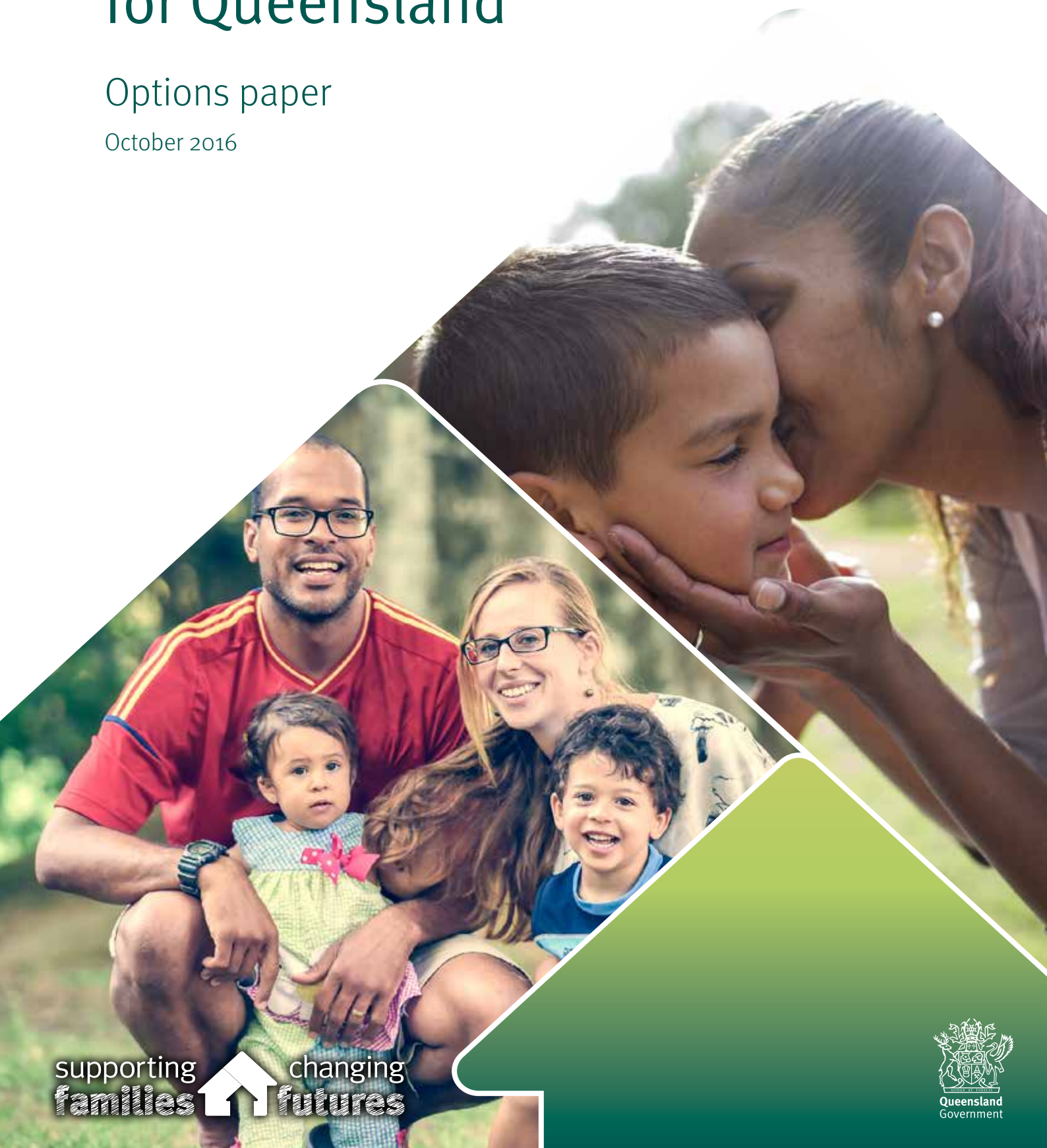


The next chapter in child protection legislation for Queensland

Options paper

October 2016



supporting  changing
familles futures

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Department of Communities, Child Safety and Disability Services
GPO Box 806, Brisbane QLD 4001
www.communities.qld.gov.au

MINISTER'S MESSAGE

The Queensland Government is designing new child protection legislation for Queensland that will underpin our wide ranging *Supporting Families Changing Futures* reform program.

As the Minister for Child Safety, I am committed to ensuring that we have contemporary child protection legislation in place to ensure Queensland's children and young people are safe, protected and able to reach their full potential.

Recent tragedies have impacted our community. It is vital that we continue to work closely with our key stakeholders and the broader community to design robust legislation that enables Queensland's children to be safe and well, now and into the future.

We are three years into a 10-year reform agenda recommended by the Queensland Child Protection Commission of Inquiry. It is the biggest overhaul of the child protection system we have ever seen. We have seen some positive changes, but there is still more work to be done.

Developing new child protection legislation is a major component of our reform agenda, and aims to design strong and contemporary legislation that reflects best practice and the lived experiences of children and families.

We have undertaken public consultation, hearing from hundreds of people across the state. This options paper *The next chapter in child protection legislation for Queensland* has been developed following feedback received from public consultation, examination of legislative reforms in other jurisdictions and the findings and recommendations from a range of relevant reviews and inquiries.

We will also be considering the findings from important reviews underway, such as the Queensland Family and Child Commission's review of information sharing across agencies, and the assessment and approval processes for foster carers and the operation of the blue card system.

The options proposed in this paper provide opportunities to design legislation in partnership with our key stakeholders and the broader community. I welcome your participation and feedback to ensure the new legislation is workable, promotes the best interests of children and young people and supports the reformed child protection and family support system.

Child protection is everyone's responsibility. We must be vigilant and continuously work together to improve outcomes for Queensland's children.



Shannon Fentiman MP

Minister for Communities, Women and Youth

Minister for Child Safety

Minister for Prevention of Domestic and Family Violence

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INTRODUCTION

Supporting Families Changing Futures

The Queensland Government is driving implementation of the *Supporting Families Changing Futures* reform program to build a new child protection and family support system for Queensland.

The reforms will improve the quality and outcomes of the child protection and family support system in Queensland. This includes actioning all recommendations made by the Queensland Child Protection Commission of Inquiry in its report *Taking Responsibility: A Roadmap for Queensland Child Protection*. As at 30 June 2016, 120 recommendations have commenced and 31 recommendations have been completed.

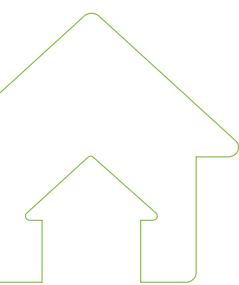
In April 2016, the Queensland Government released *Supporting Families Changing Futures: Advancing Queensland's child protection and family support reforms* to report on the progress to date and outline how the government is enhancing the reform program. The Government has allocated \$425 million over five years to implement the recommendations of the Commission of Inquiry and new initiatives to make tangible and positive differences in the lives of vulnerable Queensland children, young people, families and communities.

Supporting Families Changing Futures strategic directions

1. Sharing responsibility for the safety and wellbeing of Queensland children
2. Supporting Queensland families earlier
3. Working better with Queensland families who are in contact with the child protection system
4. Improving out-of-home care and post-care for Queensland children and young people
5. Meeting the needs and requirements of Queensland's Aboriginal and Torres Strait Islander children, families and communities
6. Delivering quality services to Queensland children and families through a capable, motivated workforce and client-focused organisations
7. Building an accountable, transparent and cost-effective Queensland system.

New child protection legislation for Queensland

A comprehensive review of the *Child Protection Act 1999* (the Act) is a recommendation of the Queensland Child Protection Commission of Inquiry and a key commitment of *Supporting Families Changing Futures*. This work commenced in September 2015 with a six-month public consultation process. You can find out more about this initial consultation in the section 'What we heard from stakeholders'.



We are:

- designing new, contemporary child protection legislation for Queensland to provide the framework and foundations for the reformed child protection and family support system, and support policy, practice and investment across the system
- making sure that legislation contributes to addressing the disproportionate representation of Aboriginal and Torres Strait Islander children in out-of-home care, including enabling the delivery of the Queensland action plan for Aboriginal and Torres Strait Islander children and families experiencing vulnerability
- addressing issues and ideas raised by stakeholders during the first stage of public consultation.

We have looked at a wide range of information, ideas and experiences to guide us in considering new child protection legislation for Queensland.

Work undertaken includes:

- having discussions with departmental experts and reform leaders responsible for implementing *Supporting Families Changing Futures*
- considering proposals made through the national and Queensland Family Matters campaigns and other consultations with Aboriginal and Torres Strait Islander Queenslanders
- reviewing child protection reforms in other states and territories
- considering the Queensland Government's commitments under the *National Framework for Protecting Australia's Children 2009-2020*
- considering the Special Taskforce on Domestic and Family Violence in Queensland report *Not Now, Not Ever: Putting an End to Domestic and Family Violence in Queensland* and the Government's response
- considering findings and recommendations from inquiries such as the Royal Commission into Institutional Responses to Child Sexual Abuse
- considering lessons from child death and serious injury reviews in Queensland
- reviewing the findings from Queensland Family and Child Commission systemic reviews including the report, *When a child is missing: Remembering Tiahleigh – A report into Queensland's children missing from out-of-home care* and other reviews underway considering information sharing arrangements across agencies, the robustness of the department's foster carer assessment and approval processes, and the broader review of the blue card system.

Feedback and analysis to date indicates that the *Child Protection Act 1999* mostly works well, however, a wide range of issues and opportunities have been canvassed, and as such, we are proposing a number of legislative reforms to the *Child Protection Act 1999*.



WHAT WE HEARD FROM STAKEHOLDERS

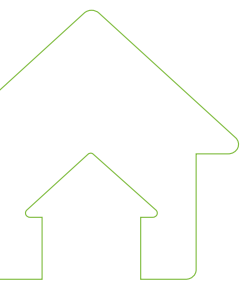
The review of the Act commenced in September 2015 with a six-month public consultation. We heard from children and families with experience of the child protection system; non-government service providers who support them; our government partners; peak bodies; legal bodies; education institutions and advocacy groups about the important issues for new legislation.

Consultation highlights

- **348** people participated in 16 community forums across Queensland
- **51** written submissions were received in response to the discussion paper
- Over **100** Aboriginal and Torres Strait people participated in one-on-one, small group and yarning circle consultations.

We heard that Queensland's child protection legislation should:

- promote the safety, wellbeing and best interests of a child now and throughout their lives
- underpin the *Supporting Families Changing Futures* reform program
- prioritise meaningful participation of children and families in decisions that affect them
- be less complex and more accessible to people who use it
- be enabling rather than unnecessarily prescriptive
- address the disproportionate representation of Aboriginal and Torres Strait Islander children
- embed a shared responsibility across government, non-government service providers, families and communities.



CONSULTATION

This options paper has been developed to guide the next stage of public consultation on the design of new child protection legislation. It sets out options for how the Act could be redesigned, in response to what we heard from the first stage of consultation.

We know that it is critically important that we talk directly with children and young people, families, Aboriginal and Torres Strait communities, service providers, and other stakeholders about the options set out in this paper.

Make a submission

We will be consulting with stakeholders on the options outlined in this paper and any other issues you may like to raise. You may wish to comment on all of the options covered in the paper, or only those that are of interest to you. To ensure we consider your views on Queensland's future child protection legislation, you are invited to make a written submission by:

Email: CPAreview@communities.qld.gov.au

Mail: Department of Communities, Child Safety and Disability Services
Policy and Legislation
GPO Box 806
Brisbane Qld 4001

Submissions close on **Friday 16 December 2016** at 5pm.

Please indicate whether you would prefer your feedback to remain confidential. Submissions not marked as confidential may be published in full, or quoted in public documents.

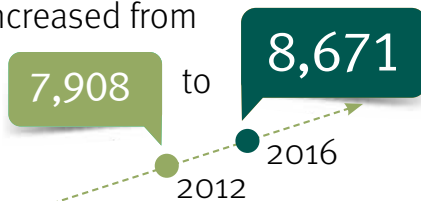
You may wish to indicate your interest in this work, for example, if you are a young person who has recently left out-of-home care, or a non-government service provider.

For further information about how to participate, please go to the Department of Communities, Child Safety and Disability Services website www.qld.gov.au/childprotectionactreview

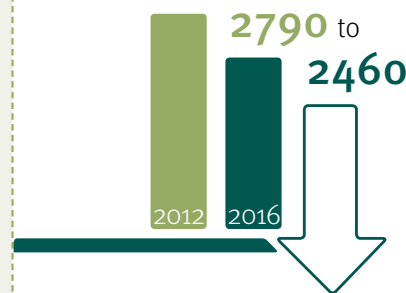


THE CHANGING PROFILE AND CIRCUMSTANCES OF CHILDREN IN THE CHILD PROTECTION SYSTEM

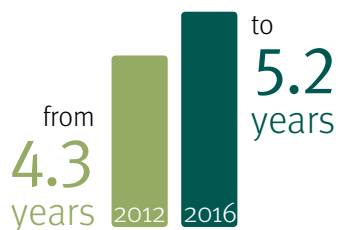
The total number of children in **out-of-home care** in Queensland increased from



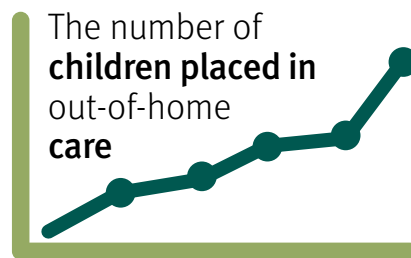
The **number of new children** entering **out-of-home care** decreased from



The average time a child **spends in out-of-home care** has increased

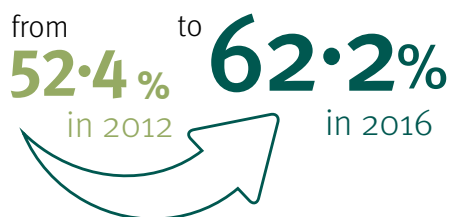


The number of **children placed in out-of-home care**

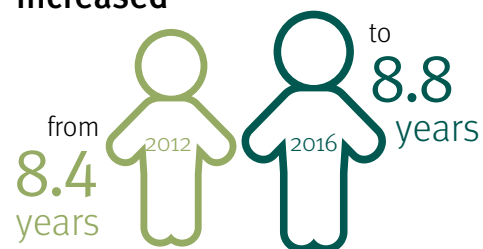


has **increased** as they are **staying in care for longer**

Children subject to **long-term child protection orders** has increased



The **average age of children** in out-of-home care has **increased**



Source: Corporate performance data as at September 2016, Department of Communities, Child Safety and Disability Services.

* Please note the first information box refers to the total number of children in out-of-home care while the second (top right) refers to the number of new children entering out-of-home care each year.



OPTIONS FOR NEW LEGISLATION

1 A broader purpose and strengthened principles

The existing Act

The purpose of the Act is to provide for the protection of children. The main principle for administering the Act is that the safety, wellbeing and best interests of a child are paramount. There are also other general principles stated in the Act for ensuring the safety, wellbeing and best interests of a child that are subject to the paramount principle.

What we heard from stakeholders

Stakeholders supported broadening the purpose of the Act to include the role of government in supporting families and the wellbeing of children and young people. Stakeholders also asked for strengthened and contemporary guiding principles including for promoting permanency and to direct use of the Aboriginal and Torres Strait Islander Child Placement Principle throughout the legislation. Stakeholders also called for more guidance in legislation about how to determine the ‘best interests’ of a child.

Other important information

Child Protection Commission of Inquiry

Recommendation 14.4 that the best interests of the child should continue to be the fundamental test to be applied to decision making under the Act; the specific matters to be considered in determining what is in the best interests of a child should be clarified.

Supporting Families Changing Futures

The Strengthening Families Protecting Children Framework for Practice provides a transparent strengths-based, safety-oriented approach to work undertaken by Child Safety through all phases of the child protection process.

Other jurisdictions

Legislation in Victoria, Western Australia, the Northern Territory and the Australian Capital Territory provides additional guidance to decision makers in interpreting the concept of a child’s ‘best interests.’

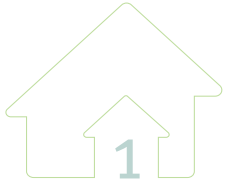
Other Queensland legislation

Queensland’s *Adoption Act 2009* promotes the wellbeing and best interests of an adopted person throughout their lives.

United Nations Convention on the Rights of the Child

When the Act was developed it aimed to include the principles of the Convention. New legislation could reflect contemporary ways of doing this.





Options for new legislation

Options	More information
1A. Developing a broader purpose than the 'protection of children'	The purpose could be broadened to recognise that the role of the state is not only to take action when a child is in need of protection, but also to support families to safely care for and protect their children and promote a child's wellbeing.
1B. Introducing an expanded paramount principle of 'the safety, wellbeing and best interests of a child now and throughout their lives'	This may help to shift the focus of decision making from a child's immediate needs to include a child's longer term life outcomes.
1C. Introducing specific matters to be considered in determining what is in a child's best interests now and throughout their lives, including matters for consideration in determining best interests for an Aboriginal and Torres Strait Islander child	<p>This could include a non-exhaustive list of matters that should be considered when determining what is in the best interests of a child. For example, relevant matters similar to those included in the <i>Children and Young People Act 2008 (ACT)</i> and <i>Family Law Act 1975 (Cth)</i>.</p> <p>This option could create enabling legislation that requires less prescription in the provisions throughout the Act.</p>
1D. Strengthening the principles in legislation	This could include more closely aligning the principles with the Strengthening Families Protecting Children Framework for Practice.

QUESTIONS:

- 1.1** Which options do you support? Why?
- 1.2** Do any of the options have unintended consequences?
- 1.3** Are there any other options you believe need to be considered?





Addressing the disproportionate representation of Aboriginal and Torres Strait Islander children

The existing Act

The existing Act includes specific provisions to guide culturally appropriate practices when supporting Aboriginal and Torres Strait Islander children, young people and their families. It directs that Aboriginal and Torres Strait Islander children should be allowed to develop and maintain connections with their families, culture, traditions, language and communities. The Act includes a hierarchy of placement options for Aboriginal and Torres Strait Islander children in care. The Act also sets out the requirements in relation to Recognised Entities.

What we heard from stakeholders

Stakeholders have been clear that we need to value and trust that the Aboriginal and Torres Strait Islander community is best placed to meet the needs of their children, families and communities. We heard that the intent and purpose of the Aboriginal and Torres Strait Islander Child Placement Principle and its five core elements — prevention, partnership, placement, participation and connection — could be better reflected in the legislation. Aboriginal and Torres Strait Islander stakeholders told us there could be increased community ownership, leadership and cultural identity and better shared decision-making to address this important issue. As far as possible, families, kin and community could have the right to self-determination.

Other important information

Child Protection Commission of Inquiry

Acknowledged that lasting solutions to the disproportionate representation lie in addressing broader systemic factors rather than focusing exclusively on the child protection system.

Supporting Families Changing Futures

Some relevant initiatives include: development and implementation of a Queensland strategy and action plan for Aboriginal and Torres Strait Islander children and families experiencing vulnerability; the Aboriginal and Torres Strait Islander family-led decision making and shared practice trials exploring new ways of promoting shared decision making; review of the role of the Recognised Entity.

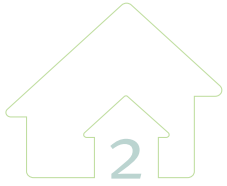
Other jurisdictions

International jurisdictions such as Canada provide examples of how greater community control has been achieved. Child protection legislation in New South Wales and Victoria supports greater self-determination for Aboriginal and Torres Strait Islander people.

United Nations Declaration on the Rights of Indigenous Peoples

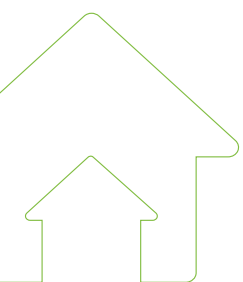
The Australian Government pledged its support for the Declaration in April 2009.





Options for new legislation

Options	More information
2A. Strengthening the specific principles in relation to Aboriginal and Torres Strait Islander children	Strengthened principles could have particular regard to: <ul style="list-style-type: none">■ the views of a child and their family, members of the community to which the child belongs, or a Recognised Entity about the Aboriginal tradition and Island custom for the child■ the general principle that a child should be cared for within an Aboriginal or Torres Strait Island community.
2B. Incorporating a new principle that recognises that Aboriginal and Torres Strait Islander parents, family and kin should participate in a child's care and protection, as far as possible, and places a responsibility on the department to facilitate this occurring	This could empower families by replacing the requirements for a Recognised Entity for a child to participate in the making of significant decisions, and to be consulted in relation to other decisions with a stronger requirement for a child's family and kin to participate in decision making, as far as possible.
2C. Introducing additional principles relating to Aboriginal and Torres Strait Islander children to explicitly recognise the full intent and meaning of the Aboriginal and Torres Strait Islander Child Placement Principle	These could include the five domains of the Aboriginal and Torres Strait Islander Child Placement Principle — prevention, partnership, placement, participation and connection. This option could also involve integrating the intent and purpose of the Child Placement Principle more prominently throughout legislation.
2D. Introducing explicit recognition of Aboriginal and Torres Strait Islander children's and families' right to self-determination and cultural authority to the fullest extent possible	New provisions may be similar to those in the New South Wales <i>Children and Young Persons (Care and Protection) Act 1998</i> which provide for the explicit recognition of self-determination.



Options	More information
<p>2E. Including a new power enabling the chief executive to delegate functions and powers in relation to a child that is the subject of a child protection order to the chief executive of an Aboriginal or Torres Strait Islander agency</p>	<p>This could be similar to the Victorian <i>Children, Youth and Families Act 2005</i> (Section 18).</p> <p>Delegation of functions and powers could include relevant quality and safeguard requirements in the legislation.</p> <p>Government will need to invest resources to build the capacity and capability of these agencies to take on these new roles.</p>

QUESTIONS:

- 2.1** Which options do you support? Why?
- 2.2** Do you think any of the options have unintended consequences?
- 2.3** Are there any other options you believe need to be considered?





A shared responsibility across government for child protection and wellbeing

The existing Act

There are a number of provisions in the Act which promote the coordination and integration of services across government in relation to a child in need of protection and to meet a child's wellbeing needs. The Act also establishes the Suspected Child Abuse and Neglect (SCAN) team system. The core agencies that generally participate include the department, Queensland Health, the Department of Education and Training, the Queensland Police Service and the Recognised Entity for the child. From time to time, other service providers may be invited to participate.

What we heard from stakeholders

Stakeholders supported strengthening principles in legislation to guide the coordination and delivery of services by government and promote shared responsibility. This could include moving to a holistic focus on a child's wellbeing and development; a shared responsibility for the design and administration of a system that supports families to safely care and protect their children and enable them to reach their full potential; and a shared responsibility to support children and young people in an existing care arrangement.

Other important information

Child Protection Commission of Inquiry

A key message was the need for government agencies, non-government service providers, families and communities to share responsibility for protecting children and supporting families. The Child Protection Reform Leaders Group was established to coordinate the whole-of-government implementation of the reform agenda, engage with non-government agencies and resolve interagency issues (recommendation 4.13).

Supporting Families Changing Futures

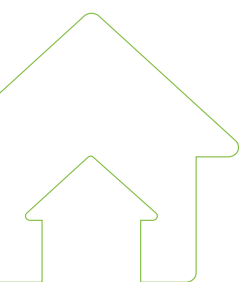
The reforms recognise that sharing responsibility for the safety and wellbeing of Queensland children is everyone's business.

National Framework for Protecting Australia's Children 2009–2020

The Framework promotes a shared agenda for change across all jurisdictions, with national leadership and a common goal.

Other jurisdictions

In New Zealand, a shared responsibility across government is provided by the *Vulnerable Children Act 2014*. In Victoria, the *Child Wellbeing and Safety Act 2005* includes child wellbeing and shared responsibility principles.



Options for new legislation

Options	More information
<p>3A. Make it clear that the provisions in the Act relating to the coordination of services extend to meeting children’s wellbeing needs and supporting vulnerable families</p>	<p>This could expand the requirement for service providers to take reasonable steps to coordinate decision-making and services to meet:</p> <ul style="list-style-type: none"> ■ the protection and care needs of children ■ the wellbeing needs of children ■ support needs of vulnerable families.
<p>3B. Incorporate the concept of shared responsibility in the purpose of the legislation</p>	<p>This could encourage government agencies with responsibility for providing services to children and families to work together to:</p> <ul style="list-style-type: none"> ■ improve the wellbeing of vulnerable children, to support vulnerable families to safely care and protect their children and enable them to reach their full potential ■ meet the protection and care needs of children in out-of-home care.
<p>3C. Incorporate new principles for the administration of legislation that reflect shared responsibility</p>	<p>This could acknowledge that relevant government and non-government agencies share responsibility for meeting the wellbeing, protection and care needs of children who are likely to become or who are in need of protection, and to also support their families.</p>
<p>3D. Include a requirement for relevant government agencies to regularly contribute to the development and implementation of a whole-of-government strategy or action plan</p>	<p>This could be similar to New Zealand's approach with the <i>Vulnerable Children Act 2014</i>. This approach could contribute to whole-of-government systemic outcomes.</p>

QUESTIONS:

- 3.1** Which options do you support? Why?
- 3.2** Do you think any of the options have unintended consequences?
- 3.3** Are there any other options you believe need to be considered?





A contemporary quality and safeguards framework

Queensland has one of the strongest quality and safeguards regimes in Australia that seeks to keep children at risk or in care safe and well and able to reach their full potential.

We have:

- a legislated requirement for relevant individuals in care environments to undergo a Working with Children Check (blue card)
- robust assessment and approval processes of foster and kinship carers, both by non-government organisations and the department
- regulation of out-of-home care requirements that child safety care agencies must be licensed
- independent Community Visitors to regularly check on children in out-of-home care
- mandatory abuse reporting, critical incident reporting, and standard of care reviews
- independent advocacy, support and counselling services
- expert external oversight by the Queensland Family and Child Commission.

The *Child Protection Act 1999* works in conjunction with a number of pieces of legislation to provide holistic quality and safeguards for Queensland's child protection and family support system. This paper focuses on how new child protection legislation can best regulate out-of-home care.

The existing Act

The Act provides for a system of licensing services and approving individuals to provide care for children to ensure that the Statement of Standards provided in section 122 are complied with for children in the custody or guardianship of the chief executive.

Statement of Standards

The department must take reasonable steps to ensure a child placed in out-of-home care is cared for in a way that meets the Statement of Standards. The Statement of Standards cover important aspects of a child's physical, material, emotional, behavioural and educational care needs and are consistent with the national standards for out-of-home care (under the *National Framework for Protecting Australia's Children 2009–2020*).

Licensing of out-of-home care providers

The Act and the Child Protection Regulation 2011 provide for licensing of non-government organisations delivering out-of-home care services. The department is responsible for receiving, assessing and deciding applications for a license as well as monitoring ongoing compliance with licence requirements.

Service agreements include the condition that non-government providers of services funded by the department are required to achieve and maintain certification under the Human Services Quality Framework (HSQF).

Foster and kinship carers

The Act regulates the approval of foster and kinship carers, including the issue and review of certificates of approval. The department is responsible for carer approvals.

Foster and kinship carers are required to be suitable persons and to provide a level of care which is consistent with the Statement of Standards. All foster and kinship carers and their adult household members (over 18 years old) are legally required to hold a blue card or exemption card.

What we heard from stakeholders

Stakeholders told us we could further strengthen legislative quality and safeguard mechanisms and we could continue to enhance these mechanisms in response to findings from reviews and inquiries.

We heard from stakeholders that some of the licensing requirements in legislation are not clear and this has implications for how administrative decisions are made. Some requirements place unnecessary administrative burden on providers. Stakeholders wanted regulation to focus more on the achievement of outcomes for children and young people rather than compliance and monitoring.

Stakeholders supported measures to improve efficiency in carer approvals where these did not compromise the safety and wellbeing of children. Some stakeholders identified that blue card requirements may be perceived as a barrier by Aboriginal and Torres Strait Islander families who wish to provide kinship care. Other stakeholders noted the potential impact of the blue card requirements for young people who are 18 years or older, who wish to continue living with their foster family when children are present.

Issues have also been raised about the role of the department in funding, delivering and regulating out-of-home care services. Some stakeholders saw potential benefits in greater separation between the performance of these functions, a more robust administrative decision making processes, and clearer criteria and assessment processes.

Other important information

Child Protection Commission of Inquiry

The Commission of Inquiry recommended that the department consider ceasing the licensing of care services, and streamlining the carer certification process including a review of the legislative basis for determining that carers and care service personnel do not pose a risk to children (recommendation 12.17).

The Commission of Inquiry also recommended that Queensland Family and Child Commission lead the development of a workforce planning and development strategy in collaboration with government, the non-government sectors, the vocational education and training sector and universities. The strategy could consider a staged approach to the introduction of mandatory minimum qualifications for the non-government sector, with particular focus on the residential care workforce (recommendation 10.7).





Supporting Families Changing Futures

Over the next two years, the department will review its investment in out-of-home care, including the types of placements provided, to ensure our services best meet the needs of children and young people.

Royal Commission into Institutional Responses to Child Sexual Abuse

The Royal Commission is considering the 10 elements required to establish child safe organisations and inquiring into how to prevent child sexual abuse in out-of-home care and best respond to allegations of child sexual abuse occurring in out-of-home care. This work will be considered as part of robust quality and safeguards framework.

Queensland Family and Child Commission

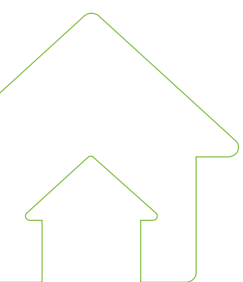
The Queensland Family and Child Commission is reviewing the assessment and approval processes for foster carers. The Commission will report to government in early 2017 on the outcomes of the review. Any findings or recommendations from the Commission's review will further inform the options proposed for changes to regulation of out-of-home care.

Other jurisdictions

New South Wales is the only jurisdiction that has placed responsibility for accreditation of out-of-home care service providers with a body that is independent of the lead government department.

National Disability Insurance Scheme

The National Disability Insurance Scheme (NDIS) provides a holistic approach to ensuring robust quality and safeguards measures are applied across the reformed disability service system (developmental, preventative and corrective measures).



Options for new legislation

Options	More information
<p>4A. Develop and apply a quality and safeguards framework within the legislation</p>	<p>Using the NDIS Quality and Safeguards Framework as an example, provisions would be introduced to support developmental, preventative and corrective quality and safeguards domains. These provisions could be applied broadly across the legislation or at each point of a child and family’s involvement in the system.</p> <p>This could include advocacy mechanisms, complaints procedures, ways to make sure risks are identified early and prevented as far as possible and putting in place clear critical incident reporting requirements and adequate review mechanisms.</p>
<p>4B. Clarify the regulation of out-of-home care requirements to ensure there is a robust, transparent framework for how decisions are made</p>	<p>This could include:</p> <ul style="list-style-type: none"> ■ revising and clearly stating evidence-based, child safe criteria upon which licensing and carer approval decisions are made ■ specifying the information and sources of information that may be considered as part of the decision making process ■ placing a clearer onus on service providers and carers to demonstrate how they are meeting the criteria ■ ensuring that the licensing requirements are complementary to the HSQF requirements ■ introducing clearer requirements for service providers and carers to demonstrate compliance when concerns are identified, and a framework that enables the department to respond appropriately and in a timely way ■ clearly separating funding, licensing and monitoring functions.

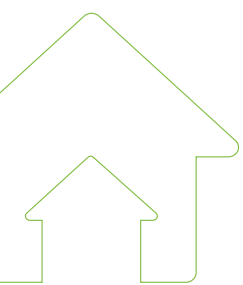




Options	More information
<p>4C. Broaden the types of services that are regulated to enable flexible responses to emerging and developing service needs, in addition to the current mix of out-of-home care service models, in the future</p>	<p>This could include:</p> <ul style="list-style-type: none">■ developing different requirements for different types of services and service delivery models, which would be proportionate to risk■ considering who the requirements might apply to (non-government organisations, government, carers)
<p>4D. Specify minimum qualifications for people working in residential care</p>	<ul style="list-style-type: none">■ This could be in line with proposed changes in New South Wales to improve qualifications for people who work with children in care.■ New South Wales have announced that people working with children in care will now be required to meet minimum standards qualifications and be trained in trauma and therapeutic care.■ These provisions could require people working in residential care to either hold a qualification or be actively working towards obtaining the necessary qualification.

QUESTIONS:

- 4.1** Which options do you support? Why?
- 4.2** Do you think any of the options have unintended consequences?
- 4.3** Are there any other options you believe need to be considered?





Meaningful participation by children in decision making

The existing Act

The Act requires the views of a child to be sought and taken into account before a decision is made. The Act also sets out how to provide an opportunity for a child to express their views. Section 65 of the Act allows a child to apply to the Childrens Court for an order to vary or revoke a child protection order they are subject to. The Act also allows the child to appear in person in child protection proceedings, or be represented by either or both of the following:

- (i) a lawyer engaged as the child's direct representative to act on the child's instructions
- (ii) a lawyer appointed as a separate representative to act in the child's best interests.

The Charter of Rights for a child in care in the Act outlines the rights of a child in the custody or guardianship of the chief executive. The Act also includes obligations of the department to inform a child about the Charter of Rights, as well as provide information about their rights and the support that is available to help them if they feel that the Charter of Rights is not being complied with.

What we heard from stakeholders

Stakeholders told us that the legislation could include a clear right for children to participate in the making of decisions that affect them; and provide clear guidance about how a child may express their views, participate in decision making and the support they should be provided to make this possible. The Charter of Rights for a child in care is seen as an important tool for informing children in out-of-home care of their right to participate in decision making. However, stakeholders felt that many children and young people in out-of-home care do not know or understand what their rights are, or how to exercise them. Some stakeholders suggested that the legislation could include a Charter of Rights that applies to all children who are subject to ongoing departmental intervention and not be limited to those children who are in out-of-home care.

Other important information

Child Protection Commission of Inquiry

The Commission of Inquiry recommended a number of legislative amendments to require the views of children and young people to be provided to the court, if they are old enough and willing and able to express their views.

Supporting Families Changing Futures

The *Child Protection Reform Amendment Act 2016* and *Director of Child Protection Litigation Act 2016* responded to 11 recommendations of the Commission of Inquiry and an additional recommendation of the Court Case Management Committee (recommendation 13.1).





Royal Commission into Institutional Responses to Child Sexual Abuse

The Royal Commission has completed a number of research projects which have examined institutional responses to a child's safety concerns, and heard from young people about how institutions can best listen to and respond to any issues raised.

Other jurisdictions

Legislation in the Northern Territory, New South Wales and Western Australia outlines detailed provisions in child participation principles which support children and young people to express their views and wishes and be involved in decision making.

Other Queensland legislation

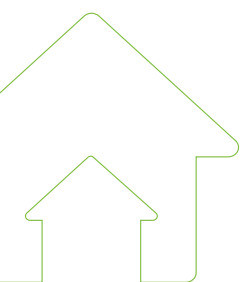
The *Domestic and Family Violence Protection Act 2012* includes a preamble which makes a clear statement that domestic and family violence is a violation of human rights and, as such, is not acceptable in Queensland communities.

United Nations Convention on the Rights of the Child

The Convention states that children have the right to say what they think should happen when adults are making decisions that affect them, and to have their opinions taken into account (Article 16).

Options for new legislation

Options	More information
5A. Include provisions that make it clear that children have the right to express and have their views heard before a decision that affects them is made, and outline how children and young people can express their views	This could include introducing provisions to separate the participation of children from that of other relevant persons and make clear the expectation that children participate, to the extent that they are willing, and that they are supported to do so in an age appropriate way.



Options	More information
<p>5B. Include clearer provisions that enable children and young people to be given access to independent legal advice and representation to vary or revoke their child protection order</p>	<p>This could include clarifying that the existing provisions in the Act that enable a party to a proceeding, including a child, to be represented by a lawyer acting directly on the child's instructions, or appointed by the Childrens Court to act in the child's best interests, extend to proceedings to vary or revoke a child protection order.</p>
<p>5C. Introduce a broad rights focus throughout the legislation and ensure reciprocal responsibilities are provided to ensure children and young people are aware of their rights and supported to exercise them</p>	<p>This approach could ensure children's rights are explicitly referenced in the functions of the chief executive and other relevant provisions.</p>
<p>5D. Revise and expand the Charter of Rights to apply to all children involved in the system</p>	<p>This could provide a new Charter of Rights that is meaningful and relevant to all children who are the subject of ongoing intervention under the legislation, not just those in out-of-home care.</p>
<p>5E. Include a preamble in legislation that recognises the relevant human rights context within which it operates</p>	<p>This could be similar to the preamble in Queensland's <i>Domestic and Family Violence Protection Act 2012</i>.</p> <p>It could enable the United Nations Convention on the Rights of the Child and the United Nations Declaration on the Rights of Indigenous Peoples and other relevant human rights instruments to be acknowledged within the legislation.</p>

QUESTIONS:

- 5.1** Which options do you support? Why?
- 5.2** Do you think any of the options have unintended consequences?
- 5.3** Are there any other options you believe need to be considered?





6 Child wellbeing

The existing Act

The Act primarily focuses on providing for the functions and powers of the department to identify and respond to children and families when a child is reasonably believed to be in need of protection.

When this threshold is met, the department must either investigate allegations of harm or risk of harm to a child, or take other appropriate action considered necessary. In practice, the department conducts an investigation when a child is reasonably believed as being in need of protection.

The principles for the administration of the Act include the need for families to be supported to ensure a child's safety and wellbeing needs are met. However, child wellbeing is not defined in the legislation. The Act is also largely silent on promoting the wellbeing of a child who is not assessed as being in need of protection, and does not specifically identify that support may be offered to families early.

What we heard from stakeholders

Stakeholders wanted to retain the existing threshold for when the department can intervene in the private lives of children and their families. Stakeholders advocated for a move away from investigation responses to child protection notifications, and supported less intrusive responses to child wellbeing concerns. Stakeholders told us that access to secondary family support services by families whose children are not assessed as being in need of protection could remain voluntary.

Other important information

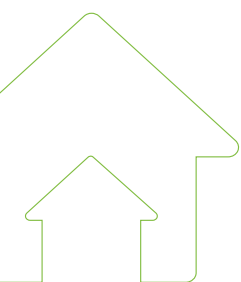
Child Protection Commission of Inquiry

The Commission of Inquiry found that more early intervention services were needed as well as alternatives to a child safety investigation to respond to concerns (recommendation 4.7). The Commission of Inquiry recommended that before granting a child protection order, the Childrens Court must be satisfied that the department has made all reasonable effort to provide support services to the child and family (recommendation 13.20(i)).

Supporting Families Changing Futures

Family and Child Connect and enhanced intensive family support services are being rolled out across Queensland.

In 2015, changes were made to the Act to make it clear that if a person has a concern about a child that does not require a report to the department to be made, the person may refer a child and their family to a relevant support service.



Other jurisdictions

Victoria's *Children, Youth and Families Act 2005* includes an additional threshold for the referral of children and families to community-based child and family services regarding significant concerns for the wellbeing of a child.

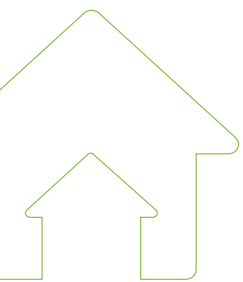
Options for new legislation

Options	More information
6A. Define the concept of child wellbeing	Including 'child wellbeing' as an additional key concept defined in the Act could assist to support vulnerable families to voluntarily access support.
6B. Ensure relevant principles and provisions encourage working with families at each point of their involvement in the system	These provisions could promote offering tailored support to families including when a child wellbeing concern is identified.
6C. Clarify the existing provisions that enable the department to take the necessary action to meet the needs of a child reasonably believed to be in need of protection	This could include making it clear that an assessment and service response may be used rather than an investigation response, when appropriate. This approach could assist to make it clear that an investigation and assessment may not be required before the department can take other action considered appropriate.
6D. Include a requirement that before granting a child protection order, the Childrens Court must be satisfied that the department has taken all reasonable efforts to provide support to the child and their family	This would be consistent with the Commission of Inquiry recommendation 13.20(i)) to increase the accountability of the department to provide support to families, where it is practicable and reasonable to do so.



QUESTIONS:

- 6.1 Which options do you support? Why?
- 6.2 Do you think any of the options have unintended consequences?
- 6.3 Are there any other options you believe need to be considered?





Working with families with parental agreement

The existing Act

The Act currently provides ways to enable the department to work with the parents of a child who is in need of protection, with their agreement. This is facilitated through time-limited Assessment Care Agreements and Child Protection Care Agreements. The Act provides for a number of different types of child protection orders that may be made by the court. These include directive orders and supervisory orders.

What we heard from stakeholders

Stakeholders told us that care agreements could encourage better engagement with a parent who may not be living in the household with the child. Stakeholders wanted legislation to be clear about the roles, responsibilities and rights of families and non-government organisations to participate in a care agreement.

Other important information

Child Protection Commission of Inquiry

The Commission of Inquiry recommended that:

- the department increase its capacity to work with families under a care agreement, directive order or supervisory order, and provide for effective sanctions for parents who do not comply with a supervisory or directive order (recommendation 13.22)
- the Childrens Court has the ability to give directions to a parent to undertake testing, treatments or programs, or to refrain from living at a particular address, with the extent to which the parent complies being considered by the Court in deciding whether to make a child protection order (recommendation 13.2).

Supporting Families Changing Futures

Family and Child Connect and Intensive Family Support services have been established to support families to care for and protect their children safely at home.





Other jurisdictions

Under New South Wales' *Children and Young Person's (Care and Protection) Act 1998*:

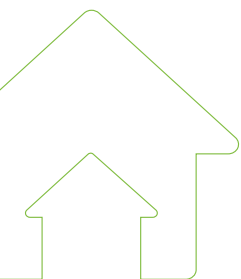
- the Childrens Court can direct a parent or primary care giver to attend or participate in a program, service or course, or engage in therapy or treatment aimed at building their parenting skills
- a prohibition order can prohibit any person, including a parent of a child or young person, or any person who is not a party to the care proceedings, from doing anything that could be done by the parent in carrying out his or her parental responsibility.

Other Queensland legislation

Under the *Domestic and Family Violence Protection Act 2012*, the Childrens Court can make a domestic and family violence protection order against a parent, or vary an order to direct a person to refrain from doing something, during proceedings for an application for a child protection order.

Options for new legislation

Options	More information
<p>7A. Better outline the role and responsibilities of non-government services engaged by the department to support a child and their family during the development, agreement and duration of a care agreement</p>	<p>This could include making it clear that a representative of a relevant non-government service may participate in the development of a care agreement for a child.</p> <p>Recognising the role of non-government services and representatives in legislation may help to strengthen the relationships between all parties to an agreement.</p>
<p>7B. Clarify the rights and responsibilities of a child's parents during the process of developing and agreeing to a care agreement</p>	<p>This could include providing in the legislation that the primary goal of a child protection care agreement is to support a child's family to safely care and protect their child and meet their wellbeing needs.</p> <p>Provisions could make it clear that a child's parents may be supported by another person during the process, have the right to be provided with relevant information, and be provided with a reasonable opportunity to seek independent advice before entering into a care agreement with the department.</p>



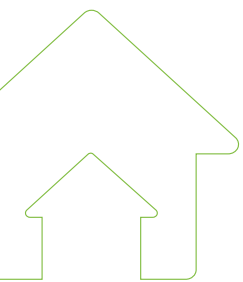
Options	More information
<p>7C. Clearly recognise Aboriginal tradition and Island custom during the development and agreement of a care agreement</p>	<p>This could include enabling relevant kin to participate in the development of an agreement, or to have clearly outlined roles and responsibilities as part of the agreement.</p>
<p>7D. Enable a family care agreement to be made that supports a family to safely care and protect more than one child</p>	<p>This would enable a more holistic and family-focused approach where a family is supported to safely care for and protect a sibling group and meet their individual wellbeing needs.</p>
<p>7E. Increase the maximum duration of a child protection care agreement</p>	<p>This would recognise the increasing complexity of issues faced by families.</p> <p>Extending the total maximum period may provide a more realistic and achievable timeframe for behaviour change and to enable a child’s parents to demonstrate their capacity to safely care for and protect their children and meet their individual wellbeing needs.</p>
<p>7F. Enable the department to direct a parent to do or refrain from doing something directly related to a child’s protection during a care agreement, such as undertake testing, treatments or programs, or to refrain from living at a particular address</p>	<p>Adequate safeguards would need to be included, such as:</p> <ul style="list-style-type: none"> ■ providing clear guidance about the types of things a parent may reasonably be directed to do, or refrain from doing ■ including a reciprocal responsibility for the department to provide reasonable assistance to the parent to enable them to comply with the direction ■ requiring the direction to be reasonable, taking into consideration the parent’s living arrangements, employment, family and other responsibilities. <p>Such a direction would be required to be provided to the parent in writing and include appropriate review mechanisms.</p>





QUESTIONS:

- 7.1 Which options do you support? Why?
- 7.2 Do you think any of the options have unintended consequences?
- 7.3 Are there any other options you believe need to be considered?





8 Parental responsibility

The existing Act

The term ‘parent’ is defined in a number of places throughout the Act, as well as the concepts of ‘custody’ and ‘guardianship’ of a child. The concept of ‘parental responsibility’ is used in the existing Act without being defined.

‘Parent’ is defined both broadly and narrowly depending on the context and application of the term within a particular part of the Act. The narrow definition of parent is applied solely for child protection proceedings and only includes those parents whose legal rights may be affected by the making of a child protection order. The narrow definition does not include parents recognised under Aboriginal tradition or Torres Strait Islander custom or other significant people who may exercise parental responsibility for a child.

A broader definition is used for the investigation phase and acceptance of voluntary intervention at the front end of the child protection system.

What we heard from stakeholders

Stakeholders told us that clear guidance about parental responsibilities is missing from the Act. Some stakeholders suggested incorporating a definition of ‘parental responsibility’ that is similar to the definition in the *Family Law Act 1975* (Cth) in legislation.

Other important information

Child Protection Commission of Inquiry

The Commission of Inquiry recommended incorporating the concept of parental responsibility in child protection orders (recommendation 14.6).

Supporting Families Changing Futures

The Act has been amended to provide a broad discretion for a court to make an order granting certain people some, or all, of the responsibilities of a party in proceedings for an application for a child protection order for a child.

Other jurisdictions

Definitions of parental responsibility in other states and territories are generally similar to the definition in the *Family Law Act 1975* (Cth).

New South Wales allows parental responsibility to be shared between a person and the Minister responsible for child protection.

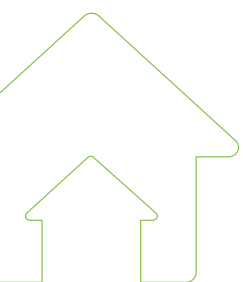
The terms ‘custody’ and ‘guardianship’ were removed from the *Family Law Act 1975* (Cth) in 1995.





Options for new legislation

Options	More Information
8A. Maintain the broad definition of parent to apply throughout the legislation. The narrow definition of parent could be removed, and the definition of who has party status in court proceedings could be revised to include those persons with a legal interest in the proceedings	The narrow definition of ‘parent’ could be replaced by a revised definition of the term ‘party to a proceeding’. The current provision in section 113 of the Act would then enable the Childrens Court to have discretion to enable other persons to exercise some, or all, of the things that a party is able to do.
8B. Introduce and define a new key concept of ‘parental responsibility’ using a similar definition to the <i>Family Law Act 1975</i> (Cth) and remove references to ‘custody’ and ‘guardianship’ of a child	<p>This could modernise language and introduce this concept throughout legislation, including those provisions that outline the types of child protection orders that a court may make for a child.</p> <p>Child protection orders granting custody or guardianship for a child could be reframed in terms of the aspects of parental responsibility that a particular order transfers to the chief executive, or another suitable person, as the least intrusive way of meeting a child’s protective needs, while retaining the ability for a court to make short-term and long-term orders.</p>
8C. Introduce new ‘shared parenting orders’ that enable parental responsibility for a child to be jointly shared between the chief executive or another suitable person and a child’s parents	The court could be given the power to include specific conditions or requirements within an order to meet a child’s demonstrated protection and care needs.
8D. Define concept of ‘parental responsibility’ more broadly	This broader definition could provide greater guidance about the responsibilities of parents to meet their child’s protection, care and wellbeing needs.



QUESTIONS:

- 8.1** Which options do you support? Why?
- 8.2** Do you think any of the options will have unintended consequences?
- 8.3** Are there any other options you believe need to be considered?





Collaborative case planning

The existing Act

Case plans are required when a child is in need of protection and ongoing intervention is required. The Act sets out what a case plan for a child should include, and the process for developing a case plan including participation, development, distribution, implementation and review of the plan. This is done primarily through a Family Group Meeting.

What we heard from stakeholders

Stakeholders considered that the existing provisions relating to procedural requirements for case planning are too detailed and prescriptive. Some stakeholders suggested the legislation could allow non-government agencies to provide case management of children and families who are the subject of ongoing intervention under the Act in the future. This would include Aboriginal and Torres Strait Islander community-controlled organisations leading cultural support planning and other case management functions.

Other important information

Child Protection Commission of Inquiry

The Commission of Inquiry recommended the implementation of a strengths-based practice framework that listens to children and families and involves them in planning and decision making (recommendation 7.1 and 10.2).

Supporting Families Changing Futures

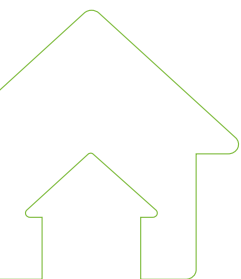
The Strengthening Families Protecting Children Framework for Practice places a greater emphasis on working collaboratively with children, families and carers during assessment, safety planning and case planning processes.

Other jurisdictions

Victoria and New South Wales have less prescription in legislation and allow case planning to be directed by policy and practice resources with guidance provided by principles in legislation.

Options for new legislation

Options	More Information
9A. Include enabling, flexible case planning provisions	Provisions could focus on the primary intent and key elements of a case plan, and high-level requirements for a plan to be put in place and regularly reviewed. Provisions will support the collaborative family decision making reforms underway.



Options	More Information
<p>9B. Provide greater flexibility to enable the delegation of case planning responsibilities to particular non-government entities or individuals in the future</p>	<p>This could include delegation for part or all of the responsibilities for developing, implementing, monitoring or reviewing a case plan for a child to entities or individuals with particular expertise, including Aboriginal and Torres Strait Islander community-controlled entities in the future. Appropriate quality and safeguard measures would need to be in place to ensure the safety and wellbeing of a child where case planning is delegated.</p>

QUESTIONS:

- 9.1** Which options do you support? Why?
- 9.2** Do you think any of the options will have unintended consequences?
- 9.3** Are there any other options you believe need to be considered?





Meaningful participation by families in decision making

The existing Act

Principles about exercising powers and making decisions in the Act refer to obtaining parents' views and helping them to participate in, or understand, the decision making process. The Act also contains detailed provisions about Family Group Meetings, which are the main process for engaging families to develop case plans when children are in need of protection.

What we heard from stakeholders

Stakeholders told us that the provisions guiding Family Group Meetings are too prescriptive and do not support family engagement before a child is determined to be in need of protection.

Stakeholders want legislation to support engaging with families in a structured way as early as possible, to prevent children from entering out-of-home care. This would include using collaborative family decision making and Aboriginal and Torres Strait Islander family-led decision making processes during investigation and assessment, and at every point requiring a significant decision to be made about a child's life. These decisions could include planning for contact with family members, permanency planning and transition to independence planning.

Other important information

Child Protection Commission of Inquiry

The Commission recommended improvements to Family Group Meetings to return the model to its original intent as a collaborative and independent family decision making process (recommendation 7.2).

The Commission recommended a trial of Aboriginal family-led decision making (recommendation 7.3).

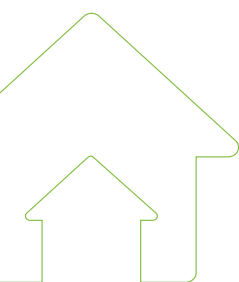
Supporting Families Changing Futures

The Family Group Meeting model is transitioning to a more inclusive collaborative family decision making model.

Aboriginal and Torres Strait Islander family-led decision making processes are being trialled.

Other jurisdictions

Victoria and New South Wales have less prescription in legislation and allow case planning to be directed by policy and practice resources with guidance provided by principles in legislation.



Options for new legislation

Options	More Information
10A. Include strengthened principles that recognise a family's right to meaningfully participate in planning and decision making as far as possible	This could include a requirement for families to be treated fairly and with respect, and recognise the importance of a child's enduring relationships with family, community and kin. This could also embed the key elements of the Strengthening Families Protecting Children Framework for Practice.
10B. Embed natural justice and procedural fairness requirements into all relevant decision making points in the legislation	This will ensure parents and families are provided with the information they need to meaningfully participate, are given a reasonable opportunity to do so, and have access to appropriate recourse if decisions are made that affect them.
10C. Provide for collaborative family decision making and Aboriginal and Torres Strait Islander family-led decision making in the legislation	Legislation could support any agreed changes to service models and practice resulting from current trials of these processes. Provisions could direct that collaborative responses may be used at earlier points of contact with the child protection and family support system.

QUESTIONS:

- 10.1 Which options do you support? Why?
- 10.2 Do you think any of the options will have unintended consequences?
- 10.3 Are there any other options you believe need to be considered?





11 Information sharing

The existing Act

The Act allows the sharing of relevant information between government agencies, and between government agencies and non-government service providers, that provide services to children and families. The provisions maintain confidentiality of information while enabling it to be shared between certain organisations for particular purposes. The Act currently does not allow information about a child and their family to be shared between non-government service providers without consent.

What we heard from stakeholders

Stakeholders told us that information sharing about a child's safety and wellbeing could take priority over a family's right to privacy or confidentiality. We heard that information sharing provisions need to be simple and clear. Some stakeholders also supported allowing information sharing directly between non-government service providers without a family's consent. This includes information about families accessing help and support through Family and Child Connect, when a child is not assessed as being in need of protection.

Other important information

Child Protection Commission of Inquiry

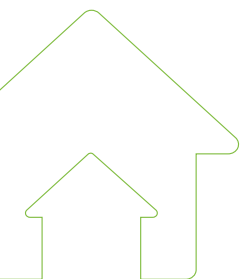
The Commission of Inquiry recommended that the department review existing information sharing and confidentiality provisions in the Act (recommendation 14.2).

Supporting Families Changing Futures

A key priority for the next two years is addressing barriers to information sharing within and across government and non-government agencies where there are concerns about child wellbeing, while maintaining a child's and family's rights to privacy and confidentiality.

Other jurisdictions

New South Wales has the broadest information sharing regime in Australia as its service system relies heavily on non-government organisations. Legislation allows information sharing directly between non-government organisations, and enables information to be shared about children in need of protection, and also about children and families who do not meet this threshold to enable them to access early intervention and prevention support.



Royal Commission into Institutional Responses to Child Sexual Abuse

The Commission’s research found that adopting information sharing provisions similar to those in New South Wales may help to clarify and increase confidence in information sharing arrangements.

Queensland Family and Child Commission

In response to recommendation 28 of its report *When a child is missing: Remembering Tiahleigh — a report into Queensland’s children missing from out-of-home care*, the Queensland Family and Child Commission is reviewing legislation, policies and practices relating to information sharing between agencies responsible for decision-making about the safety of all children in regulated service environments.

Any findings or recommendations will further inform the options proposed for information sharing.

Other Queensland legislation

The *Information Privacy Act 2009* outlines a set of ‘privacy principles’, which set expectations as to how Queensland Government agencies will collect, store, use and disclose personal information. Agencies are required to take all reasonable steps to ensure that a contracted service provider complies with the privacy principles.

Options for new legislation

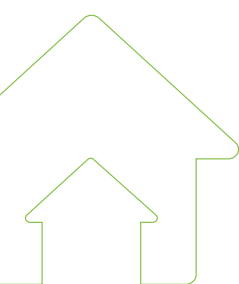
Options	More information
11A. Simplify and clarify the current information sharing provisions	This could provide a clearer interface between information sharing provisions and confidentiality requirements, and introduce a requirement for the department to develop and publish an information sharing guideline to explain how the provisions operate in conjunction with the requirements in the <i>Information Privacy Act 2009</i> and other Acts.



Options	More information
<p>11B. Broaden information sharing provisions to enable personal information about a child and their family to be shared between ‘service providers’ when a child is at risk of becoming a child in need of protection and for specific purposes</p>	<p>This could be limited to sharing relevant information between organisations that are funded to provide Family and Child Connect and Intensive Family Support services. The scope of the organisations to be included, the information to be shared, and the purpose for sharing the information would need to be defined.</p>
<p>11C. Ensure information sharing provisions are flexible to enable the delegation of case management responsibilities to non-government organisations in the future</p>	<p>This could support any changes that enable the chief executive to delegate powers and functions in relation to an Aboriginal or Torres Strait Islander child to an Aboriginal or Torres Strait Islander agency, and to enable non-government organisations to take on greater responsibilities for case management in the future.</p>
<p>11D. Allow broad sharing of personal information without consent in a similar way to Chapter 16A in the New South Wales legislation</p>	<p>Government and non-government service providers could share personal information about a child and their family without the information needing to come through the department.</p> <p>Given the personal and highly sensitive nature of this information, these changes would be limited to information being shared between service providers that are funded by the department and are contractually required to comply with the privacy principles in the <i>Information Privacy Act 2009</i>.</p>
<p>11E. Enable the sharing of information with adults who were children in out-of-home care</p>	<p>This will improve the release of information to care leavers about their personal and family history.</p>

QUESTIONS:

- 11.1** Which options do you support? Why?
- 11.2** Do you think any of the options have unintended consequences?
- 11.3** Are there any other options you believe need to be considered?





Permanency outcomes for children

The existing Act

The principles for the administration of the Act and the Charter of Rights for a child in care promote stable living arrangements and connections with a child's family. The Act also requires the least intrusive intervention to meet a child's protection and care needs.

The Act does not explicitly prioritise and support permanency outcomes for children involved in the tertiary child protection system. Departmental policies, practice resources and tools provide guidance around permanency planning and timeframes for reunification of a child with their family.

Under the Act, a long-term guardianship order to a suitable person provides the most permanent living arrangement for a child in out-of-home-care. An application for this type of order may be appropriate when it has been assessed that a child is not able to be safely reunified with their parents within a timeframe appropriate to the child's age and circumstances, and that the child's protection and care needs, and need for emotional security, will best be met through long-term out-of-home care.

What we heard from stakeholders

Children and young people often experience prolonged instability in out-of-home care, and the existing Act does not prioritise and support permanency outcomes for children. Some stakeholders support the inclusion of overarching permanency principles in the legislation, while others think permanency can be best promoted in policy and practice resources.

A number of stakeholders were supportive of adopting timeframes for the department and courts to assess the possibility of a child or young person being returned to their family. Stakeholders also told us that we need strengthened permanent legal orders that support stability for children and young people.

Other important information

Child Protection Commission of Inquiry

The Commission of Inquiry recommended that legislation should prohibit the making of one or more short-term orders that extend in total beyond the period of two years from the time proceedings commenced, unless the court is reasonably satisfied that it is in the best interests of the child to do so (recommendation 13.4). The government accepted this recommendation with the caveat that if it is in the best interests of a child to make one or more short-term orders that together extend beyond two years, that this would not be forbidden.





Supporting Families Changing Futures

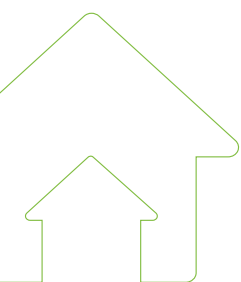
My Home is a new initiative by the department to expand placement options for children who are unable to live permanently with their families. It is about recruiting a new group of permanent foster carers who can care for a child under a child protection order that grants long-term guardianship.

Other jurisdictions

New South Wales has placement principles which state a preferred hierarchy for a child's permanent placement and requires permanency planning be undertaken for children in out-of-home care. Victoria legislates that case plans include a permanency objective for the child following an order of preference. New South Wales and Victoria have included specific timeframes for the relevant child protection departments and courts to assess the possibility of a child or young person being returned to their parents. Child protection legislation in Victoria, Western Australia and the Northern Territory provide for permanent care orders. All these orders allow children to be exited from the statutory child protection system.

Options for new legislation

Options	More information
12A. Introducing overarching permanency principles in the legislation	<p>These principles could prioritise working with a child's family to help them to safely care and protect their child and enable them to meet their full potential. The principles could also make it clear that for a child who is subject to a long-term child protection order, the preference is for the child to have a long-term stable living arrangement.</p> <p>The principles will need to acknowledge the additional important considerations for Aboriginal and Torres Strait Islander children.</p>



Options	More information
<p>12B. Introduce provisions which specifically prohibit the making of one or more short-term orders that extend in total beyond the two-year period from the time the order is made, unless the court is reasonably satisfied that it is in the best interests of the child to do so</p>	<p>This could implement the government's response to recommendation 13.4 by the Commission of Inquiry.</p>
<p>12C. Introduce provisions that require a case plan for a child to include permanency goals and plans for the child, including contingency plans if a child is unable to be reunified with their family in the foreseeable future</p>	<p>This planning could encompass all aspects of permanency, including relationships, cultural identity and connectedness, emotional stability and security, and not be limited to legal permanency and living arrangements.</p>
<p>12D. Introduce a new type of enduring permanent care order that provides a child in out-of-home care with a secure family while maintaining their identity</p>	<p>This order could include exiting the child from the child protection system while enabling the department to provide some financial and other support. A permanent care order also has the potential to broaden the supply of carers.</p>
<p>12E. Introduce provisions to allow a child to be an applicant for the permanent care order (as proposed in 12D)</p>	<p>This could be accompanied by safeguards to ensure that this power is exercised in appropriate circumstances.</p>

QUESTIONS:

- 12.1** Which options do you support? Why?
- 12.2** Do you think any of the options have unintended consequences?
- 12.3** Are there any other options you believe need to be considered?





13 Young people transitioning to independence

The existing Act

The Act requires the department to, as far as practicable, ensure a child who is or has been a child in the custody or guardianship of the chief executive is provided with help to transition from being in care to independence. The Charter of Rights for a child in care acknowledges that a child who is in the custody of, or under the guardianship of, the chief executive has a right to receive appropriate help with their transition from care to independence, including access to housing, income support and training and education.

Departmental policy states that transition to independence planning starts in the calendar year a young person turns 15 years old and increases from 17 years of age, and may continue after the age of 18, if required.

What we heard from stakeholders

Stakeholders told us that legislation could include clearer guidelines for transition to independence planning. Stakeholders also called for legislation to clarify the requirement for the Queensland Government to provide support after a young person has turned 18 years old. A number of stakeholders stated a specific age could be included in legislation.

Other important information

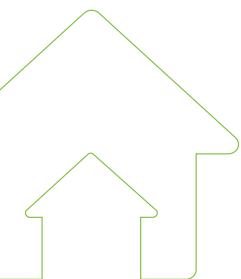
Child Protection Commission of Inquiry

The Commission of Inquiry recommended that:

- the department fund non-government organisations to provide each young person leaving care with a continuum of transition-from-care services, including planning and post-care case management and support (recommendation 9.2)
- a coordinated program of post-care support for young people until at least the age of 21 be developed, including priority access to government services in the areas of education, health, disability services, housing and employment services (recommendation 9.1).

Supporting Families Changing Futures

The Queensland Government launched Next Step After Care in March 2015 to provide access to support services for young people between 15 and 21 years of age who are transitioning to independence.



Other jurisdictions

Legislation in the Northern Territory, Western Australia, Australian Capital Territory and New South Wales provides for transition to independence support to continue up until a young person turns 25 years old.

In New South Wales, the Minister has discretion to continue to provide support to a young person after 25 years of age. In Victoria, transition to independence support may be offered until a young person turns 21 years old.

National Framework for Protecting Australia's Children 2009–2020

The Commonwealth, state and territory governments have committed to improve support for young people leaving care as a priority, in recognition of the financial and social cost of poor outcomes.

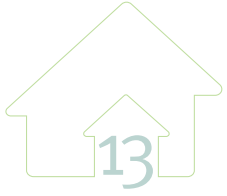
Other Queensland issues

With the introduction of Prep year in Queensland, young people may remain in high school until they are 18 years old, which may have implications for their transition from care.

Options for new legislation

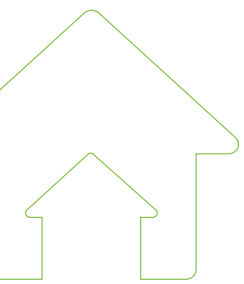
Options	More information
13A. Require a case plan for a child to include a transition to independence plan from the time the young person reaches the age of 15 years.	<p>This would ensure transition to independence planning commences at 15 years of age.</p> <p>The provision could include a requirement that a transition to independence plan meets a young person's housing and accommodation, education and employment, health, disability, and other long term care and wellbeing needs.</p>
13B. Make it clear that the department must ensure the young person can access assistance to transition from being a child in care to independence, up until they reach 21 years of age.	<p>This assistance could be provided either continuously from the time the young person transitions from care, or as required up until they reach the age of 21.</p> <p>This could include discretion for the department to provide assistance, if requested by the young person, up until the age of 25 years. This option may increase demand for transition to independence support services such as Next Step After Care, and would have subsequent resource implications.</p>





QUESTIONS:

- 13.1** Which options do you support? Why?
- 13.2** Do you think any of the options have unintended consequences?
- 13.2** Are there any other options you believe need to be considered?



Other Queensland Child Protection Commission of Inquiry recommendations being considered

The majority of recommendations for legislative reform by the Commission of Inquiry have been discussed in this paper. However, there are some additional recommendations that may require legislative foundations to support their ongoing implementation in the future.

We would like to hear your views about the implementation of the following recommendations:

Recommendation 4.11: the department to review its data-recording methods so that the categories of harm and the categories of abuse or neglect accord with the legislative provisions of the *Child Protection Act 1999*.

Recommendation 13.15 (1): support parents through child protection proceedings by providing them with information about how to access and apply for legal advice or representation, and ensure parents are provided with reasonable time to seek advice. The government recognises that providing timely information about how to access and apply for legal advice or representation, and enabling access to appropriate legal representation is critical to ensuring that the child protection system produces good and just outcomes for children and their families.

Recommendation 8.9: the department to develop a model for providing therapeutic secure care as a last resort for children who present a significant risk of serious harm to themselves or others (recommendation accepted in principle; if and when Queensland Government finances permit). The model should include, as a minimum, the requirement that the department apply for an order from the Supreme Court to compel a child to be admitted to the service.

Recommendation 13.23: allow the Childrens Court discretion to make an order for costs in exceptional circumstances.

Recommendation 14.3: the chief executive administering the Act and the Director of Child Protection Litigation have limited legal authority to make public or disclose information that would otherwise be confidential (including, in rare cases, identifying particulars) to correct misinformation, protect legitimate reputational interests or for any other public interest purpose. In particular, it will be considered whether some of the confidentiality obligations should not apply when the child in question is deceased.

QUESTIONS:

1. Do you think any of the additional recommendations have unintended consequences?
2. Are there any issues with implementing these additional recommendations you believe need to be considered?



