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Building a Culture of Voice and Agency for Aboriginal Children in Out-of-Home Care: A Review of Policy in New South Wales and Victoria

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ABSTRACT

Aboriginal children and young people in out-of-home care (OOHC), like all children and young people, have a fundamental right to be involved in decisions that affect them, to be afforded the opportunity for a voice, and to have that voice taken seriously. This paper gives focus to the extent to which current systems support the participation of Aboriginal children young people as stakeholders in their own care. It presents a case study of the OOHC policy environment in New South Wales and Victoria to understand the enablers and barriers that exist in supporting Aboriginal child and youth voices. This paper calls for system-level commitment to embedding participatory processes at every level, in contrast to the current reliance on individual practitioners to champion participatory approaches at a child-by-child level. This is no more crucial than in the care of Aboriginal children who are spending their most formative developmental years in a system that is struggling to identify and reform deeply embedded cultural hegemony. Aboriginal voices and perspectives, particularly those of children and young people with lived experience of the OOHC system, are critical to this work.

1 | Introduction and Background

In traditional Western cultures there has been a belief that children ought to be compliant rather than engaged in conversation and decision making (Ansell 2016; Lines et al. 2022). While this philosophy makes things easier from the perspectives of adults, we know that a lack of engagement with children as a crucial stakeholder group has led to deficits in service design and provision (Grace et al. 2024). Contemporary research demonstrates the value of elevating the voices of children and young people to affect positive change across the landscape of service settings, from child protection to education and health services (Dillon et al. 2016; Grace et al. 2024; Johnson 2017). Within the out-of-home care (OOHC) sector in Australia, 'voice' has been an

increasingly used term and there is a growing focus on including children and young people in decisions that affect them. This aligns with Article 12 of the United Nations (UN) Convention on the Rights of the Child (1989), and also in response to concerns about the need to provide service environments in which children are safe from abuse, or are at least taken seriously when they report it (Wood 2008).

This paper forms part of a larger program of work currently being undertaken, focused on how we can amplify the voices of Aboriginal children and young people in OOHC and work collaboratively in a co-design setting to bring about change. As such, the focus of the paper is on Aboriginal child and youth voice, and how policies and legislation currently support this.

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It should be noted that policy on child and youth voice speaks to the broader stakeholder group of all children and young people, and not specifically to Aboriginal voice. As a result, we have included in our review policy that is intended to include Aboriginal children, and not only policy specifically referencing Aboriginal children.

Despite awareness of the importance of child and youth voice in policy and practice, children and young people report that their voices are still not considered, and the mechanisms designed to support them within services are not set up in a way that enables the elevation of child and youth voice into practice decision making (Bessell 2011; Burns et al. 2024; Moore et al. 2007). The voices of Aboriginal children and young people, in particular, are vastly underrepresented in the research literature despite overrepresentation in the system (Burns et al. 2024). There are systemic issues when it comes to the voices of children and young people in general in the OOH sector, including: power imbalance; inadequate participation policies and frameworks; practitioner dependence and overload; as well as a lack of resourcing (Stevens and Gahan 2024). In addition, Aboriginal children and young people face systemic cultural barriers. There is a lack of legislation and policy that places importance on both hearing and acting upon the voiced concerns and experiences of children in a way that translates into meaningful supports, alongside children and young people feeling respected and heard.

An improved commitment to the participation of stakeholders is evident within the OOH system. This is most often demonstrated in supporting the participation of the family, or wider community and kin networks in the case of Aboriginal and Torres Strait Islander children and young people. It is less often shown through the direct engagement of children and young people in decision making. This is seen through the implementation of policy and practice initiatives, such as Family Led Decision Making (FLDM), where the focus is on family participation (DFFH 2021). Of course, the participation of diverse stakeholder groups is crucial to embedding a family-led approach which potentially supports positive outcomes for the child as this relates to wellbeing, and connection to family and culture. In Victoria, there are comprehensive Aboriginal family-led decision making guidelines, which include reference that it is essential for children and young people to be involved in the process, and the importance of hearing a child's voice (DFFH 2019). In South Australia, the Aboriginal Family Support Services Family Group Conferencing (FGC) model ensures that children take part in FGCs, are provided the opportunity to share their voice, and also embeds a Child Advocate in the process where children are unable to voice their opinions (e.g., due to age or disability status) (Krakouer et al. 2024).

Nonetheless, it overlooks the need for meaningful and ongoing opportunities for children and young people to be seen as valued stakeholders with a contribution to make in the identification of their needs, aspirations, and priorities. Likewise, decisions at the systems and operational levels are made exclusively by service professionals and policy makers who are tasked with making these decisions on behalf of children, ideally employing a child-centred approach (Plush 2021). This is positive in its

acknowledgement of the importance of addressing individual child needs, but still positions adults as the decision makers for and on behalf of children.

It is important to note that Aboriginal kinship networks see the child as embedded in a broad kinship structure, rather than the western notion of nuclear families, and as such it is understood that kinship participation is important for the wellbeing of Aboriginal children and young people (Sorby et al. 2024). This is a system where individuals, families and places each have their own unique voice, but come together as a collective (Graham 2014). While this paper does not explore the differences between Aboriginal and Torres Strait Islander and non-Indigenous cultural contexts in depth, it acknowledges the importance of equitable participation for Aboriginal children and young people.

Child-centred practice should not be conflated with the concept of child participation. The concept of the child-centred practice approach is borne from the idea that adults should be making decisions with the child at the centre of this process of thought (Woodman et al. 2023). Whilst this approach can be positive, it does not address or acknowledge the need for the voice and participation of children. In contrast, child participation is about ensuring children are meaningfully engaged and empowered and that their voices are heard and acted upon with decision-making power, not to simply be involved to inform an adult's decision (Lundy 2007; Shier 2001). The mark is still being missed here and the sector continues to prioritise adult voices to the exclusion of child and youth voices (Plush 2021). This paper will give focus to the current support for child and youth voice and participation within policy and legislation, which is critical to setting the tone for practice.

When children and young people in OOH are asked for their views, this is almost always in relation to relatively uncontroversial aspects of their own care (such as decisions around after school activities, etc.) (Bessell 2011; Burns et al. 2024; Higgins et al. 2007). They are almost never consulted on important aspects of their own care like who their caseworker should be, where they should live, and what contact with their biological families or cultural communities should look like (CREATE Foundation 2019, 2020; CCYP 2019). Children and young people are not perceived as stakeholders at the system level, and are rarely consulted around how the system should operate or be designed, often due to an overwhelming concern for risk (Moreno et al. 2025). They are rarely invited to be part of the design of new initiatives that would support positive change, or to engage in policy debate (CCYP 2023). Some attempts to involve youth as stakeholders in Australia have occurred through mechanisms similar to youth advisory groups; however their accessibility is limited and little is known about the extent to which they have impact (CCYP 2023). If we are going to take the right to participation seriously, we need to acknowledge that children and young people are directly impacted by service structures and policy mandates; they have a right to make comment if they want to, and to have those comments taken seriously and given due weight (as required in the UN Convention on the Rights of the Child, Article 12). This commitment to meaningful engagement is not widely prioritised in the OOH system.

Research has discussed the importance of clear policies that complement the requirement of child and youth voice (Michail et al. 2023; Vosz 2021). These studies argue that voice alone is not enough and there is a need within policy for the requirement of mechanisms to ensure some level of accountability around taking child and youth voice seriously and embedding it within decision-making (Michail et al. 2023; Vosz 2021).

Michail et al. (2023) argued that, for child and youth participation to become a meaningful part of the child protection and out-of-home care system, there needs to be investment at four levels: the personal/procedural level (the competence of adults to support voice); the personal/conceptual level (the role of workers in driving advocacy for children); the public/procedural level (investment of resources to facilitate opportunity for voice); and the public/conceptual level (positioning children as agents of change and stakeholders). Without a commitment to investing in positive change across all four levels, meaningful participation will be limited to rhetoric and superficial implementation.

In subsequent work Michail et al. (2024) argue that the provision of opportunity for children to exercise voice and agency can be uncomfortable and confronting for practitioners, who may already feel overwhelmed by the complexity of high-stakes decision making, who are fearful of causing any harm to a child, and who have conceptualised children as victims in which the right to protection trumps any other right. They argue for embracing complexity theory, and for the importance of system change such that the complexity of each child's situation is well understood and responded to, pushing against a system that prioritises standardisation and reductionist procedures in the interest of efficiencies.

Child participatory approaches are so important because they are known to support positive outcomes for children in OOHC including in the areas of self-esteem, placement stability and independence (Davis 2019; Higgins et al. 2007). These outcomes are critical to healthy child development, to the enablement of autonomy alongside social, emotional and spiritual wellbeing as children and young people grow and develop. Children and young people in OOHC in Australia have called for the opportunity for voice (Moore et al. 2007). Child and youth voice is not only associated with positive outcomes for children and young people; it also supports practitioner learning, and potentially opens the way for meaningful system change in response to those who are most directly impacted by the service context (Garcia-Quiroga and Agoglia 2020). Sector change to enable and amplify voice is not only crucial to ensuring individual children and young people can be supported, but it is also about building better professionals and services.

Voice is important for all children and young people; however this paper gives focus to Aboriginal children as a particularly powerless and voiceless group. Aboriginal children represent almost half of the number of children in care (AIHW 2025), yet are positioned as powerless both because they are children, and also because they sit outside the cultural mainstream. Child removal has historically been a mechanism through which the government has sought to force assimilation and while this is

no longer the overt objective of the OOHC system, the system remains incompatible with cultural ways of being for Aboriginal people (Grace and Menzies 2022). Calling out cultural hegemony is critical to positive outcomes for Aboriginal children and young people.

This paper seeks to contribute to the discussion at the public/procedural level described by Michail et al. (2023). The large majority of child participatory research in the OOHC sector gives strong focus to the personal/procedural level (e.g., CCYP. 2019; Krakouer 2023). By lifting our gaze to focus on the policy and procedural context we seek to endorse the notion that meaningful change will only come when all levels of the system are working in tandem to prioritise child and youth participation. In Australia, OOHC policy is set within each state jurisdiction and there is no national policy that governs OOHC or child protection across all of Australia. While there are similarities across Australian states and territories, there are also significant differences between each jurisdiction. This paper looks at New South Wales (NSW) and Victorian government policies and procedures, with an eye to identifying those policies that may inform how child and youth voice is enacted, supported, engaged and encouraged in OOHC service delivery.

1.1 | Positionality

The first author is an Indigenous Kamilaroi man who brings 7 years' experience working in the OOHC sector. The authorship team includes one other Indigenous academic and one non-Indigenous ally academic. Collectively we bring a range of perspectives and experiences and share a strong commitment to transforming the OOHC system to better support children and young people.

2 | Method

A case study approach was chosen to allow for a deep dive into the extent to which a commitment to child and youth voice is reflected in policy contexts in the OOHC system. Case study methodology is an effective approach to answer questions where contextual conditions are relevant to particular situations (Baxter and Jack 2008; Yin 2009). This paper forms part of a larger program of work currently being undertaken, and utilized a case study approach in two Australian jurisdictions in order to understand current policy and its implications in reference to child youth voice in the OOHC sector. This work was undertaken for the purpose of evidence review to inform ongoing research within the larger program of work.

In alignment with the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS 2020) Code of Ethics for Aboriginal and Torres Strait Islander Research, this paper was focused on the need to increase Aboriginal self-determination through policy-led change designed to support meaningful engagement with Aboriginal children, hearing their voices and valuing their lived experience to create positive change.

The states of New South Wales and Victoria were chosen by the research team as the focus areas for the case studies. New

South Wales was selected because it is the most populous state of Australia and the state in which the program of research that includes this paper is taking place. Victoria was selected as a comparison state for the purposes of this paper because the state of Victoria is often considered a progressive policy state for the OOHc and child protection sectors.

2.1 | Identifying the Research Question

Searching the publicly available legislation and policies within each state was guided by the core research question: What mechanisms currently exist in legislation and policy to support the participation and voice of Aboriginal children and young people?

2.2 | Identifying Relevant Legislation and Policies

The research team directly sourced current policy relevant to the research question. The research team identified the key legislation and policies within each state that guide the practices of practitioners in relation to children and young people within the OOHc system. Legislation was available on each respective State Government website including on the Australasian Legal Information Institute (AustLII) website. Policies were identified from the public policy pages on the respective state governments' websites, the NSW Department of Communities and Justice (DCJ), and the Victorian Department of Families, Fairness and Housing (DFFH) webpages.

In selecting the policies for inclusion in this study, we looked at policies which were publicly available from both state governments that specifically mentioned child participation or voice. Policies which did not specifically refer to child and youth voice or participation were excluded. It should also be noted that the NSW Department of Communities and Justice has only their overarching case management policies available to the public. It was assumed that NSW DCJ would also have other operational policies which they have not released for public viewing; however these were not accessible and so could not be included in this review. Search terms used to explore these documents included: participation, voice, self-determination, feedback.

Policies that specifically related to the provision of service for Aboriginal and Torres Strait Islander children and young people that included voice were also identified as a part of the above selection process. This is of particular importance as Aboriginal children and young people often feel less engaged (McDowall 2013). The same search terms and methodology applied and only policies relating to participation and youth voice were included.

Once key legislation and policies were identified, we utilised a descriptive review method to identify relevant sections that directly discussed the participation of children and young people. The literature identified consisted of legislation, policies, procedures and practice tools. A comparative analysis was also conducted as a part of this research to examine differences in the legislation and policies of both states.

3 | Findings and Discussion

3.1 | Case Study 1: Public/Procedural Support for Child Participation in New South Wales

3.1.1 | New South Wales Legislation

In New South Wales, the child protection system operates in compliance with the legislation of the Children and Young Persons (Care and Protection) Act 1998. The Act aims to provide children and young people in New South Wales with care and protection as is necessary for their safety, welfare and wellbeing. The Act has been updated over the years to better reflect accepted practices, including some of the most recent updates to the Act to add in requirements for 'active efforts' to prevent child removal and restore children to their parents or place them with family. Under the 'active efforts' principles, the legislation states that practice is to be conducted in partnership with the child or young person, and speaks to the importance for children and young people having a voice. This was based on the recommendations from the 'Family is Culture' review report (Davis 2019), a report that specifically addressed the inequities experienced by Indigenous Australian children and families in their interactions with the OOHc and child protection systems as the result of grassroots advocacy within the community, specifically Grandmothers Against Removals (GMAR).

This legislation is, appropriately, focused on legalities rather than practice issues. There is clear acknowledgement within this legislation that participation and the voices of children and young people are important to good decision making and outcomes. The principle of participation for children and young people generally is outlined in sections 9 and 10. The Act recognises that children and young people have a right to express their views and have those views taken into consideration according to their age and maturity. Section 9 states:

Wherever a child or young person is able to form his or her own views on a matter concerning his or her safety, welfare and well-being, he or she must be given an opportunity to express those views freely and those views are to be given due weight in accordance with the developmental capacity of the child or young person and the circumstances.

Section 10 outlines the principle of participation and speaks of ensuring children and young people are provided with the appropriate information, resources and support in order to participate in decisions that will affect them. It specifies that some of those decisions include, but are not limited to, the development of care plans, placement planning and contact with family and community.

Specifically for Aboriginal children and young people, the Act outlines the principle of self-determination (Section 11) and Aboriginal and Torres Strait Islander participation in decision making (Section 12), although the focus of both of these sections is on the participation of the child's family and community in decision making and self-determination. Section 12A, however,

TABLE 1 | New South Wales policy documents.

Policy document name	Brief description of document	References to child and youth voice	Omissions
PSP Permanency Case Management Policy (PCMP)	Outlines and explains the practices and procedures to achieve safety, permanency and wellbeing for children and young people who have been removed from their families in NSW, with a focus on supporting permanency	States that it aims to partner with children and young people	There is no function stated within the policy that outlines elevating child and youth voices into action
PCMP Rules and Practice Guidance	Details the practice implications for the PCMP and outlines the minimum standards of the NSW DCJ, as well as for external providers	Participation directly mentioned when discussing family action planning, case planning, and family time planning	Participation and voice within this policy appear to be limited in application to planning activities
Aboriginal Case Management Policy	Practitioner framework for working with Aboriginal children, young people and families. It is similar in nature to the PCMP with the key difference being that the ACMP aims to provide for Aboriginal-led and culturally safe case management practice	This policy states that the views of Aboriginal children and young people are to be taken seriously	There is no function stated within the policy that outlines elevating voices into action or any mechanism to ensure children's voices are taken seriously as mentioned
ACMP Rules and Practice Guidance	Details the practice implications of the ACMP and is a resource to support the operationalisation of the ACMP	Service providers are to ensure the views of Aboriginal children and young people are sought and taken seriously Outlines that Aboriginal children should be encouraged to participate in case planning and their views given due weight	Participation and voice within this policy appears to be limited to case planning. There is no mechanism to ensure this practice

sets out the 'Aboriginal and Torres Strait Islander Children and Young Persons Principle', also known outside of the Act as the Aboriginal and Torres Strait Islander Child Placement Principle (SNAICC 2019). This principle recognises the right that children and young people have to participate in decisions about their care and protection. In other sections of the Act, for example section 78 'Care Plans', it outlines that care plans for Aboriginal and Torres Strait Islander children and young people must be developed in consultation with the child or young person 'to the greatest extent practicable'.

Using phrases such as 'to the greatest extent practicable' allows flexibility within practice around whether the legislation is fully implemented. While legislation needs to provide flexibility in cases where, for example, young people may be unable to participate in decisions due to their developmental capacity, this wording creates a feel of 'optionality' that can often be overlooked and left to the individual practitioner's discretion. Likewise, not defining what child 'consultation' means could present a barrier in practice as some practitioners may interpret this as meaning that young people's voices should be authentically enabled, while others may see consultation as simply a young person

being given the option to agree with a plan that has been developed in their absence prior to its finalisation.

3.1.2 | New South Wales Policies and Procedures

Table 1 provides a summary of policy documents from the NSW Department of Communities and Justice (DCJ).

The two main policies reviewed for the purposes of this paper were the PSP Permanency Case Management Policy (PCMP) and the Aboriginal Case Management Policy (ACMP). These DCJ policies form the basis and standard of practice in the case management of children and young people in OOHC in New South Wales. It is acknowledged that non-government organisations also provide OOHC services, and have their own policies, procedures and practice guides over and above the minimum standards of the DCJ.

The PCMP was designed to outline and explain the practices and procedures to achieve safety, permanency and wellbeing for children and young people who have been removed from their

families in NSW. It focuses on supporting permanency through preventing the permanent removal of children from their families where possible, reunification, long-term care, guardianship or open adoption (DCJ 2020). The PCMP says that it aims to embed partnerships with children and young people within practice culture (DCJ 2020). It further outlines that partnering with children and young people, seeking, hearing and listening to their views, perspectives, wishes and aspirations is central to the principles of case management and ensuring collaborative, safe, purposeful and quality practice.

The policy statement is supported by a more in-depth 'Rules and Practice Guidance' document that outlines the minimum standards for DCJ practitioners and for external providers (DCJ 2023b). Within this document, policy and procedure designed to support the participation of children and young people are somewhat scarce. Despite the encouraging overarching statements about partnership with children and young people, as discussed above, the participation of children and young people in decision making is only directly mentioned when discussing family action planning, OOH case planning and family time planning. It is evident that real-world implementation guidance around participation is limited to planning activities.

While these are important tasks that do require the input of the children and young people to be meaningful, there is no guidance given to support the participation of children and young people in decisions that affect them. This is concerning, not only because it places tight boundaries around where children and young people are able to engage, but also because many of these plans are completed annually, providing a narrow window of time in which there is an opportunity to engage.

While it is best practice to conduct an annual review and to provide intermittent updates to plans as things change in the life of a child, we know from anecdotal reports and also from the research literature that planning is often overlooked due to the time constraints and competing priorities of practitioners (Stafford et al. 2022), or is completed by the practitioner as a 'tick the box' exercise in the absence of appropriate stakeholder partnership (ACYP 2021). There is a high risk that children and young people experience a lack of participation in decision making, even in the one space in which the policy and procedure documents specify that it must happen.

Further to this, when discussing family time planning, specifically sibling time, the policy outlines that the development of a plan must *always* include the participation of children and young people (DCJ 2023b, 86). The research literature consistently reports that children and young people say they want to see their siblings more frequently (CCYP 2019; Higgins et al. 2007; Moore et al. 2007). Some children and young people have stated that they have not been able to have a voice on family time, while others state that when they have been able to have a voice, it has not been integrated (CCYP 2019). This raises a question around the extent to which this guideline is followed. Similarly, the policy's requirement that partnership with children in permanency case planning is undertaken contradicts the research in which children and young people

have repeatedly said their voice is often not heard in this process (Bessell 2011). There are grounds on which to question whether well-meaning policy and practice guidelines do enough to reinforce, require and support child participation in practice.

There is no statement or function in the policy that outlines the action of elevating the voices of children and young people in these decisions, and translating their views into practice. Participation is more than about being present at a planning meeting; it is about scaffolding their active involvement in the decisions that are made, and including their ideas and wishes as a formal part of the plan, which is then implemented. The requirement for action beyond voice alone is where the implementation of the PCMP seems to most fall short.

Similar to the PCMP, the ACMP outlines that a key outcome and aim of the policy is that Aboriginal children and young people are supported to use their voices and participate in decisions that affect them (DCJ 2018). The ACMP also specifically states that the views of Aboriginal children and young people are to be taken seriously (DCJ 2018, 6). The accompanying ACMP 'Rules and Practice Guidelines' document provides two direct mentions of operationalising the participation of Aboriginal children and young people. It states that service providers, including the Department, will ensure the views of Aboriginal children and young people are sought and documented (DCJ 2023a). The ACMP further outlines that Aboriginal children are to be encouraged to participate in case planning decisions, and that their views are to be given due weight (DCJ 2023a).

Much of the ACMP and the PCMP focus on the right to self-determination and participation for the families and communities of children and young people, with much of this focus coming from the Aboriginal Family-Led Decision Making (AFLDM) model. It is not disputed that family and community participation is important, especially for Aboriginal peoples; however this should not override or be seen as synonymous with including the voices and views of Aboriginal children and young people. This need not be a debate about whose voice counts most. There is value in all stakeholder voices—the child who is ultimately at the discretion of a system that is meant to support them, and the family and community who can provide the support necessary for children to remain connected to their cultures and grow within their own traditions which is also a right under Article 30 of the UNCRC.

In New South Wales, the Aboriginal Case Management Policy (ACMP) delivered in partnership with AbSec, does highlight the importance of child and youth voice more than the standard case management policy by highlighting the importance of not just listening and gathering voice, but by also appropriately giving weight to the voices and views of Aboriginal children and young people. Policies should further outline a requirement to translate voice into practice and this is lacking at this time.

There is an overwhelming need to more clearly define and include the voices of children and young people in OOH within the New South Wales policy context. As discussed above, overarching statements of inclusion are an initial step; however

voice needs to be embedded into policy in order to permeate throughout the levels of practice and service delivery. Recently, New South Wales undertook a review of the OOHHC system, and included in this was the finding that the voices of children in OOHHC remain undervalued (NSW Government 2024). The report spoke to the need of including the voices of children and young people and identified that DCJ and other non-government agencies are rarely listening to the voices of young people (NSW Government 2024). A recent report from the NSW Audit Office also found that DCJ is not upholding the human rights of Aboriginal children and young people and highlighted a number of non-operationalised rights in relation to this, including the right for self-determination (NSW Audit Office 2024).

3.2 | Case Study 2: Public/Procedural Support for Child Participation in Victoria

3.2.1 | Victoria Legislation

In Victoria, the child protection system operates in compliance with legislation from the Children, Youth and Families Act 2005. It is similar to the NSW Act in that the aim of the Act is to provide children and young people in Victoria with community services support and protection. The Act also outlines the provisions in relation to children who have been charged with, or found guilty of, an offence although this function will not be reviewed in relation to this paper.

With relation to the principle of participation of children and young people, the Act outlines in Section 11 that a provider must encourage and provide adequate opportunity for children and young people to participate in the decision-making process. Similar to the NSW Act, the Victorian Act provides additional principles for decision-making for Aboriginal children and young people. These are outlined in Section 12, and although the core focus of this section is on enabling participation in decision making for Aboriginal family and community, it also states that where a decision is being made in relation to the placement of an Aboriginal child or other significant decision, a meeting should be convened that includes the child or young person. The Victorian Act also embeds the Aboriginal Child Placement Principle in the Act. The Act outlines that in the 'best interests of the child', the child's views and wishes should be given weight as appropriate to the circumstances, 'if they can be reasonably ascertained' (Section 10).

This is again similar wording to that of the NSW legislation, which potentially creates a loophole and burden of activity for frontline workers to individually determine whether or not gathering the views of children and young people in these circumstances would be reasonable. It could be expected that a practitioner may not deem it reasonable for a number of reasons including time constraints or the risk of re-traumatising a child or young person, whether these reasons are founded and valid or not. There appears to be no mechanism in place for the monitoring of whether or not child and youth voice was included, the reasons given for not supporting the participation of children and young people, and whether or not these reasons are justified. It is assumed it would be left to the magistrate presiding

over the case to question the appropriateness of the processes followed.

3.2.2 | Victoria Policies and Procedures

Table 2 provides a summary of policy documents from the Victorian Department of Families, Fairness and Housing (DFFH).

The Victorian child protection and out-of-home care policies, procedures, advice, protocols, and approach are accessed through the Child Protection Manual (an online platform), providing the standard for case management practice for both practitioners and managers (DFFH 2024a). Victoria also has a best interest's case practice model guide which provides foundational knowledge for practitioners who are working with children and young people (DHS 2012) that includes resources to collect the views of children and young people.

The child protection manual contains a plethora of information. It was evident when working through this information that the policies and procedures often make reference to the best interest of the child. This is evident, for example, in the out-of-home care 'Contact procedure' (DFFH 2023b) where it states 'Contact must promote the child's best interests', and the 'Care teams procedure' (DFFH 2024b) where it states that a practitioner must support 'collaborative care arrangements being made in the best interests of the child'. Given that these policies and procedures mention the best interests of the child, and the legislation also clearly states that practitioners should make reasonable efforts to gather the views and voices of the children and young people in order to determine their best interests, it is seen that this is a direct reference to ensuring child and youth voice is gathered as a part of this decision-making.

Some of these policies and procedures directly speak to the need to gather the views of children and young people. For example, in the same 'Care teams procedure' (DFFH 2024b) it states that practitioners must ensure that a 'child's voice is heard during care team meetings'. It goes on to acknowledge that a child could attend in person if they feel comfortable, or that practitioners may utilise a resource that was created to capture the views of children and young people in advance of the meeting.

There are also a number of 'advice' documents. It is evident that these advice documents form part of the standard of practice and are provided to practitioners working in the relevant areas to further understand practice implications on delivering services to children, young people and their families. These advice documents contain prompts on planning, decision-making, further information and other factors to consider.

Within the 'Contact—advice' document (DFFH 2023a), it states that a factor to consider in determining contact plans is 'each child's views and wishes as far as these can be gained'. In the 'Participating in activities—advice document' (DFFH 2018), when speaking of assessment considerations for attending school camps, the first point is 'What are the child or young

TABLE 2 | Victorian policy documents.

Policy document name	Brief description of document	References to child and youth voice	Omissions
Contact procedure (Document ID 1102)	Outlines the procedure for managing family time visits between a child in OOHC and their family	States that contact must promote the child's best interests	There is no definition of a child's best interest or how these decisions are to be made
Care teams procedure (Document ID 1103)	Outlines procedures for practitioners when establishing or participating in a care team for a child in care and key responsibilities	Practitioners must support the best interests of the child in collaborative care arrangements and a child's voice is to be heard during care team meetings	There is no definition of a child's best interest There is no function that outlines elevating voices into action or any monitoring mechanism.
Contact—advice document (document ID 2117)	Practitioner information regarding family time between children in OOHC and their family	States that consideration should be made to the child's wishes 'as far as these can be gained'	These statements create a potential loop hole
Participating in activities—advice document (document ID 2132)	Information to assist carers when making decisions about children in OOHC participating in activities.	Includes the question 'What are the child or young person's wishes?'	The inclusion of this question is positive, however this is linked to school camps only
Responding to Aboriginal children—advice document (document ID 2301)	Information related to culturally safe service provision	Includes the principle of participation as noted from the Aboriginal Child Placement Principle	There is no function that outlines elevating voices into action or any monitoring mechanism
Cultural plans—advice document (document ID 2302)	Practitioner information on cultural planning for Aboriginal children and young people	Contains a whole section on encouraging the voices of children and young people, the importance of this in planning, and examples on how practitioners can do this	This is mostly a good example however it still does not have reference to monitoring mechanisms

person's wishes?' There are a number of other advice documents contained in the manual that have similar information regarding children and young people participating in decisions that affect them and placing importance on gathering the views of children and young people.

Similar to the point made on the wording of legislation of both New South Wales and Victoria, terms such as 'as far as practicable' and the like can potentially lead to practice bias such that, due to a range of complexities, practitioners may decide not to engage with participatory approaches. Whether or not child and youth voice is embedded into practice system-wide cannot be adequately determined as there are no clear mechanisms to understand the implementation of these policies and advice.

Similar to New South Wales, Victoria also has specific policies for Aboriginal children and young people in OOHC. These policies focus on ensuring self-determination and the participation of family and community, as well as outlining the importance of consultation with the Aboriginal Child Specialist Advice and Support Service (ACSASS). Further recognition of the importance of the Aboriginal child and youth voice and participation is highlighted in the advice documents, specifically the 'Responding to Aboriginal children – advice' document (DFFH 2024c), which contains information about the Aboriginal Child Placement Principle including the principle

of participation, and the 'Cultural plans – advice' document (DFFH 2020) which contains a whole section on encouraging the voices of children and young people, the importance of this in planning, and examples of how practitioners can do this.

The Victorian Aboriginal Child Care Agency (VACCA), an Aboriginal Community-Controlled Organisation in Victoria that provides OOHC services, among other services, also has a number of resources available. One such resource is their 'Child's Voice: Our Children have the right to be heard' booklet (VACCA 2023), which provides a template for children and young people to complete for their voice to be gathered, guidance for practitioners on how to complete each part with children and young people, and information on the importance of voice. While this sits outside the policies and framework of the Department of Families, Fairness and Housing (DFFH), it is important to acknowledge the importance placed on Aboriginal youth voice by Aboriginal organisations within this space.

It is a positive step that DFFH has embedded practice tools and support guides into their policies and procedures. These provide guidance to practitioners in how they can implement practice related to empowering the voices of children and young people in care. There is still crucial work that exists in order to close the gap and take away the reliance on individual practitioners, which includes defining best practice, and terms such as 'as reasonably

practicable'. Strengthening policies to embed youth voice and creating mechanisms to ensure this work is embedded into practice also need to be considered and implemented into the policies.

3.3 | Comparison

There are a number of comparisons that can be drawn between the New South Wales and Victorian out-of-home care policies that address the importance of voice for children and young people, particularly Aboriginal children and young people. It is evident that both states have overarching values-based perspectives on the voices of children and young people and acknowledge the importance of including them in decision-making.

In New South Wales, the policies and procedures discussed are broad and limited predominantly to planning activities. The legislation in New South Wales is also quite broad, although this is often the case for legislation. However, the opportunity to further break this legislation down to unpack what this looks like in policy and practice has not been taken by the Department of Communities and Justice, at least as far as was possible to ascertain in publicly available documents.

In Victoria, legislation is similarly broad, as are the policies and procedures; however there are companion advice documents that have been developed for the purpose of the translation into practice. The provision of additional resources supports clarity and transparency around their policies and procedures.

The policy documents of both states include statements such as 'to the greatest extent practicable', which absolves governments of accountability by placing the focus on practice and demonstrates a reliance on the practices of individuals. At least within the available documents, there does not seem to be a requirement for mechanisms to be put in place to ensure that practitioners are gathering voice when practicable, or to determine what practice development should take place if this is not occurring.

Both states have specific policies to support Aboriginal children and young people. Much of this focuses on the importance of family-led decision making and community self-determination; however children and young people are also key stakeholders who are entitled to a voice. The policy documents would be further enhanced by an explicit link between self-determination, family-led decision making and the right to voice for children and young people.

3.4 | Implications

This paper reviews policies within the two Australian states of New South Wales and Victoria as this relates to supporting and valuing the inclusion of child and youth voice in the OOHC sector. In both states, legislation and policies outline the importance of including the voices of children and young people in planning. There was also some emphasis on the importance of giving due weight to the views and voices of children and young people, particularly when responding to the voices of Aboriginal children and young people. Despite these high-level values-based policy statements, there was a lack of deeper policy and

procedure to ensure the voices and views of children and young people are embedded into the sector's practice. In Victoria in particular, there were some additional resources provided as a part of the procedures and advice documents available to practitioners that supported the translation of policy into practice. Neither of the case study states outlined formal mechanisms to ensure that, where gathering child and youth voice was possible, this was occurring and could be checked and justified appropriately where it was not.

It was evident from this review that there is a strong emphasis placed on family-led decision making, especially for Aboriginal children and young people. While there is no question that family-led decision making is important, it does not negate the importance of participation for children and young people. A link between the right of children and young people to have a voice and the self-determination of families could be easily drawn and highlighted within the policy documents. Where policies and models have outlined that families are their own experts, it is important to acknowledge that children and young people come with their own unique views, appropriate and applicable to their being and belonging, and in their own right they are the experts on their life and experience.

The current framing of child participation as important 'when practicable' puts the burden of practice solely on individual practitioners, where these practices then become dependent on their own personal views, beliefs, knowledge and skills in gathering and responding to the voices of children and young people. As argued by Michail et al. (2023), innovation and meaningful change within a system only come when there is change across the whole system. To rely entirely on individual caseworkers to make decisions about which elements of policy should and should not be enacted, in the absence of mechanisms of support and accountability, is to accept that the chances of implementation are low. High-quality implementation is especially unlikely in work with children marked by significant complexity, as is the case for Aboriginal children and young people for whom there are more strictly monitored requirements around family and community engagement. The addition of another layer of meaningful consultation, with children and young people, may not be appealing to caseworkers. And yet the child's right to voice and participation remains.

3.5 | Recommendations for Future Research

Future research is needed to understand how the existing policy is interpreted in practice contexts, and the extent to which overarching policy statements are impactful in shaping a culture of participation across the system. Empirical research testing policy translation would involve gathering the understanding and perspectives of policy makers and regulators, managers, front-line workers, and Aboriginal children and young people who have lived experience of the care system.

4 | Conclusion

If Australian governments wish to take seriously upholding the right to voice for Aboriginal children and young people in care,

it is important that this is reflected across all elements of the system, including in legislation and policy. There is a strong need for policies and accompanying guidelines that fully outline the expectations of the system and the role that professionals across every layer of the system can play in gathering and responding to the voices of children and young people. Practice and regulatory mechanisms are required to ensure that embedding these practices is understood to be beneficial and is required practice that will be monitored and supported.

A review of policies is required to clarify and strengthen current policy wording around 'the greatest extent practicable' to ensure that the inclusion of child and youth voices isn't dependent on the preferences and interpretations of individual practitioners, and that the voices of children and young people are not conflated with those of family and community. Embedding child and youth voice within the child protection and OOHHC sectors requires commitment at every level of the system, with support and accountability mechanisms in place to ensure flow through from legislation and policy through to practice, and vice versa.

Author Contributions

Bradley Burns: writing – original draft; writing – review and editing; conceptualization; methodology. **Rebekah Grace:** writing – review and editing; supervision; conceptualization. **Scott Avery:** writing – review and editing; supervision.

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Conflicts of Interest

The authors declare no conflicts of interest.

Data Availability Statement

Data sharing not applicable to this article as no datasets were generated or analyzed during the current study.

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