Family Inclusion Network

Rethinking Rights and Regulation: towards a stronger framework for protecting children and supporting families

A submission to the Department of Child Safety, Youth and Women on the Discussion Paper – July 2019.

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Family Inclusion Network
Valuing children. Partnering with families. Embracing Diversity

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Family Inclusion Network facilitates opportunities for parents to be advocates for children and themselves. We resource parents and extended family members to participate and have a voice in the policies and services impacting on the lives of their children, family and community.

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About the Family Inclusion Network South-East Queensland

The Family Inclusion Network (FIN) South-East Queensland (SEQ) is a cluster of parents and Brisbane non-government organizations (NGO) who believe the voices of families matter. FIN SEQ is part of Micah Projects Inc.

FIN facilitates opportunities for parents and kin to advocate for children and themselves on the issues affecting their lives. We believe parents and kin have the right to contribute to discussions about how systems impact on family life. FIN SEQ facilitates activities and, gives families, services and governments the opportunity to work collaboratively to improve the way in which services are delivered to vulnerable families in South-East Queensland.

We encourage the respectful and purposeful inclusion of families, from all cultures, in determining what is important for parents and families who have had interactions with Child Safety in Queensland. The goal to empower parents and families to have a voice about the issues impacting family life must be elevated in child protection systems.

> *"I KNOW the workloads the Department has... I understand... but we just need to be heard! And we need to be believed" (Parent-2019)*

> *"All I ask is that WE get a voice. WE have no rights. Parents and grandparents have a right to work with those little ones.*
>
> *For us... we went everywhere. Knocked on every door. Tried to talk to everyone: to say what was happening. Department said "Go away. You don't know" (Kinship Carer-2019)*

Approach used in FIN's response

In this paper, FIN prioritises comments on options and areas that are of most concern and relevance to parents and kin who have experience with the child protection system. Not all options and areas are therefore commented upon. Further, this paper prioritises the direct voice of parents: it does not seek to cite nor provide an in-depth review of the relevant child protection and family support evidence and literature.

Some of the consultation questions have been challenging for FIN and for parents to address. Specifically because it is not yet clear 'what would be new' or 'what would be different' or 'what will improve', particularly in regard to the regulation of care.

> *"It's a bit difficult to know how it will play out: in service delivery. There are grey areas; and context" (Parent-2019)*

More legislative reviews planned?

Two reviews of the Act have occurred since the Queensland Child Protection Commission of Inquiry (Queensland Child Protection Commission of Inquiry, 2013): in 2015 and 2017. In the lead up to the commencement of the Child Protection Reform Amendment Act 2017 (Qld) on 29 October 2018, significant training of departmental staff and, to a lesser extent, the non-government sector occurred.

It is relevant to note that, during FIN's parent forums in 2018-19, there was a common theme of difficulty in parents reaching their Child Safety Officer (CSO), with several saying that their CSO and/or Team Leaders have "been on training in the new legislation for weeks" (Parent-2018).

This is not intended as a criticism of the Department of Child Safety (the department), moreover it poses a question of reform sequencing, cost benefit and best use of stretched resources. Given staff are indisputably stretched: where could investment best be used? In legislation training, in practice training, in cross-disciplinary trials, in parent peer-worker trials, etc.

> *"I don't think there are enough staff & they're definitely over-worked. There needs to be people to facilitate. To support." (Parent-2018)*

> *"Someone needs to give you guys a medal and support you and get behind you." (Parent-2019)*

FIN understands that the current (2019) review of the Act relates to either unfinished recommendations from previous consultations, or the "over 200 significant new recommendations for the consideration of the Queensland Government" that have come from the reviews, reports, and inquiries that have occurred since:

- QFCC systems review of the arrangements for responding to children missing from care (Queensland Family & Child Commission, 2016)
- QFCC review of the foster care system (QFCC, 2017)
- Royal Commission into Institutional Responses to Child Sexual Abuse (Commonwealth of Australia, 2017)
- The National Framework for Protecting Australia's Children 2009-2020 (Commonwealth of Australia, 2009)
- Legislative frameworks and child protection reforms in other states and territories

- Submissions to the Legal Affairs and Community Safety Committee's inquiry into the Human Rights Bill 2018 and
- The Human Rights Act 2019 (Queensland Government, 2019)

FIN notes however that the consultation paper states that "not all outstanding recommendations will be addressed in this stage of changes to the Act". It is assumed that this means a still further review of the Act is planned.

Further to this, the Human Rights Act 2019 (Queensland Government, 2019) commencement on 1 January 2020 will not only require the Child Protection Act (Queensland Government, 2018) be *compatible* with human rights, it will also undoubtedly facilitate complaints and decisions that may provide an alternative source of expertise for the Act's re-drafting.

In summary, FIN would hope for the simplest legislative reforms possible at this stage, to prioritise the practice reforms and other reviews (such as the foster care assessment and training review) currently underway.

> *"I grew up in the child protection system. Fifteen foster homes. So this is vital for me to help fix things. Because I know what it's like." (Parent-2019)*

> *"I want the 'right to maintain relationships'. And the 'right to hear from family as an expert."*

> *"Family acknowledged as having deep expertise and knowledge. A government organisation should have a responsibility: that they will SEEK as much information as they can."*

Human rights: Inclusions

FIN supports the objective of the Queensland Human Rights Act (Queensland Government, 2019) to protect and promote human rights and to help to build a culture in the Queensland public sector that respects and promotes human rights. Further, that the Convention on the Rights of a Child (United Nations, 1990) should be included in its entirety within the Child Protection Act.

The preamble of the United Nations Convention on the Rights of the Child states that '[T]he family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community.' (United Nations, 1990, Preamble)

Parental rights and responsibilities need to be supported by government as do the rights to parent, where appropriate, even when interventions are required. Protection of the family unit, especially vulnerable families requires state provision for certain economic, social and legal protections.

Article 16 (3) of Universal Declaration of Human Rights (United Nations, 1948), acknowledges the family as the natural and fundamental group unit of society and entitlement to protection by society and the State, consistent with, section 26 of the Queensland's Human Rights Act (2019).

1. Families are the fundamental group unit of society and are entitled to be protected by society and the State.
2. Every child has the right, without discrimination, to the protection that is needed by the child, and is in the child's best interests, because of being a child.
3. Every person born in Queensland has the right to a name and to be registered, as having been born, under a law of the State as soon as practicable after being born.

(Queensland Human Rights Commission, 2019)

Poverty should not be reason for removal, rather a rationale for support. Finland's Child Welfare system enables specialised forms of assistance to families where the need for child welfare is caused by inadequate income or housing. Legislation enables families' access to voluntary supports, as well as appropriate therapy, educational assistance and social inclusion activities for families (Ministry of Social Affairs and health, 2013). New Zealand's approach to family wellbeing and child protection is discussed later in this submission recommending an alternative to exclusive 'child protection' policies (Oranga Tamariki—Ministry for Children and the Ministry of Education, 2014).

FIN does not endorse harm to any child. Article 18(2) of the Convention on the Rights of the Child affirms that state parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities (United Nations, 1990). Parents have clearly expressed that they never stop being parents even when their children go into care; that they can and do change and go on to have other children. In ten years of advocacy, parents consistently reported they do not feel respected or valued within the child safety system.

The Supporting Families Changing Futures 2019 – 2023 initiative recommends increased efforts to keep families together (Department of Child Safety, Youth and Women, 2019, p.7). The inclusion of the Convention on the Rights of the Child within Queensland's child protection Act would be a welcome addition if it is used as a mechanism to strengthen families and provide necessary supports for children and parents where is safe for children to return home (United Nations, 1990).

Parents summarise the key issues & solutions

FIN's 2018-19 parent forums heard from over 40 parents from five locations in the greater Brisbane area, and also from FIN-Townsville. In June 2019, a sub-set of 11 parents (with a range of experiences across the system, summarised the key issues that had arisen, and also distilled a small number solutions.

This is of relevance to the consultation regarding the Child Protection Act because many of the issues – perhaps the majority – could be improved through the legislation at some stage.

Key issues

1. Respect & relationships
2. Loss of Identity / role as a parent
3. Support
4. Information about me
5. Information about my child
6. Timeframes
7. System really confusing
8. Legal support & resources

The Solutions

1. An embedded, on-going Statewide Parent Advisory Committee
2. Paid Parent Advocates roles (in a team of three, alongside a lawyer and social worker as per Bronx Defender's model)
3. Mandatory legal representation
4. Support (or 'early intervention') that addresses causes – eg. Housing, health, DV
5. Intensive trauma-informed training for workers

Mandatory legal representation

Child protection reform discussions have long noted the fact that parents in child protective investigations are afforded fewer rights than suspects in criminal cases. Queensland's Human Rights Act includes provisions for a fair trial. FIN recommends an extension of this principle and recommends mandatory legal representation for parents as soon as Child Protection issues arise. It is important that respect for Human Rights involves adequate and fair administrative processes. Given that so many families do not access legal advice it is essential that the Department be held accountable for fair and due process when making decisions about parents and children.

> *But in our case – we don't go to jail, we lose our kids!" (Parent-2018)*

Legal representation case study

Parent A has an intellectual impairment. She does not have access to a computer or email, and her only communication is via her mobile phone.

Parent A was provided a grant of aid for legal representation through Legal Aid Qld. The child protection application was for a long-term order for her children and proceedings were to take place in less than three months. Concurrently, Parent A's eligibility for the National Disability Insurance Scheme (NDIS) was being assessed. Parent A's first application for NDIS was rejected and on appeal she was granted adequate funding for in-home support to a level which was considered sufficient to consider reunification with her children.

Parent A reported that she did her best to communicate to her lawyer to provide information about her changing circumstances. Parent A reported that her calls were rarely returned, she was not able to provide or receive information and that her anxiety levels grew about not being prepared for court.

Parent A advised that she wished to have a lawyer that was able to communicate clearly and regularly with and was advised by a third party that she could apply to transfer her solicitor with legal aid.

When parent A applied for a change of legal grant of aid, she was required to make a written application for a transfer of solicitor. Parent A had to show that there were 'exceptional circumstances' and that the grants officer would have to be satisfied that there was an irretrievable breakdown in the relationship between parent A and her assigned legal representative. The process involved the parent providing a significant

amount of information about her attempts to contact and qualifying why she felt she was not being provided with adequate service.

There were no provisions for Parent A to apply to transfer solicitors verbally.

Parent A was linked to a disability service that was able to assist her completion of forms to make the application to transfer to another solicitor who could make provisions for her disability. Parent A reported that the process was onerous and distressing due to competing priorities, such as working on plans with her NDIS provider, planning for her children's return home, communicating with different support services and assuring her children that she was doing everything she could to have them return home without being able to communicate a clear outcome to her children.

Parent identified barriers that they experience in legal proceedings:

- Meeting lawyers five minutes prior to their proceedings
- Parents current circumstances not being reported in court documents showing progress or changes in circumstances which could impact their case
- Lack of information available to parents about their rights and responsibilities, therefore parents not engaging as they should as they don't understand the process, or the purpose of interactions with different agencies
- Long and protracted legal procedures further exacerbated by delays in family group meetings and reports being compiled to inform the courts

Evidence from New York City models over twenty years indicates that having legal help during an investigation can reduce the trauma to children. "When parents are reassured that they have an ally, they're less likely to fight [the Dept], and more willing to take steps to improve conditions for their children. Other times, the job is as simple as helping parents provide clear information to a judge on day one if a case goes to court…" (Blustain, 2019).

A handful of the fortunate parents who have accessed legal representatives well-versed in the Child Protection Act, have spoken effusively about the flexible and humane results.

> *"I know children with 18yr orders: who live 4 nights a week with Mum."*

> *"My 7 year old said: 'Do I have a lawyer? Why haven't I met them?'."*

> *"Need legal representation or right of information appeal – if information on the file is not right. Ability to get it expunged." (Parent-2018)*

→ FIN suggestion – mandatory and timely legal representation is made available to parents immediately when a Child Protection Order is made.

Permanency for children

FIN considers the area of permanency to be an area still very much open for legislative, policy and practice improvement. Permanency planning impacts every level of the child protection system and every family engaged in this system.

> *"We know that Permanent Care Orders were to protect families from the Department dragging things out, letting it slide. But it's flipped: to have this urgency of two years. These children need more time." (Parent-2019)*

In early 2018, representatives from Micah, Queensland Council of Social Service (QCOSS), PeakCare Queensland (PeakCare), and the Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSCIPP) formally wrote to the Minister about the implementation of permanent care orders in Queensland following proclamation of the *Child Protection Reform Amendment Act 2017*.

Hansard records show that Parliamentary members raised concerns about the use of permanent care orders, especially for Aboriginal and Torres Strait Islander children with respect to adherence to the Child Placement Principles. The Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee report No. 45 identified potential issues with regard to the rights and liberties of individuals and the application of natural justice principles (Queensland Parliament, 2017, pg. 51). We strongly recommended, prior to implementation, that "a system was established for the purpose of monitoring, evaluating and exercising oversight of the use of permanent care orders in Queensland".

FIN has continued to strongly make this recommendation.

It is supported by findings by the Victoria State Government and that State's Commission for Children's 2017 report "Inquiry into the implementation of the Children, Youth and Families Amendment" Commission for Children and Young People, 2017). The report's findings highlight the need for rigorous planning, multiple data collection points, monitoring, evaluation, oversight and reviews.

While there are a range 'permanency' options under the Act, to a child, young person or parent the distinctions are undiscernible and semantic.

"… legal arrangements for the child's care that provide the child with a sense of permanence and long-term stability, including, for example, a long-term guardianship order, a permanent care order or an adoption order for the child" (Child Protection Reform Amendment Act 2017)

Parents have begun to express an ever more acute sense of distress about two-year timeframes:

> *"I've made a realisation that I won't get [my child] back 'cause I can't meet their timeframes."*

> *"When you have a broken heart... and you're trying to be a good mum... but you don't actually have your children with you... THIS should be highly regarded."*
>
> *"We need some common sense. They said, "If you love your daughter, you would want her back NOW." ..... But I am aware enough to know that I can't care for her well enough: just yet. I know that I am working to fix things, to get healthy, to get ready. It's not about LOVE. It's about logic."*

> *"Two of my kids are now going onto 18 years orders: But we haven't done everything possible yet!"*

> *"I've been diagnosed over time - with borderline, anxiety, OCD, PTSD.... and I'm open about that.... and doing all the things... and showing them how I'm doing... going along well. Then BANG: sorry, you've run out of time?!?"*

→ Fin suggestion – A system is required to monitor, evaluate and exercise oversight of the use of all types of permanency orders in Queensland.

Reinforcing children and young people's rights

Preamble and purpose

Options	More information
1A Introducing a preamble recognising the human rights context of the Act.	A preamble is a part of an Act that sets out why the law was made and the facts or values that are important for the operation of the law. A preamble in the Child Protection Act could recognise international laws about human rights and community values. This could be modelled on the preamble to the *Domestic and Family Violence Protection Act 2012*.

The assumed intention of a preamble is supported, however with regard to the international and human rights laws, it is not clear what the effect or added benefit of a preamble would have after the commencement of the Human Rights Act (Queensland Government, 2019).

A preamble, if it were to be included, may be more relevant to the specificity of the Act if it were to recognise the past failures of government, churches and NGOs to care for children. This preamble could reference the National and State apologies, and incorporate a principle that recognises the intergenerational impact of trauma and childhood histories of parents who were in the child protection system and that this should not be viewed as an automatic deficit in their parenting, but rather an experience for which they require understanding and support. This is critical to building trust in the system by people who have been harmed by the system, and are now engaged with their children.

> *"Our Human Rights are already there. They just need to be recognised." (Parent-2019)*

> *"Can the Child Protection Act be amended in any way to address the intersection with Family Law?" (Parent-2019)*

1B Developing a broader purpose for the Act than 'the protection of children'.	A purpose sets out what an Act aims to achieve, and can be used to help work out the meaning of other parts of the legislation. The purpose of the Child Protection Act could be broadened to recognise that the role of the government is not only to take action to protect children but also to promote children and young people's wellbeing, to support families to safely care for and protect their children, and to focus decisions and services on the needs of children and young people.

FIN acknowledges and applauds the five years of Supporting Families Changing Futures reforms (Department of Child Safety, Youth and Women, 2019).

We encourage the continued shifting from a child protection, adversarial, investigatory approach towards a 'family support first' approach which has a focus on early intervention and problem-resolution. Using a principle such as 'family support first' is still consistent with 'child-centered' as a core guiding principle. Language is important if we are to overcome stigma and encourage families to seek and receive family support.

While the assumed intention of the option to broaden the Child Protection Act specifically to promote children and young people's wellbeing is understandable, FIN does not support this option due to the risk of 'net widening'. Far too many families are already being unnecessarily caught up in the statutory, stigma-prone child protection system. Many who need help have to agree to assessment in a statutory system in order to receive the family support services they need. This can deter them from seeking help.

FIN would support a separate Act related to child wellbeing.

Legislation needs to protect investment into families separately from the investment into the Child Protection System.

FIN support concepts of shared responsibility and whole-of government action. We agree that there can be positive learning from the New Zealand (NZ) Children's Action Plan and the Vulnerable Children Act 2014. The principal underpinning the Children's Action Plan and the Vulnerable Children Act 2014 is that no single agency alone can protect vulnerable children (Oranga Tamariki—Ministry for Children and the Ministry

of Education, 2014). In NZ five chief executives of government agencies are jointly accountable for acting together to develop and implement a plan to protect children from harm, working with families/whānau and communities.

The interesting development in NZ is joint accountability. It cannot be expected that a Child Safety agency alone can respond to and be accountable for support to families and children. In NZ Chief Executives from the Ministries of Education, Health, Justice, Social Development and the NZ Police must jointly develop and report against a vulnerable children's plan to collectively achieve the Government's priorities for vulnerable children. The plan will be reviewed every three years and reported on annually.

FIN supports legislation, outlining the roles of government and non-government organisations whether in the Child Protection Act or a separate Act. We recommend the New Zealand Vulnerable Children's Act as a model which sets out expectations and reporting requirements across government departments (Oranga Tamariki—Ministry for Children and the Ministry of Education, 2014). FIN recommends that the legislation include provisions that promote compliance of government departments and transparent reporting as current practices have not worked.

Child's rights

1C Introducing specific matters to be considered when determining what is in a child's best interests.	This could include making it clearer how the general principles for administering the Act relate to determining the best interests of the child or young person, and possibly reframing these principles as a list of matters that decision makers must consider when determining what is in the child or young person's best interests.
1D Embedding a rights focus throughout the legislation to ensure children and young people are aware of their rights and how to exercise them.	This approach could ensure rights are promoted throughout the legislation. Children and young people's rights could also be reinforced by reframing the principles for administering the Act as rights.
1E Revising the Charter of Rights for children in care.	This could include expanding the Charter of Rights to apply to all children who are subject to ongoing intervention under the Act, and adding new rights such as those set out in the charters of rights in other states and territories, or rights set out in the Convention on the Rights of the Child. This could also include changing the language in the Charter of Rights to make it more child focussed.

If revised, FIN reasserts earlier recommendations made in stating that the Charter of Rights should reflect the following elements and that the Convention on the Rights of the Child be included (United Nations, 1990).

- Children should live with their families when they can do so safely by clearly articulating the rights and responsibilities of parents and all stakeholders
- Children who cannot live with their families should be able to live close to their home and have contact with biological family (with rights and responsibilities clearly articulated)
- Children who are removed should maintain daily contact with parents until the court decision-making process occurs, unless the Department can show with clear and convincing evidence that this will cause significant harm
- Services available to families and children are flexible and support unique circumstances and abilities with resources being made available to parents,

children and young people. Families should not have to be judged on how they can adapt to inflexible services that are unlikely to meet their needs

- Services are provided to children and their families which are accessible and timely with a focus on stability
- Reports of abuse and neglect are investigated quickly
- Unsubstantiated reports should be removed from records within a set period of time
- Through family group meetings, parents, foster and kinship carers should be accurately and timely informed in language understandable to them concerning:
    - their rights
    - goals, responsibilities and timeframes – for all parties
    - progress being made – by all parties (not just parents)

> *"Rights should include culture, language and religion. I wanted my child to keep connected with x religion." (Parent-2018)*

> *"Spiritual rights." (Parent-2019)*

> *"It's in the Charter of Rights... but not an obligation. If you want to see your child - it's on you to get the 45 minutes there and 45 minutes back. It's on you. You will have to pay for the transport, make the changes to your routine. No support to do it." (Parent-2019)*

> *"My 18 year old.... has really struggled with the fact that they were never consulted [about the removal of a younger sibling]. They KNOW. What its like to grow up in this house. Never spoken with." (Parent-2019)*

> *"The current system doesn't align with the Convention on the Rights of the Child. Esp Articles 6, 8, 14" (Parent-2019)*

1F Revising the reviewable decisions framework.	This could include revising the decisions that are reviewable and improving awareness about when an application for a review can be made.

Parents approach FIN frequently for information regarding their rights, and particularly avenues for complaint, review, and appeal. The process and avenues are confusing. Parents should have the right to timely information – at every stage – which clearly states the reasons for decisions being made about their family or children and the right to request a review of decision (and via which avenue, within which timeframe).

> *"I tried to complain lots of times. Got told "You're just a Dad". (Parent-2018)*

> *"I used complaints processes, review panels, Independent review, all the systems.... still nothing." (Parent-2019)*

> *"There could be a "Checklist" – X Should be happening – tick, Y should be happening – tick." (Parent-2018)*

> *"There should be clear steps: DO this, DON'T do this." (Parent-2018)*

> *"So hard to get other written information out of the Dept. I had to push and push for 3 months to get a letter in writing, that I needed, just to confirm what they'd been saying." (Parent-2018)*

→ Fin suggestion – Provide clear information citing the stages – and timeframes – for reviews and appeals, regardless of which Queensland department, tribunal. Commission or Act is applicable.

Strengthening children and young people's voices in decisions that affect them

Options	More information
2A Ensuring the relevant principles and provisions encourage and empower children and young people to meaningfully participate in decisions that affect them.	This could include introducing provisions to: ■ separate the participation of children and young people from the participation of other relevant persons ■ ensure processes are child-centric and support children and young people to understand and participate in decision making processes ■ provide additional guidance about how children and young people's views should be considered in decision making. This could also include a list of information the child or young person must be given to ensure they understand their circumstances and the decision making process. The list could be modelled on matters set out in other jurisdictions such as the *Children and Young Persons (Care and Protection) Act 1998* (NSW) and *Children and Community Services Act 2004* (WA).
2B Including information about how children and young people can express their views.	This could include provisions giving preference to children and young people personally expressing their views to the decision maker, if they choose to, as well as listing other ways their views can be obtained, such as from other experts who have been involved with the child or young person, and written reports.

When parents speak with FIN, without exception they support the rights of children and young people to have a say in matters that affect their lives. As with many aspects of this consultation, improvements would potentially come from practice-level rather than legislation. For example, at what ages or, more appropriately, at what stages of development, readiness, maturity and resilience should a child's voice be heard? And what are the supports around this? As one parent (of children aged between 5 and 16) said: *"That's a lot of responsibility to put on their shoulders".*

As demonstrated by the quotes to follow, parents have a great many deeply considered contributions to make in this area.

> *"Can their voice come via a trusted other source (like their doctor)? Independent." (Parent-2019)*

"Schools, contact centres." (Parent-2019)

"What about when they're a baby... and they don't have a voice or know their mum. How can they 'say' they want their mum - or their dad?" (Parent-2019)

"Children will say they're sick... which is how they DO feel... they don't know that it might be stress or grief or trauma. They don't know, like the parents know." (Parent-2019)

"I feel uncomfortable answering these questions about young people - have they had a say?" (Parent-2019)

"If a child has never been asked their opinion. Or helped to make decisions.... As they get older - they CAN'T make decisions. 'Cause they've always been TOLD." (Kinship carer-2019)

"Maybe an expert third-party eg a child psychologist, or an expert in body language, or in children's drawings?" (Parent-2019)

"Ask them in whatever way makes sense to them." (Parent-2019)

"The children are 'so withdrawn'. Which gets commented on by people making judgements and writing reports. Why are the children so withdrawn? It's because they've spoken about this with 6 or 7 or 8 people already. It gets to the point where it's hard for ME to ask my children about everyday things: 'How was your trip? How was the BBQ?' They shut down: Once children have been through this system: they stop answering questions 'cause they've had so many interrogations through investigations etc." (Parent-2019)

How might practices avoid closed or leading questions? "They [the child] got told: 'You can go with Dad or [the carer]. You can't go with

> *Mum.' So they say 'Dad' of course. There wasn't an option or a chance to have an open conversation." (Parent-2019)*

2C Including additional requirements to strengthen procedural fairness in the decision making provisions.	This could include providing children and young people with information about how their views will be recorded and used. This could also include giving children and young people the opportunity to respond to proposed decisions, allowing them to raise any concerns for consideration prior to a final decision being made. Additionally, children and young people could be given a full explanation of the reasons for a decision once the final decision is made.

As previously stated, parents approach FIN frequently for information regarding their rights, and particularly avenues for complaint, review, and appeal. *Everyone* party to a decision should have the right to timely information – at every stage – which clearly states the reasons for decisions being made about their family and the right to request a review of decisions (and via which avenue, within which timeframe).

> *"When you see the Affidavit!..... WHAT?!?!? None of this happened!" (Parent 2018)*

> *"Everything gets interpreted and changed... it should be written verbatim [to prevent misinterpretation]." (Parent-2018)*

→ **Fin suggestion –** Provide clear information citing the stages – and timeframes – for reviews and appeals, regardless of which Queensland department, tribunal. Commission or Act is applicable.

Reshaping the regulation of care

FIN is aware of the recent work to launch the Hope and Healing framework (Peakcare Queensland Inc., 2015), and professional development tools. And also the current project being conducted into the assessment, approval and training of foster and kinship carers. We are pleased that parents have been able to participate in a discussion with the consultants. There appears to be some crossover between the project and the options in this consultation paper, so we trust the two will provide mutual benefit.

Options	More information
3A Clarifying the regulation of approved carers to ensure a robust, safe and transparent framework.	This could include: ■ revising and clearly stating in legislation the evidence-based, child safe criteria upon which carer approval decisions are made ■ introducing a code of conduct for foster and kinship carers that applicants must confirm they will comply with ■ specifying the information and sources of information that may be considered as part of the decision making process ■ providing guidance to decision makers regarding how to assess carer applications ■ introducing clearer requirements for carers to demonstrate compliance when concerns are identified, such as risk management plans, and a framework that enables the department to respond appropriately and in a timely way.
3B Streamlining aspects of the carer assessment processes.	This could include recognition between the approved carer and adoptive parent assessment frameworks, such as not requiring a person approved to be an adoptive parent to then also demonstrate they satisfy all of the criteria to be a foster or kinship carer.
3C Clarifying requirements for regular visitors.	This could include ensuring the requirements for 'regular visitors' to foster and kinship carers' homes and to home-based services, such as family day cares, are consistent.

FIN is extremely concerned by the language and phrasing in option 3B regarding streamlined assessment processes – and mentioning adoptive, foster and kinship in the same option. While the intent is not clear: the three should never be blurred or connected in this way.

FIN and the parents and kinship carers we work with are also clear that kinship care and foster care should not be blurred or 'streamlined' in any way. By definition if a person is biologically related to the child requiring care they should be deemed a kinship carer.

> *"We are not a foster carer. Kinship carers are family. We are grandmothers, aunts and uncles. We need a different rule book." (Kinship carer-2016)*

> *"My Dad is a career [professional]. He felt humiliated by the inspection of his home. Of being told he had to be home at this time during the week. When he works." (Parent-2019)*

The approval and compliance requirements for kinship care are intrusive and disproportional. Extended family caring for children is common and kinship carers should not be subject to the currently practiced high amount of government intrusion where there is consent by the biological parents.

Furthermore, FIN is very aware, from our discussions with parents – and also with our colleagues in QATSICPP, Create, PeakCare and others – that criminal history checks and blue card requirements for kinship carers is severely and negatively impacting their approval. FIN considers the requirement for similar checks for regular visitors to homes excessive. Carers (foster or kinship) already have the responsibility of providing a safe and nurturing home for the child/ren, and should be entrusted to make reasonable decisions about who may visit the home.

> *"Walk beside us with the aim of getting the children back home. And expect to see and connect with us" (Parent-2019)*

> *Not "any carer at any cost" (Parent-2019)*

> *"My positive experience in care included a strong bond with my carer who is now still in a part of the family. It also works with the parents*

> *because they can have breaks from the kids in the holidays. And if there is an emergency, there would be an extra slot available so the child has somewhere to stay. Also it's fun." (Young Person-2019)*

> *"Carers span the biggest range... like all people.... Some do anything to connect with parents and family. Others won't come near us. They have actually been told by the Department that they're 'not allowed' [to contact parents]." (Parent-2019)*

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