise for the laws and policies of successive Parliaments and governments that have inflicted profound grief, suffering and loss on these, our fellow Australians.

We apologise especially for the removal of Aboriginal and Torres Strait Islander children from their families, their communities and their country. For the pain, suffering and hurt of these Stolen Generations, their descendants and for their families left behind, we say sorry.

To the mothers and the fathers, the brothers and the sisters, for the breaking up of families and communities, we say sorry. And for the indignity and degradation thus inflicted on a proud people and a proud culture, we say sorry.

We the Parliament of Australia respectfully request that this apology be received in the spirit in which it is offered as part of the healing of the nation.'^[9]

^[9] Website of the Prime Minister of Australia.
www.pm.gov.au/media/Speech/2008/speech_0073.cfm
(2008)

Historical Overview

Over-representation of Aboriginal people

NSW is home to the largest number of Indigenous people in Australia. Over 110,000 people in NSW identify themselves as Aboriginal, and a further 4,000 identify as Torres Strait Islander. Aboriginal young people aged 10-18 only make up 3 per cent of the population in NSW. The challenges Youth Justice faces in supporting Aboriginal young offenders are diverse and complex.

The social, educational, health, law and justice outcomes for the Aboriginal population are a lot lower than that of the non-Aboriginal population. This disadvantage plays a significant role in Aboriginal young people coming into contact with the various state and federal statutory systems.

Aboriginal people continue to be over-represented in the following systems:

- welfare
- homelessness
- juvenile and criminal justice
- child protection
- health
- unemployment

Over-representation of Aboriginal young people in the justice system

One of the major reasons contributing to the over-representation of Indigenous young people in custody, has been the growing remand population. Many of those who are refused bail and remanded in custody are under 15 years of age.

The three most common barriers to bail being granted to Aboriginal juveniles are:

- lack of a fixed residential address
- lack of parental/family support
- an inability to meet financial and security requirements.

Aboriginal young people who come into contact with the justice system have a higher proportion of risk factors which include offending histories, age of commencing offending and family history of offending.

Breaches of bail conditions have been a significant contributing factor to the increase in the juvenile remand population. The increase in the number of juveniles on remand have a strong link with the number of juveniles proceeded against for breach of bail

Historical Overview

Sensitive issues

We acknowledge that past government legislation and practices enforced on Aboriginal and Torres Strait Islander peoples (e.g. assimilation policies) have contributed to Aboriginal and Torres Strait Islander peoples being one of the most disadvantaged socio-economic groups in Australia.

The effects of those policies have left lasting inter-generational impacts which need to be addressed and continue to contribute to:

- dispossession of land, culture and identity
- family fragmentation
- social and/or emotional wellbeing issues
- poverty
- unemployment
- poor housing standards
- alcohol and substance abuse
- loss of language
- mental health issues
- grief and loss issues
- racism
- poor health outcomes
- low literacy and numeracy rates

The above issues have been identified as contributing factors which have resulted in the over-representation in the juvenile and criminal justice system.

Grief and loss

Grief and loss issues are common in many Aboriginal and Torres Strait Islander families and communities and continue to adversely impact the lives of many people.

Since European colonisation, Aboriginal peoples have struggled against considerable oppression to maintain their culture and identity. The grief and loss resonating from European colonisation was further impacted with the forced removal of children and other underlying socio-economic factors.

The 'path of destruction' is an inter-generational cycle. It appears the identified grief and loss issues have resulted in:

- mental health issues
- suicide — significant with our youth
- homelessness
- general feeling of hopelessness
- loss of country
- over representation in the juvenile and criminal justice system
- over representation in welfare systems
- self-harm and intentional injury
- drug and alcohol misuse/addiction
- family and domestic violence
- relationship/connection breakdown
- loss of identity and self-perception

It is useful to increase our awareness of these issues and learn how to work more effectively with Aboriginal communities. Improving our ability to better identify culturally appropriate pathways will help us to address some of these issues in a sensitive and respectful manner.

Historical Overview

Sorry Business – The need for Aboriginal staff to attend funerals

Non-Aboriginal staff or managers may feel frustrated in the situation when work is disrupted. When an Aboriginal person takes a week off for a funeral this can cause resentment. However, for most Aboriginal people, attending funerals and taking part in the mourning process with their community is very important.

Attending the funeral of people they know and/or are related to (including extended family) ensures that the spirit of the person that has passed away is put to rest properly. If they do not attend or the funeral is not done according to culture, the spirit may cause the person problems. Funerals are also important family ties. If a person didn't attend a funeral and spend time with the family, he/she may be seen as not valuing family. Take the time to discuss with the worker the support they need to fulfil their obligation as length of time required to fulfil other family obligations may vary e.g. extended processes whereas a funeral is one day.

Use of the terms 'Indigenous', 'Aboriginal' and 'Torres Strait Islander'

Although the terms 'Indigenous', 'Aboriginal' and 'Torres Strait Islander' are commonly used now, it is important to note that these names are the legacy of colonisation. Before, during and after invasion, the First Nations people of Australia identified themselves by their country such as Gandangarra, Dharawal, Eora, Kamilaroi, Wiradjuri, Bundjalung and so on. The names Indigenous, Aboriginal and Torres Strait Islander are colonial labels imposed on a range of people with diverse cultures and languages.

The term 'Indigenous' is generally used when referring to both First Nations' people of Australia — Aboriginal and Torres Strait Islander peoples.

You will find that Indigenous is generally used by the Commonwealth Government or non-government agencies as they have a charter of providing services and programs to both Aboriginal and Torres Strait Islander people at a national level. The term 'Aboriginal' refers specifically to the Aboriginal people of mainland Australia and does include Australia's other Indigenous population — Torres Strait Islanders.

Some Aboriginal and Torres Strait Islander people are opposed to the term 'Indigenous' being used as it generalises both cultures. However, you may use 'Indigenous' if you are quoting or referring to another source where the term is used for example in a Commonwealth document or national data collections.

In Youth Justice we recognise that Aboriginal peoples are the original inhabitants of NSW. Having said that, we acknowledge and respect that Torres Strait Islander people are among the First Nations of Australia. We further acknowledge that Torres Strait Islander people represent a part of our client and staff base. It is important to remember that while both are First Nations of Australia, Aboriginal and Torres Strait Islander cultures are very different, with their own unique histories, beliefs and values. It is respectful to give each their own identity.

It is considered offensive to include a footnote to the word Aboriginal stating that 'it includes both Aboriginal and Torres Strait Islander people', so it is advised not to do this. When specifically referring to both cultures, use the term 'Aboriginal and Torres Strait Islander'.

Historical Overview

Terminology

Out of date terms such as full-blood, half-caste, quarter-caste and quadroon are very offensive and should never be used when referring to Aboriginal and Torres Strait Islander peoples. Acronyms such as ATSI, TI, TSI should be avoided where possible and abbreviations should never be used as they are offensive to Aboriginal and Torres Strait Islander peoples.

Do not use the words Aborigine or Aborigines as many Aboriginal peoples feel it is linked back to the terminology used in the periods of colonisation and assimilation. Instead, use Aboriginal or Aboriginal and Torres Strait Islander.

The first letters of Aboriginal, Torres Strait Islander and Indigenous are always capitalised. Not doing so is regarded by Aboriginal and Torres Strait Islander people as being 'racist, offensive and belittling, a way of negating our identity and nationality and can be like misspelling a person's name (tina or jason) or another country's citizens (japanese, european) by not capitalising'.

Aboriginality and Identity

The legal definition of Aboriginality is drawn from the Aboriginal Land Rights Act 1983 and is adopted in full in the Children and Young Persons (Care and Protection Act) 1998.

An Aboriginal person means a person who:

- a) is a member of the Aboriginal race of Australia, and;
- b) identifies as an Aboriginal person, and;
- c) is accepted by the Aboriginal community as an Aboriginal person.

Similarly, a Torres Strait Islander as defined in section 7 of the Torres Strait Islander Land Act 1991 (QLD) is a person who is a descendant of an Indigenous inhabitant of the Torres Strait Islands.

Aboriginality is not defined by a person's skin tone or where they live. The colour of an Aboriginal person's skin may become lighter through different generations. It is also common for many Aboriginal people within the same family to have different complexions to each other. It is extremely inappropriate to comment on the colour of a person's skin in reference to their Aboriginality. For example, if an Aboriginal person has a fair complexion you would not comment that they 'do not look Aboriginal'. Aboriginal people both individually and collectively as a community, define themselves by their culture — not the colour of their skin.

Historical Overview

Confirmation of Aboriginality

It is important to remember that you do not need a legal form of confirmation of Aboriginality to be an Aboriginal person. There is no legal requirement for Aboriginal children and young people to have a confirmation of Aboriginality. Only Aboriginal people can determine who is Aboriginal, although the Children's Court can also do this if satisfied that the child or young people is of Aboriginal or Torres Strait Islander descent.

Confirmation of Aboriginality is normally done through incorporated Aboriginal organisations using the Aboriginal Land Rights Act 1983 definition for Aboriginality. There is no single process that these organisations adopt, so each process may be different. In general, the person wanting a confirmation needs to approach the organisation. However clients may need some help from Youth Justice staff who can enquire on their behalf. While a confirmation of Aboriginality may help the young person within the Youth Justice system access some services later in life, it is not essential to have a confirmation to access Youth Justice-specific Aboriginal programs.

Please note that Aboriginal community organisations operate as autonomous bodies and have the right to determine their own procedures for confirming Aboriginality. They also have the right to refuse to give a confirmation to people who do not satisfy their organisations requirements.

The types of information or action that organisations may require when confirming Aboriginality include:

- where the family is from
- known family members
- any links or anyone that can provide a reference
- some may need the applicant to join the organisation and attend a certain number of meetings
- most will ask the applicants to address the Board of Directors
- a common seal of the Aboriginal organisation should be added to any confirmation of Aboriginality and not individual statutory declarations
- if the applicant is unable to get sufficient proof or references it is suggested that they contact their home community or the community from which their relatives come and ask them for help. Even if they are no longer living in the community their family name may be known or relatives could still be there.

If a young person and/or their families have been separated or have lost contact with each other and do not know their families or kin, then Link-Up (NSW) Aboriginal Corporation or Aboriginal Affairs may be able to help. The details of both agencies can be found in Section 3: Resources.

Aboriginal and Torres Strait Islander flags

The Aboriginal Flag

The Aboriginal flag was designed in 1971 by Harold Thomas, an artist and Luritja man, originally from Central Australia. The black represents the Aboriginal people, the red the earth and their spiritual relationship to the land, and the yellow the sun, the giver of life.

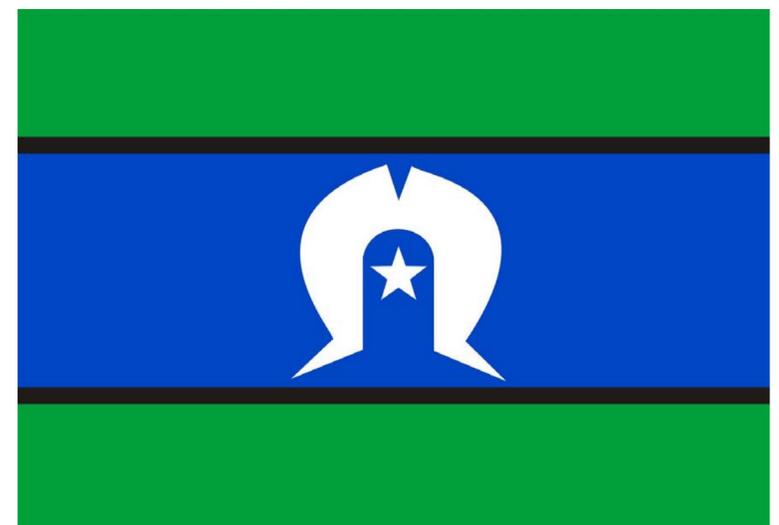
The Aboriginal flag was first raised in Victoria Square in Adelaide on National Aboriginal Day in 1971 but was adopted nationally by Aboriginal and Torres Strait Islanders in 1972 after it was flown above the Aboriginal Tent Embassy outside Parliament House in Canberra.



The Aboriginal flag is increasingly being flown by both Aboriginal and non-Aboriginal people. In view of its increasing importance in Australian society, the Commonwealth Government initiated steps in 1994 to give the flag legal recognition. After a period of public consultation, the Government made its own decision in July 1995 that the flag should be proclaimed a Flag of Australia in section 5 of the Flags Act 1953. The flag was proclaimed by the Governor General of Australia, William Hayden, on 14 July 1995.

The Torres Strait Islander Flag

The Torres Strait Islander flag is attributed to the late Bernard Namok of Thursday Island, and was flown for the first time in 1992. The flag is emblazoned with a white Dari (headdress) which is a symbol of Torres Strait Islanders. The white five-pointed star beneath it symbolises the five major island groups and the navigational importance of stars to the people. The green stripes represent the land, the black stripes represent the people, and the blue the sea. The flag as a whole symbolises the unity of all Torres Strait Islanders.



As with the Aboriginal Flag, the Torres Strait Islander Flag is beginning to be flown more widely and gaining more recognition as Torres Strait Islander issues gain more prominence in Australia.

In July 1995, both flags were proclaimed as official flags in section 5 of the Flags Act 1953. At events at which flags are shown, the order of display, from an audience perspective from left to right, is the Australian flag, the NSW flag, the Aboriginal flag and the Torres Strait Islander flag.

Acknowledgement of land and original custodians and Welcome to Country

Aboriginal people are the original custodians of the land and it is important that this special position is recognised and incorporated into official activities. This enables the wider community to pay respect to Aboriginal peoples, share in Aboriginal culture and build better relationships.

It is now common to attend a meeting, conference or community gathering where proceedings begin with either:

- An acknowledgement of land or original custodians by the first speaker or chair; and/or;
- A Welcome to Country which is performed by an Aboriginal Elder or leader who is from the community in which you are meeting.

When organising a meeting, event or conference, it is respectful and good practice to acknowledge the land in which you are meeting and its original custodians.

It is advisable to prepare such an acknowledgement to deliver at the start of the planned meeting or gathering.

An example of an Acknowledgement of Country;

'I WOULD LIKE TO
ACKNOWLEDGE THE
ORIGINAL
CUSTODIANS, THE
EORA PEOPLE, ON
WHOSE LAND WE ARE
MEETING TODAY. I
WOULD ALSO LIKE TO
PAY MY RESPECTS TO
ELDERS PAST AND
PRESENT.'

A Welcome to Country can only be performed by an Elder or leader who is from the community in which you are meeting. A non-Aboriginal person cannot perform a Welcome to Country and to do so is rude and disrespectful to the traditional owners and to all Aboriginal peoples.

An Aboriginal person or group delivering a Welcome to Country or giving a cultural performance for an event must be paid accordingly. The Youth Justice Aboriginal Services Intranet page has more information about payment and consultation fees for cultural performances.

Further resources you can also check out are the Recognising Aboriginal Cultural Protocols and Practices Policy available from The Department of Premier and Cabinet at www.dpc.nsw.gov.au or the NSW Office of Communities - Aboriginal Affairs' Policy Guidelines for Aboriginal Cultural Performances which includes a fee schedule at www.aboriginalaffairs.nsw.gov.au.

Aboriginal language group names and nations

Practice tips

- Familiarise yourself with the area you are working in.
- Find out who the traditional owners are.
- Have a look at maps and get to know the Aboriginal language groups and nations in your area and the history of those groups.
- Regions should display geographic posters/maps in the workplace which outline the Aboriginal language groups/nations within that region. Contact your Local Aboriginal Land Council to find out where to obtain maps and other resources.
- Research relevant Aboriginal organisations, Local Aboriginal Land Councils and other service providers in the area and form partnerships and working relationships with them.
- Some Aboriginal peoples or community groups may think it is inappropriate for a non-Aboriginal person to refer to them by their boundary (state) name (e.g. Koori, Murri). However, if you have an established relationship with the person or community group it may be appropriate for you to use their boundary name when their consent has been given.
- Organise for Aboriginal staff representatives to hold information sessions within their region to give staff an overview of community history and dynamics.
- Develop useful regional initiatives and resources to educate staff. For example, highlight all of the Aboriginal language groups in your area. It could also include information about organising a Welcome to Country and Elders, etc.

Aboriginal concept of family and community (extended families)

Understanding structures and concepts that exist in Aboriginal families and communities is important in building relationships. Aboriginal peoples have strong family values. The family system has an extended family structure, as opposed to the nuclear or immediate family structure which is common in Western society.

This extended family concept is rarely endorsed or understood by government authorities, so it is important that workers have an understanding of this when working with Aboriginal communities.

The concepts of extended family and 'community as family' in Aboriginal communities encompass the idea that children are not just the concern of the biological parents, but of the entire community. The raising, care, education and discipline of children are the responsibility of everyone — male, female, young and old. An extended family structure is based on:

• blood-related (parent, sibling, grandparent, cousin, aunty, uncle)	• marriage (aunty, uncle, cousin)
• community (Elder, neighbour, friend, organisation)	• kinship system (aunty, uncles, cousins or Elders)
• non-related family (Elder, friend, community member)	• mutual respect
• a sense of belonging	• acceptance and knowledge of Aboriginal kinship ties
• mutual obligation and support.	

Aboriginal language group names and nations

Kin or Kinship

Kin or Kinship systems define where a person fits into the community. Kinship systems may vary across communities and nations, but the principle is the same across Australia. Kinship defines the roles and responsibilities for raising and educating children and the structures and systems of moral and financial support within the community.

The family structure links with the community and with this knowledge comes a complex system of roles and obligations within the community. Aboriginal children learn at an early age the kinship ties that exist within their community and subsequently their place in the community. These relationships define a child's identity by defining how they are connected to everything in life.

There are a number of important differences in the ways that Aboriginal families interact compared to non-Aboriginal families. Some of these differences need to be understood within a historical and cultural context. It is important not to view these differences as deficits in family functioning and family relationships or parenting styles, but rather as culturally specific issues that are influenced by history, geography and experiences.

Roles of the family

Children have a special place within family and community. Where they are born signifies connection to the land and/or sea. It identifies a child's relationship and responsibilities to law and culture and establishes certain obligations and responsibilities according to traditional Aboriginal lore. Today, many Aboriginal children are born "outside" their country. It is their relationship and identity with their language group that gives a child the connection to their country.

Children are taught about the importance of a kinship structure. It is usually close relatives who will guide and support them from the early years, through the transition from teenager to life as an adult with their own family. Children without able parents are often accepted and cared for by others of the original family group and/or by other extended family members.

Aboriginal parents play the central role in the cultural, social and spiritual development of their children. It is understood that to "parent" means to help the spirit of the child emerge as the child grows and experiences life. Although traditional aspects of child-rearing practice have changed with the impact of colonisation, most Aboriginal parents impart their understanding of culture to their children and maintain their kinship networks.

In some communities, the mother's or father's sisters (aunties) are also considered as the child's mother. This practice is very strong in some communities. The mother's cousins are also considered sisters in some families and have a role in raising the children. The relationships, roles and responsibilities of extended family members will be different in each family.

The aunties have an obligation to support the mother in the raising of her child. The mother is the main carer for the child, but grandmothers, aunties and older siblings also share the responsibility of caring for and raising the child. Grandmothers and aunties have responsibility for passing on traditional knowledge to girls. In some families, members of the extended family have more authority to make decisions concerning the child – this depends on the dynamics of the family.

Aboriginal language group names and nations

Elders and Traditional owners

An identified and respected male or female person within the community who has the trust, knowledge and understanding of their culture and permission to speak about it, is often referred to as an Elder. They are often recognised as being able to provide advice, offer support and share wisdom in a confidential way with other members of the community, particularly younger members. Importantly, age alone does not necessarily mean that someone is a recognised Elder and some communities may have very few Elders because of the short life expectancy of the Aboriginal and Torres Strait Islander population. Young people may be given permission to talk on behalf of an Elder.

Some Elders are referred to as Aunty or Uncle, but you should only refer to these titles when given permission to do so, simply asking is the best way to find out if you can do so or not. Other terms used to refer to Elders in some communities include 'senior men' and 'senior women', and in particular communities this term may denote their status as a man or woman who has been initiated through traditional law or ceremony.

Always be aware of the need to consult Elders and treat them with respect. The same courtesies given to dignitaries should be applied to Elders. Where extensive consultation is required, ensure that Elders are paid at the same rates as professional consultants. It is unreasonable to assume that consultation can be undertaken with Aboriginal peoples and communities at no cost. If the intended consultation is not expected to take a long time, then fees may not be required.

However, it may be appropriate to supply morning or afternoon tea or refreshments. Transport to and from the venue may also need to be arranged.

A traditional owner is an Aboriginal person or group directly descended from the original inhabitants of a culturally defined area of land, sea or country. They are the clans, nations and groups of Aboriginal peoples who have traditional connections to the land and waters relating to their area that retain decision-making powers in relation to that land or area. Although they may be, not all traditional owners are Elders and vice versa.

Men's and Women's Business

In Aboriginal culture certain customs and practices are performed by men and women separately, often referred to as Men's and Women's Business. These practices have very strict regulations attached and penalties for breaking these rules can be severe. Some Aboriginal communities that continue to practice their traditional customs will also continue these segregated practices and it is important that this is understood by all staff working with Aboriginal peoples.

An example of Men's and Women's Business today is when Aboriginal specific courses, programs and conferences are held. It is common to see Men's and Women's Business on the agenda. In this context the group will split by gender and discuss issues separately.

Practice tip

- If organising meetings with community members, discuss whether the topic of conversation is suitable for everyone or if the issue of Men's and Women's Business will apply. It may require another staff member to attend and run the alternative session.
- Where possible it is preferable for men to speak to men and for women to speak to women, especially in circumstances where you are not known by the person or community.
- There are times when certain Aboriginal focused programs for our clients will require only Aboriginal male or female staff to run the program to get the best possible outcomes for our clients.
- There also may be times when non-Aboriginal males and females may be asked to leave the room during Aboriginal Men's or Women's Business.
- It is important not to take offence, as this request indicates that sensitive or Aboriginal-specific issues will be discussed.

Aboriginal language group names and nations

Communication

Establishing good rapport and relationships with Aboriginal and Torres Strait Islander peoples is too frequently viewed as difficult and onerous. Drawing on a strengths-based approach would allow staff to break some of the barriers of myth, fear, stereotyping and distrust that can be obstacles to good relationships and good communication.

Respect and sensitivity

Respect is very important in every social structure in Aboriginal communities. Respect for Elders, the land, waters, animals and ancestors are fundamental aspects of Aboriginal culture. Therefore, it is important that this good practice guide provides an Aboriginal-specific and culturally sensitive guideline for respectful, participatory communication with Aboriginal peoples.

It is clear that where you have demonstrated your respect for Aboriginal peoples and their culture, the mistakes you may make in interpersonal relationships and communication are more likely to be forgiven or overlooked by Aboriginal peoples. What is important is that you have integrity, that you are honest and respectful in your dealings.

Self-Awareness and use of appropriate language

Many non-Aboriginal people have had little contact with Aboriginal peoples. Learning about the rich and continuing cultural heritage that exists can be inspiring. Equally, learning more about the history and legacy of colonisation and dispossession can be confronting. Be self-aware and reflective of your own values. Understand and challenge your own cultural assumptions and prejudices. Reflect on the negative stereotypes of different cultural groups that may (or may not) have been a strong influence in your life.

It is important that you are aware that your attitudes and values about Aboriginal peoples and their cultures will influence your perceptions and how you are perceived, and your relationships with clients and other members of the community. What is important is to see the person, not the stereotype.

Practice tips

It may be helpful to ask yourself the following questions:

- Do I respond to Aboriginal peoples differently?
- If so, how? Do I know why?
- If I feel nervous when I am talking to Aboriginal peoples, do I know why?
- Am I patronising? Am I nervous? Am I respectful? Am I controlling the process and outcomes?
- Have I made assumptions about the family or person before I have met them?
- What assumptions do I make about Aboriginal peoples and their cultures?
- On what basis am I making these assumptions?
- What does this mean in terms of establishing a working relationship?
- What are the positive features of Aboriginal cultures that are known to me?
- How can I use this to assist this client and/or family?
- How can I incorporate this into my assessment/intervention?
- Do I clearly understand the intent of any protocols or policies that are in place?
- Am I aware of the laws that make it illegal to discriminate against an individual or group based on their cultural background, gender, age, sexuality or religion?⁹

Aboriginal language group names and nations

Building rapport

Local corporations, organisations, local Aboriginal land councils and working parties are good points of contact for establishing the correct people and groups to consult with in a particular community. It may take time to establish these networks or to find out who the right people are. Again, spend the time to do this properly and it will help lay the groundwork for meaningful interaction with the community.

When building good rapport with Aboriginal communities remember the time you spend with local Aboriginal community organisations, groups, Elders, children and families makes a difference in the engagement process. A couple of hours in the community each week, having a cup of tea and getting to know the people, is likely to save hours of work in the long run. Workers can learn how the community works, who they need to speak with and who can provide families with support.

Cultural Protocols

The NSW Government recognises Aboriginal peoples' unique position in the history and culture of NSW. Aboriginal peoples are the traditional owners of the land and it is important that this position is recognised and incorporated into official protocol.

By incorporating cultural protocols into official events and key meetings the Agency is not only being respectful to Aboriginal and Torres Strait Islander peoples and cultures, it also promotes and strengthens relationships with our Aboriginal communities and supports the promotion of cultural heritage and understanding with our non-Aboriginal staff.

Aboriginal land councils are key community contacts about Aboriginal cultural protocol and cultural heritage. If you are preparing a cultural Welcome to Country, your local or regional Aboriginal land council should be consulted.

To contact your nearest local Aboriginal land council, contact the NSW Aboriginal land council head office on (02) 9689 4444 or visit their website www.alc.org.au.

Aboriginal language group names and nations

NSW Aboriginal Cultural Protocols and Practices Policy from the Department of Premier and Cabinet

Recognising Aboriginal Cultural Protocols and Practices [11] is a guide to assist agencies in acknowledging Aboriginal peoples' unique position. The Protocols require agencies to include appropriate Aboriginal cultural practices in official events and provide resources to assist in achieving this.

By including Aboriginal cultural practices into official events, agencies can:

- Recognise and pay respect to Aboriginal peoples, cultures and heritage
- Communicate Aboriginal cultural practices to the broader community to promote respect and understanding
- Demonstrate that Aboriginal cultures are living through maintenance and practice of ceremonies and protocols
- Demonstrate recognition of Aboriginal peoples' unique position which can assist in building relationships and partnerships

The NSW Government has developed key resources for agencies organising Welcome to Country. The Fee for Service for Aboriginal Cultural Performance minimum fee schedule [12] provides a payment guide for Aboriginal cultural practice ceremonies/performances.

All agencies are encouraged to use these Protocols to ensure appropriate recognition of Aboriginal peoples and to demonstrate to the broader NSW community that Aboriginal cultures and cultural practices have survived and continue to be practiced.

Practice Tip

- Contact the local organisations and land councils and arrange a visit to meet people in the community.
- Attend community open days, fair days and other events like NAIDOC Week activities.
- Wherever possible, attend functions in the community that you are invited to.
- Contact parenting groups or the local Aboriginal Education Consultative Group to get to know the parents in the local community and schools.
- Gain some basic knowledge of the community including dominant family groups, preferred names, original custodians and language groups.

[10] The practice tips questions were taken from Dr Linda Ford quoted in "CDU Indigenous Knowledge guide", Charles Darwin University, 2008 found in Working and Walking Together: Supporting Family Relationship Services to Work with Aboriginal and Torres Strait Islander Families and Organisations, Secretariat of National Aboriginal and Islander Child Care Inc.

[11] <https://arp.nsw.gov.au/c2004-39-recognising-aboriginal-cultural-protocols-and-practices>

[12] <https://www.psc.nsw.gov.au/ArticleDocuments/2834/Aboriginal-Cultural-Protocols-document.pdf.aspx>

SECTION TWO: ABORIGINAL CONSULTATION INTERNALLY AND EXTERNALLY

Engaging in proper consultation with Aboriginal peoples and communities on issues that affect them is an important process that must occur, particularly within government.

Effective consultations should occur early and throughout the decision-making process, which requires openness about how, why and when they are being consulted and how much influence they will have over the decisions being made.

To ensure the effectiveness of the consultative processes, there is a need to identify the sort of representation required. In the first instance, work through local Aboriginal agencies to find the right person or group to link to and to get information on the best way to approach them. It is important to get this right to ensure that there are no divisions in the community. [13] Within Youth Justice, there are Aboriginal Practice Officers (APO) strategically located across NSW who will be able to help and direct you to the right contacts.

It must be understood that any consultations held with an Aboriginal community are generally held with a representative group of members of an Aboriginal community including key family groups, and not necessarily the whole population within a given area.

Using the expression 'we have consulted with the Aboriginal community' implies that there has been a 100 per cent participation of Aboriginal people in the consultation process, when in fact it may only have been a small proportion of Aboriginal people who participated. Participation may be based on a range of factors including levels of interest in the topic being put forward or availability. Therefore, it would be more transparent to state that 'a group of Aboriginal people from the community have participated in the consultation process'.

Aboriginal people have often felt consultations left them powerless to effect government decision-making and for this reason prefer the term 'negotiation', which implies a more equal relationship where parties work through any conflict, finding areas of agreement and agreeing to disagree if areas of conflict cannot be resolved.

This experience is well documented. 'Aboriginal communities have complained that in the past, consultation has been tokenistic. Negotiation needs to occur for equal relationships to develop' [15].

Therefore, when planning to seek the participation or views of Aboriginal peoples on various issues or projects, a decision must be made regarding the type of process you are engaging in [14].

[13] Queensland Department of Aboriginal and Torres Strait Islander Policy, 1999, Protocols for Consultation and Negotiation with Aboriginal People, www.datsip.qld.gov.au/resources/cultures.cfm taken from the Working with Aboriginal

people and communities – a practice resource - Community Services NSW

[14] Department of Agriculture, Fisheries and Forestry, Australia, 2002, Guidelines for reaching our clients – Aboriginal and Torres Strait Islanders, www.learnline.cdu.edu.au/wip/cce/topic4.html found in the Working with Aboriginal

people and communities – a practice resource - Community Services NSW

Aboriginal Consultation internally and externally

The ASCU

The Aboriginal Strategic Coordination Unit (ASCU) provides strategic and policy advice to the Executive Director and Executive Leadership Team of Youth Justice on evidence based best practice approaches to working with complex needs Aboriginal young people and their families, involved in the criminal justice system. The Manager, ASCU sits as a standing member at all Executive Leadership Team meetings. The Unit also provides advice to operational areas of the agency on the likely impact of agency policies and practices on Aboriginal and Torres Strait Islander clients.

A major responsibility of the ASCU is oversight of the Youth Justice Aboriginal Strategic Plan (ASP). The ASCU also provides executive support to the Aboriginal Strategic Advisory Committee (ASAC) and is responsible for organising the annual Aboriginal Staff Conference. More information about the ASCU can be found on the ASCU intranet site [16].

The ASAC

The Aboriginal Strategic Advisory Committee (ASAC) was established in March 1996, to provide a representative forum for Aboriginal and Torres Strait Islander staff with the opportunity to provide advice and guidance to the Executive Director and Executive Leadership Team of Youth Justice on policy, programs and Aboriginal issues across the Agency.

The ASAC provides an opportunity for staff to identify and document program and service delivery successes, challenges and ways forward. This, in turn, informs the Agency of options for future directions in working with Aboriginal and Torres Strait Islander young people, staff and communities.

It enhances the agency's capacity to build a stronger evidence base about what works and how our service systems can be applied to deliver better outcomes for Aboriginal and Torres Strait Islander clients. ASAC is sponsored by the Executive Director Youth Justice and meets up to four times a year to discuss major issues impacting the agency, its clients and staff.

More information about the ASAC and the ASAC Charter can be found on the ASCU intranet site [17].

[15] Queensland Department of Aboriginal and Torres Strait Islander Policy, p.8

[16] <http://intranet.internal.justice.nsw.gov.au/Divisions/Pages/divisions/juvenile-justice/about-us/aboriginal-services/Aboriginal-Strategic-Coordination-Unit.aspx>

[17] <http://intranet.internal.justice.nsw.gov.au/Divisions/Pages/divisions/juvenile-justice/about-us/aboriginal-services/Aboriginal-Strategic-Coordination-Unit.aspx>

Aboriginal Consultation internally and externally

The ARACs

As part of the Aboriginal Strategic Plan, Youth Justice has formed several Aboriginal and Torres Strait Islander Regional Advisory Committees (ARACs).

ARACs provide a consultative forum for Aboriginal and Torres Strait Islander staff to discuss issues in relation to client service delivery in their respective regions/ areas. Each ARAC will consider and develop strategies for the provision of culturally appropriate programming and interventions for Aboriginal and Torres Strait Islander clients at a regional level.

The Aboriginal and Torres Strait Islander Regional Advisory Committee provide an opportunity for staff to network, access peer support, professional development and training.

What needs to be considered in consultation?

There are various considerations when consultation is to occur, these include:

- environmental factors and intergenerational effects which may be potential barriers for working with families;
- developing skills for understanding young people's needs in complex situations;
- developing relationships that respect the expertise of staff, the community and encourage the elder and kinship system;
- implementing principles of self-determination and participation when making decisions for young people;
- promoting the development and use of Aboriginal services to support families and communities;

Consultation processes

A consultation process is used to seek information, advice or an opinion, permission or approval for a proposed action.

The consultation process would be used when approval of a program, policy or service (something that has already been developed) is required. The consultation process can be held at the beginning, middle and end of a project (preferably all three).

A negotiation process is used to confer with others to reach a compromise or agreement. The negotiation process should occur at the very beginning of a process, before anything has been developed. Negotiations take place to determine the overall purpose and direction of the project. It should be noted that: 'It is crucial to the success of programs if consultation and negotiation occurs so that a more equal relationship is developed'.

When developing an equal relationship, it is important to 'recognise the specialist knowledge of particular community members and their potential contribution (to the consultation process), and involve such persons where possible and appropriate'.

Don't over-consult. Many Aboriginal communities are bogged down with numerous requests for consultation that, in many cases, don't go anywhere and become repetitive. Before requesting consultation with Aboriginal peoples, ensure that the same type of consultation has not been undertaken recently. If it has, seek permission to use the outcomes from that consultation to inform the current project.

Aboriginal Consultation internally and externally

Before engaging in consultation with Aboriginal peoples determine what needs to be achieved from the consultation, develop a plan and stick to it. This will ensure that the consultation has a clear direction and the people being consulted know what is required of them.

It is also vital to consult with Aboriginal peoples who are knowledgeable about the issues of their culture and community dynamics. Although it is a sensitive issue, there are many people that identify as Aboriginal later in life; this can be for several reasons, including ramifications from the Stolen Generations. Although newly identified people may be Aboriginal, they may have limited knowledge and connections to the Aboriginal culture and way of life and therefore would not be the best people to consult with on Aboriginal-specific issues.

Use best judgement and sensitivity in these circumstances.



Forging strong working partnerships with local Aboriginal community groups and organisations in your area is very important.

Our involvement with these groups and organisations will provide better knowledge of:

- the issues that are faced in the community
- knowledge of family links in the community
- services that are available in the community
- areas of expertise community members hold
- how these services can complement work with a particular family or group.

We often find that Aboriginal groups and organisations are very eager to have our involvement and would like to establish a contact who they feel comfortable working with, for both current and future issues. It is very important that our presence is well known in the community as Aboriginal peoples prefer to do business with a departmental representative that they are comfortable and familiar with. Having an association with Aboriginal community representatives and organisations will increase our ability to relate to the community we are working in and gain the acceptance and trust of that community.

In many cases, Aboriginal families are prominent in the operation and management of Aboriginal community groups and organisations. Therefore, it is important to be aware of the dominant role of family groups in some organisations. It is important to ensure that any agreements or decisions made following departmental consultation are unbiased, fair and transparent.

Aboriginal Consultation internally and externally

Understanding community structures

There are diverse practices and mechanisms across New South Wales. While community structures vary, most Aboriginal communities operate based on traditions of extended family and community care, particularly in rural and remote areas.

It is essential that we develop an understanding of the diversity within different language and kinship groups living in one area. This will help us become more aware of local dynamics as we continue to build strong relationships with different communities.

Traditional custodians may not always occupy the land where we are working. The assimilation era displaced many Aboriginal peoples from their traditional land and moved Aboriginal peoples all over the country.

Aboriginal peoples who were placed on missions and homes in areas other than their traditional or original country have in many cases stayed in those areas and created family units. These people are sometimes referred to as 'historical people'.

In some communities there is a mix of traditional people and historical people, or historical people and no traditional people or vice versa. This could be important when addressing the community in acknowledgement of land and Welcome to Country ceremonies.

It may also indicate why there may be rivalries or conflict between families and/or community organisations.

Understanding community structures will also be helpful in locating the Elders of the community or the key people that are seen as representatives of the community. Many of these people will be involved in local government steering committees and organisations.

Media Protocols [18]

There are no hard and fast rules when interacting with Aboriginal peoples. Every community is unique. The approach you take will be different depending on the community's location - there are remote communities, rural communities, communities in provincial towns and major cities - each to be recognised as culturally distinct.

Following Aboriginal protocols for the creation of media stories, photos, artworks, blogs, podcasts, annual reports, websites, etc will produce accurate, respectful work. Just as there is no universal 'Indigenous opinion' on issues, there are no 'universal protocols or rules' which apply to all countries or areas, individuals, families, clans, communities or media projects. But there are general ground rules which can be used to locate the proper ways for the area, the people and the project.

Aboriginal Consultation internally and externally

Case Study Example

Artwork in this publication

The original artwork used in the publication was commissioned by the ASCU and the ASAC specifically for this purpose. The ASCU and the ASAC identified the Aboriginal artist who created the artwork (1) as someone to work with based on her reputation as an artist, samples of her other artworks and her track-record as an artist able and willing to work to a brief.

In briefing the artist, the ASCU and the ASAC outlined:

- the purpose of this resource
- its target audience
- the purpose and proposed uses of the artwork in the design and production of the Good Practice Guide
- background information on the work
- the aim of this project to support such services to work more effectively and respectfully with Aboriginal and Torres Strait Islander families and organisations
- the desire for colours that reflected both Aboriginal and Torres Strait Islander peoples
- themes and images that reflected working with young people and their families and communities.

The ASCU and the ASAC negotiated a fee to purchase the artwork on commission, including a license fee to reproduce the artwork for publication purposes.

The ASCU and the ASAC clearly acknowledge the artist as the creator of the artwork, including a reference to her mob (where they are from), and also documents the story the artist identifies with the artwork in the front pages of the publication.

(1) If you don't know who owns an artwork or how to find an artist try contacting the Australia Council for the Arts <http://www.australiacouncil.gov.au/home>

Other considerations: Cultural difference whilst being responsive

Issue	Aboriginal Cultural approach	Common Australian cultural approach
<i>Identity</i>	Strongly influenced by family and social networks e.g. common opening question when meeting someone you don't know is 'who is your mob?'	Understood in individual terms <i>E.g. Common opening question for someone you don't know is 'what do you do?'</i>
<i>Family</i>	Stronger focus on family including extended members.	Stronger focus on immediate family.
<i>Obligations</i>	Expectation to look out for both immediate and extended families, including sharing of material possessions.	Expectation of taking responsibility only for immediate and more dependent family members.
<i>Land</i>	Relationship to land is integral to a person's identity.	Land has an economic and / or emotional value.
<i>Style of socialising</i>	More indirect communication style, but effective information sharing by word of mouth. Socialising often done in public locations.	More direct communication, often using questions rather than a conversational style of gathering information. Socialising usually happens in private homes and venues.

General Protocols are based on the following principles:

Respect: The rights of Indigenous peoples to own and control their cultures should be respected. Diversity of Indigenous cultures should be acknowledged and encouraged. Indigenous worldviews, lifestyles and customary laws should be respected in contemporary life.

Indigenous Control: Indigenous peoples have the right to self-determination in their cultural affairs.

Consultation, Communication and Consent: Indigenous peoples should be consulted on the way in which their history, community, interviews, lives and families are represented and used. Indigenous peoples should be consulted on the use and representation of their Indigenous Cultural and Intellectual Property. Prior to use, Indigenous peoples should be informed of the implications of consent. Consultation should address the communal nature of Indigenous society and cultural expression.

Interpretation, Integrity and Authenticity: Indigenous peoples should be consulted concerning the integrity and authenticity of the ways in which their history, community, interviews, lives and families are represented. Indigenous peoples should be consulted concerning the integrity and authenticity of the representation of their cultural and intellectual property.

Secrecy and Confidentiality: The right of Indigenous peoples to keep secret and sacred their cultural knowledge should be respected. Sacred and secret material refers to information that is restricted under customary law. For instance, some information may only be learned or viewed by men or women, or only after initiation. Indigenous peoples have the right to maintain confidentiality about their personal and cultural affairs.

Other considerations: Cultural difference whilst being responsive

Attribution: Indigenous peoples should be given proper credit and appropriate acknowledgement for their achievements. Indigenous peoples should be given proper credit and appropriate acknowledgement for their contributions and roles in the development of stories. Indigenous peoples should be given proper credit and appropriate acknowledgement for the use of their cultural material.

Continuing Cultures: Indigenous peoples have responsibility to ensure that the practice and transmission of Indigenous cultural expression is continued for the benefit of future generations. This responsibility should be respected by journalists and incorporated in any dealings with material on Indigenous peoples.

Sharing of Benefits: The contribution of Indigenous peoples should be recognised by payment where appropriate. Indigenous peoples have the right to be paid for the use of their Indigenous Cultural and Intellectual Property. The issue of copyright ownership of the story, image, music, contributions and artwork should be discussed up front. Indigenous peoples should have the right to control exploitation of their cultural and intellectual property. If consent is given, Indigenous peoples have the right to share in the benefits from any commercialisation of their Indigenous cultural material.

Recognition and Protection under the Law: Indigenous peoples have the right to protection of their cultural and intellectual property. Australian law and policies should be developed and implemented to respect and protect Indigenous rights to their Cultural and Intellectual Property.

Practice tip

- Respect the customs of the people or communities you are working with.
- Be aware that different communities have their own protocols that should be followed.
- Use clear, uncomplicated language. Do not use jargon.
- Be mindful of potential language barriers.
- Consult with Aboriginal and Torres Strait Islander staff within the agency or other government departments if necessary.
- Do not continually ask a person to repeat themselves if it is difficult to understand them, especially in front of a large group.
- Speak clearly and as loud as necessary but do not shout.
- Sensitively help with reading and writing if it is required.
- Be aware that swear words may be a part of accepted conversation.
- Sitting side by side may be a more appropriate practice, compared to sitting across a table or desk.

Other considerations: Cultural difference whilst being responsive

Use of Images and Voices

As mentioned in section one, Sorry Business in some Aboriginal communities prohibits the publication and broadcast of the name, image and voice of a deceased person. It is important to seek guidance from local Aboriginal organisations on this matter. They can also advise you on what alternative name to use to refer to the deceased person.

Beyond the prohibitions related to the period of Sorry Business it is important to be aware that some Aboriginal and Torres Strait Islander people experience distress when viewing images and hearing the voices of people who are deceased long after a period of Sorry Business. Where permission has been received to publish the image or voice of a deceased person, appropriate cultural warnings should be included with publications to alert readers and viewers that the publication includes such images, footage or voices. Because it is impossible to anticipate where or when a publication may include images or voices of people who are, or have subsequently become, deceased, many organisations include such warnings as a matter of course.

Example of warning

“Aboriginal and Torres Strait Islander peoples should be aware that this (DVD/Video/program/website/report/publication, etc) contains the voices and images of people who may have since passed away.”

SECTION THREE: RESOURCES

Calendar of significant cultural events

Survival Day

26 January

This a celebration of Aboriginal and Torres Strait Islander cultures and peoples. Events are held around Australia showcasing different aspects of culture including dance, literature, music, food, language and history

National Apology Day

13 February

To mark the anniversary of the formal apology by the Parliament of Australia to Aboriginal and Torres Strait Islander people, particularly the Stolen Generation, for past injustices.

Harmony Day

21 March

This is a day of cultural respect for everyone that call Australia home. The purpose is to promise belonging and cultural diversity, and to reaffirm Australia as an inclusive nation.

National Close the Gap Day

20 March

This is the annual event held to raise awareness about the aboriginal and Torres Strait Islander health crisis in Australia and promote equality in life expectancy and health status between Indigenous and non-indigenous people.

National Sorry Day

26 May

On Sorry Day thousands of Australians from all walks of life participate in memorial services commemorative meetings, survival celebrations and community gatherings to honour and commemorate the Stolen Generations.

National Reconciliation week

27 May- 3 June

This week commemorates two significant milestones in the Reconciliation journey the anniversaries of the successful 1967 High Court Mabo Decision. It is a time to celebrate and learn about our shared histories, cultures and achievements, and explore how each of us can contribute to the national Reconciliation effort

Mabo Day

3 June

This marks the anniversary of the High Court's historic decision, led by Eddie Koiki Mabo, which overturned the legal fiction of terra nullius and recognised Aboriginal and Torres Strait Islander people as the original custodians of this Land.

Coming of the Light

1 July

The anniversary of the day the London Missionary Society arrived in the Torres Strait for the first time. Torres Strait Islander people mark this day by holding cultural ceremonies.

National NAIDOC Week

6-13 July

NAIDOC stands for National Aborigines and Islander Day Observance Committee. Held from the first Sunday to the Second Sunday in July, this week celebrates the history, culture and achievements of Aboriginal and Torres Strait Islander people.

National Aboriginal, Torres Strait Islander Children's Day

4 August

This is a day to reflect on the human rights of Aboriginal and Torres Strait Islander children: their right to be educated, cared for, protected, and to have the opportunity to understand and practice their culture.

International Day of the World's Indigenous Peoples

9 August

This day affirms the importance of protecting and promoting the rights of Indigenous peoples all around the world. It also celebrates their unique contributions and diverse, rich cultures

Resources

Final important things to remember

- If you're unsure, ask and consult Aboriginal staff members in your office for advice.
- Understand that communities need time to warm to new people.
- Be neutral - don't build alliances with particular groups within a community and don't show favouritism to particular people or families.
- Communities are fluid and have changing needs.
- Do your research before approaching communities.
- Inform yourself about local cultural protocols.
- Keep boundaries and remain professional.
- Respect silence when working with Aboriginal young people, families and communities.
- Accompany new staff to communities.
- Take time to really listen to stories.
- Invite Aboriginal agencies and organisations to staff meetings and go to their meetings.
- Where necessary provide appropriate escorting and supervision of Aboriginal clients and linking of Aboriginal staff with Aboriginal clients.
- Identify good places for meetings or gatherings such as the footy oval or medical service or a place where people feel comfortable
- Above all, treat people the way you would expect to be treated.

Establishing contacts in your regions

If you need to link up to local Aboriginal services or programs and are unsure of where to start, contact the Aboriginal Practice Officer or local Aboriginal staff members at your local Youth Justice Office/Region. Alternatively, there are links below to key non-government and government organisations.

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Useful Links

Non-Government

- ANTaR: Australians for Native Title and Reconciliation: www.antar.org.au
- Gadigal Information Service (Koori Radio): www.kooriradio.com
- Information Resources
- National Council of Social Services of NSW: www.ncoss.org.au
- NSW Aboriginal Child Family and Community Care State Secretariat: www.absec.org.au
- NSW Aboriginal Education Consultative Committee www.aecg.nsw.edu.au
- NSW Aboriginal Health and Medical Research Council: www.ahmrc.org.au
- NSW Aboriginal Land Council www.alc.org.au
- Reconciliation Australia: www.reconciliation.org.au
- Secretariat of National and Aboriginal Islander Care (SNAICC): www.snaicc.org.au
- Sisters Inside: www.sistersinside.com.au
- Tranby College: www.tranby.edu.au

Government / Education

- Aboriginal Affairs NSW www.aboriginalaffairs.nsw.gov.au
- Australian Bureau of Statistics: www.abs.gov.au
- Australian Human Rights Commission www.hreoc.gov.au/
- Australian Institute of Aboriginal and Torres Strait Islander Studies: www.aiatsis.gov.au
- Australian National University: Centre for Aboriginal Economic Policy and Research: www.anu.edu.au/caepr
- Australian National University: National Centre for Indigenous Studies - NCIS – <https://ncis.anu.edu.au/>
- Community Development www.communitydevelopment.org.au
- Communities and Justice www.dcj.nsw.gov.au
- Department of Education www.det.nsw.edu.au
- National Indigenous Australians Agency (NIAA) (Commonwealth Department of Prime Minister and Cabinet) <https://www.niaa.gov.au/indigenous-affairs>
- NAIDOC www.naidoc.org.au
- NSW Department of Health www.health.nsw.gov.au/aboriginal/pages/default.aspx
- NSW Government www.nsw.gov.au
- Indigenous Justice Clearinghouse: www.indigenousjustice.gov.au
- Indigenous Portal www.indigenous.gov.au
- Legal Aid NSW www.legalaid.nsw.gov.au
- University of NSW: Indigenous Law Centre: www.ilc.unsw.edu.au
- University of Sydney: Koori Centre: www.koori.usyd.edu.au
- University of Technology Sydney: Jumbunna Indigenous House of Learning: www.jumbunna.uts.edu.au
- Victims Services NSW <http://www.lawlink.nsw.gov.au/vs>
- Youth Action www.youthaction.org.au
- Youth Law Australia www.yla.org.au