

Aboriginal Peak Organisations Northern Territory

An alliance of the CLC, NLC, CAALAS, NAAJA and AMSANT

NT Royal Commission Response Background Paper 3.4 (b)

Family Group Conferencing mechanism

- Children, young people and their families are not being supported to meaningfully participate in decision-making in the areas of youth justice and care and protection
- Lack of culturally safe practices contribute to multiple barriers encountered by children, young people and families when navigating through complex systems
- Children, young people and their families are not being given a voice or an opportunity to find solutions and create plans to address vulnerabilities and underlying causes of contact with the youth justice or care and protection systems
- Decisions that are made about children in the areas of both youth justice and care and protection are compromised due to this lack of input and participation from youth and their families
- In care and protection matters, this leads to less Aboriginal children being placed with family or kin; in youth justice matters this leads to outcomes that do not always involve family in the solution or address the underlying causes of offending.

What is Family Group Conferencing?

Family Group Conferencing originated in New Zealand. It is a family decision-making model that promotes the wellbeing and safety of children involved with the care and protection and youth justice systems. The principles of Family Group Conferencing are based on collective responsibility and shared interest, with the process emphasising the importance of family and community in finding the best solutions that will support the safety and wellbeing of the child.

Where a child has been referred to a Family Group Conference by police or through the youth justice setting, the purpose will be to recommend whether the young person should be prosecuted or dealt with in another way; to make a determination regarding custody; where proceedings have commenced, to make a decision as to whether they should continue; to determine if the charge is admitted; and where a charge is admitted or proved, to recommend how the young person should be dealt with.¹

Family Group Conferencing for the NT

¹ His Honour Judge Andrew Becroft, Principal Youth Court Judge for NZ, 'It's all Relative: the Absolute Importance of the Family in Youth Justice (a NZ Perspective), 2015, p15

A Family Group Conferencing (FGC) model should be established in the NT, and be enshrined in legislation to involve families in decision-making processes concerning their children. It must be available in both the care and protection and youth justice settings. The primary function of FGC should be to formulate a plan for the child or young person that will best promote their wellbeing, and empower children, young persons and their families to actively participate in the decision-making processes. There must be flexibility to enable a culturally appropriate approach where needed. It should be based on the following principles:

- Wherever possible a young person or young person's family should participate in the making of decisions affecting the young person, and that regard is had to the views of that family
- Decision making must always consider the impact on the young person's welfare, and the stability of their family
- Relationships between the young person and their family should be maintained and strengthened.

When would a Family Group Conference be held?

The FGC process should be available at various stages of a young person's engagement with the care and protection or youth justice systems. A FGC should be mandatory in the following situations:

- If a young person is alleged to have committed offences and the police have not arrested the young person but intend to lay charges, a FGC must be held before the police decide what further action to take. If the offence is admitted, this could include completion of an agreed plan, which if complied with would end the matter;
- Where a young person is charged and the offence is not denied, a youth justice FGC will be triggered without the need for a formal admission of guilt;
- Where a charge is admitted or found proven in Court and there has not been any previous opportunity to consider how to appropriately deal with the young person, a youth justice FGC must be held. The FGC will decide what actions should be taken as a result of the charge being found proven by the Court;
- Where a young person denies a charge and is remanded in a secure environment, a FGC must be convened to determine whether detention should continue and where the young person should be placed pending the matter being resolved;
- In care and protection matters, a FGC must be ordered before an extended care agreement is made, extended, or terminated between the parent or guardian of the young person and the CEO or any organisation before the proposed action is approved.

Family Group Conferences should also be available in some other circumstances at the discretion of the Court, police, and the CEO of Territory Families. Importantly, a FGC should be available if

appropriate in circumstances where a notification of protective concerns has been made but the threshold for statutory intervention may not have been met.

Benefits of Family Group Conferencing

The Commission heard evidence that demonstrated the positive benefits of FGC. In New Zealand, FGC is “the primary decision-making process in the Youth Court; it is not an adjunct to the court process and it is mandatory, irrespective of consent, in the Youth Court when a charge is not denied or proved after denial.”² Most cases in the Youth Court are resolved through a plan agreed through FGC, without the need for a formal court order. In 2013 only 26% of Youth Court appearances resulted in a formal order.³ FGC is seen as being more effective at addressing the underlying causes of offending and preventing recidivism. Given “the major risk factors for youth offending often start within the home and that addressing risk factors in the family has the potential to reduce the influence of other risk factors, it follows then that the key location for intervention before and after offending is within the family.”⁴

The Commission heard about a Family Group Conferencing pilot in Alice Springs that operated as part of the care and protection system from 2011-2013. The program was positively evaluated, and was regarded by local services as ensuring kinship care options were found.⁵ Whilst FGC was operating, it was also seen as one crucial component to a period of targeted focus by the Department of children in out of home care, which saw 52 children (who were predominantly Aboriginal) from Alice Springs reunited with their families, during a four-month period at the end of 2011.⁶

²Ibid, p13

³ Ibid, p13

⁴ Ibid, p7

⁵ Statement of Donna Ah Chee to the Royal Commission into the Protection and Detention of Children in the Northern Territory, 22 May 2017 at para 23.

⁶ Evidence of C. Gardiner Barnes to the Royal Commission into the Protection and Detention of Children in the Northern Territory, , 21 June 2017 at 4718.29-4719.30.