

Reportable conduct: observations from our oversight of Aboriginal agencies

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***Keeping it real: Empowering Aboriginal children, families and
communities***



Introduction

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- Systemic investigations and strategic projects
- Child and Family
- Aboriginal Unit
- Community Education and Training Unit

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Overview

- Video launch: Responding to reportable conduct for Aboriginal OOHC agencies
 - What the data tells us: themes relating to reportable conduct and complaints in the Aboriginal OOHC sector Vs other sectors
 - Key practice issues: our observations about areas of improvement and ongoing challenges for Aboriginal OOHC agencies in responding to reportable conduct and complaints
 - Strengthening Aboriginal OOHC agencies: where to from here?
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VIDEO LAUNCH



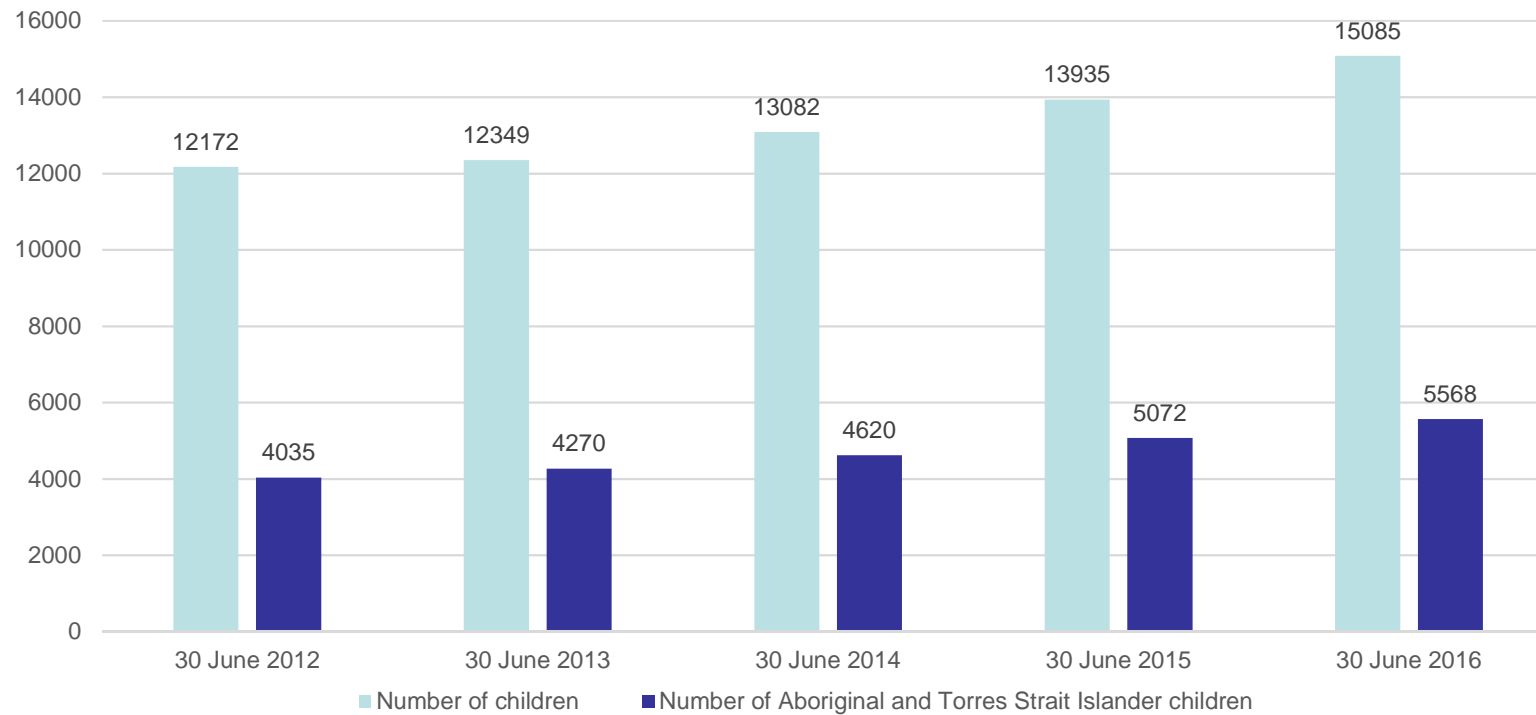


WHAT THE DATA TELLS US



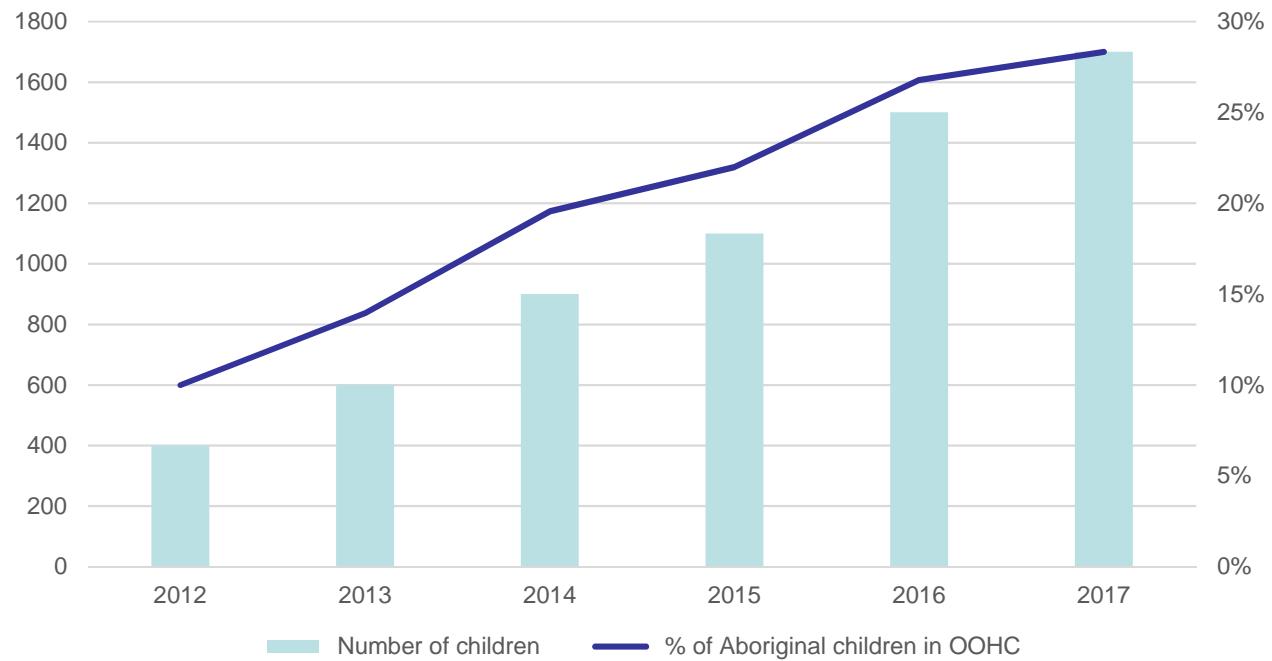


Children and young people in statutory OOHC





Children placed with Aboriginal OOHCA agencies (including partnerships)*




* Data is taken from different sources and is approximate only




All notifications by primary allegation type

Primary allegation	Closed 2015-2016		Closed 2016-2017	
	Notifications	Percentage of total	Notifications	Percentage of total
Physical assault	413	32%	504	31%
Sexual misconduct	309	24%	302	18%
Sexual offence	90	7%	183	11%
Neglect	243	19%	363	22%
Ill-treatment	127	10%	148	9%
Psychological harm	16	1%	38	2%
Not in jurisdiction	77	6%	99	6%
Total	1275		1637	




Comparison of all received notifications by OOHC sector – over 3 years

Received	2014-2015	2015-2016	2016-2017
Total notifications	1305	1386	1757
OOHC sector	614 (47% of total)	708 (51% of total)	873 (49% of total)
Aboriginal Agency	73 (12% of OOHC)	68 (10% of OOHC)	87 (10% of OOHC)





Data observations

- There has not been a proportional increase in notifications from the aboriginal sector matching the four fold increase in children in the care of this sector.
 - It is difficult to draw conclusions but some increase is expected.
 - The notification rate per 100 children = 4.8
 - all children in mainstream agencies including FACS = 4.8
 - children in aboriginal agencies = 5.1
 - This quarter, reporting rate for aboriginal agencies is 20% (3 agencies have reported 5 matters each)
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Closed notifications by primary allegation type* - comparison across the OOHC sector

Matters closed 2016-2017	Aboriginal Agencies		OOHC sector	
Physical assault	28	(31%)	356	(41%)
Sexual misconduct	6	(7%)	69	(8%)
Sexual offence	8	(9%)	62	(7%)
Neglect	21	(24%)	257	(29%)
Ill-treatment	18	(20%)	91	(10%)
Psychological harm	8	(9%)	25	(3%)
Total	89		875	

* Excludes matters not in jurisdiction.

Open notifications involving criminal offences

Figures as at 14 November 2017:

- 1400 open notifications.
- 137 matters (9.8%) were the subject of a criminal investigation that has now concluded. A further 210 matters (15%) are the subject of an active criminal investigation.
- 141 matters (10.1%) involve employees who have been charged with one or more criminal offences relating to the notification.

Criminal charge	Percentage
Sexual	80.1% (113 individuals)
Physical	19.9% (28 individuals)

Criminal offences (OOHC)

- 43 of the 141 (28%) individuals who have been charged with an offence arising a reportable conduct matter are from the OOHC sector.
 - In 15 of the 43 matters (35%), the AV was Aboriginal
- 30 of the 43 (69.8%) individuals charged from the OOHC sector, were charged with sexual offences.
 - In 9 of the 30 matters, the AV was Aboriginal

Breakdown of charges – Govt/Non-Govt

OOHC	All Criminal Charges	Sexual Offence charges
Government	37.2% (16)	36.7% (11)
Non-Government	62.8% (27)	63.3% (19)

NB: as at 30 June 2016, 46% of children in statutory OOHC were placed with FACS, 54% were placed with NGOs.

Sustained Findings – all allegations

Sector	Total number of notifications	Total number sustained	Percentage sustained of total
Government OOHC	440	140	32%
Non- Government OOHC	836	216	26%
Education	431	93	22%
Non-Government Catholics	130	26	20%
Non-Government Independent	142	28	20%
All other sectors	496	130	26%
Total	2475	633	26%

Data based on notifications closed 2015 – 2017

Sustained Findings – sexual misconduct / sexual offence allegations

Sector	Total number of notifications	Total number sustained	Percentage sustained of total
Government OOHC	79	17	22%
Non-Government OOHC	173	26	15%
Education	290	74	26%
Non-Government Catholics	97	23	24%
Non-Government Independent	84	21	25%
All other sectors	129	35	27%
Total	852	196	23%

Data based on notifications closed 2015 – 2017 (of which actively oversighted)

Complaints received about Aboriginal agencies


Primary complaint issue	2015-2016		2016-2017	
Allowances/fees	2	8%	2	12%
Case management	2	8%	3	18%
Casework	3	12%	4	24%
Client on Client abuse/assault	1	4%	0	0
Customer Service	1	4%	0	0
Information	3	12%	0	0
Investigation	2	8%	1	6%
Meeting Individual Needs	7	27%	2	12%
Object to Decision	0	0	2	12%
Professional Conduct/ Misconduct	1	4%	2	12%
Service Management	3	12%	1	6%
Miscellaneous/other	1	4%	2	12%
TOTAL	26		17	

The 26 complaints involve 12 agencies.

The 17 complaints involve 7 agencies.



How we use the data

- Last year FACS agreed to provide us with quarterly placement data—organised by provider and FACS district – about the number of children in OOHC placements. This information enables us to better analyse the number of reportable conduct notifications and complaints that we receive from agencies.
 - We provide FACS and the OCG with certain information from our analysis of this data and our own reportable conduct and complaints data to inform their respective contracting and accreditation functions.
 - We have also provided the AbSec Board with regular data relating to notification rates for their member agencies to reinforce reporting obligations and the need to promptly address the risks of agencies failing to report allegations.
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KEY PRACTICE ISSUES






Reportable conduct: areas of improvement

- Significant ↑ in notifications since 2014 maintained.
 - Still significant variation across the sector, but we see evidence of improvements by some agencies in the following areas:
 - ✓ Contacting the Ombudsman at a early stage for advice
 - ✓ Reporting criminal allegations to Police
 - ✓ Better systems eg. use of investigation templates
 - ✓ Establishing dedicated compliance officers to handle reportable conduct allegations and complaints
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Reportable conduct: opportunities to strengthen practice

- Working proactively with FACS & Police
 - Knowing the difference between the reportable conduct investigation process, the ROSH response by FACS and the criminal response by Police – and how they can intersect
 - requesting & providing appropriate information in a timely way
 - Record keeping and documentation
 - ensuring case notes are signed & dated
 - including evidence of risk assessment and risk management
 - Procedural fairness
 - ensuring all allegations are put to carers
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Reportable conduct: opportunities to strengthen practice

- Supporting carers
 - providing appropriate information about the investigation and appeal process regarding carer de-authorisation where appropriate
- Providing reasons for decisions and findings
 - including analysis of evidence/rationale for findings





Good practice complaint handling

- Complaints are an opportunity to identify aspects of service provision that need to be improved.
 - Key principles of good complaint handling:
 - Clarify the problem and what the complainant wants
 - Manage expectations
 - Communicate in a timely, responsive way with the complainant (and where relevant, with the Ombudsman)
 - Provide clear explanations for your decisions and actions - what you have done, plan to do or are unable to do
 - Correct mistakes promptly
 - Have a clear internal escalation/review process and ensure complainants know they can access it
 - Respect the complainant's privacy
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STRENGTHENING ABORIGINAL OOHC AGENCIES






Sector development implementation plan

- Observer on Strengthening Aboriginal OOHC providers Governance Group
 - Provided feedback to inform the development of the statewide sector development implementation plan
 - Ombudsman commitments under the plan:
 - Provide ongoing information, support & feedback to agencies
 - Provide reportable conduct resources & training
 - Assist with identifying minimum data sets to manage & respond to critical incidents
 - Contribute to sector understanding of respective roles & responsibilities (OCG, Ombo, FACS, AbSec)
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Targeted reportable conduct training

- Strong focus on promoting awareness of the reportable conduct scheme, our role and agencies' responsibilities to the Aboriginal OOHC sector.
 - In 2016-17 we delivered reportable conduct training workshops to more than 150 frontline caseworkers and managers at 11 Aboriginal OOHC agencies.
 - Aboriginal agencies have participated in our reportable conduct training courses at a greater rate than other OOHC agencies – AbSec has played a pivotal role in this.
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Other resources

- We are working with AbSec and Police to develop an early and initial response guide and training package to support frontline workers in agencies providing services to children (and carers) to handle disclosures and allegations, and meet their responsibilities under the reportable conduct scheme.
 - Factsheets available on our website include:
 - ▶ Notifying and identifying reportable conduct
 - ▶ Risk management following an allegation against an employee
 - ▶ Planning and conducting an investigation
 - ▶ Recognising and managing conflicts of interest
 - ▶ Keeping records
 - ▶ Making a finding of reportable conduct
 - ▶ Providing information about reportable conduct investigations to children, parents and carers
 - ▶ Sharing information about allegations of reportable conduct with non-involved parties
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Where to next?

- We will continue to provide support to the Aboriginal OOHC sector to build capacity to meet its reportable conduct obligations – while recognising that there will always be challenges and difficulties for the sector including:
 - For some agencies, limited resources to handle very complex and serious allegations
 - The reality of conflicts of interest in connection with handling allegations – particularly in small communities; in circumstances where the head of an agency, or a family member or friend of the head of agency, may be the subject of the allegation; or where allegations relate to carers who hold board roles and caseworkers who are carers.
 - Difficulties arising from needing to investigate allegations whilst also maintaining positive and trusting casework relationships with carers.
 - While the Ombudsman has powers to investigate how an agency handled a reportable conduct matter, we rarely use them with respect to OOHC agencies, and instead, focus on working with the agency to improve practice unless the conduct involved is very serious.
 - We have indicated our support for the establishment of an entity that could conduct certain complex reportable conduct investigations on behalf of smaller agencies; provide advice on risk management; develop policies; and deliver training.
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