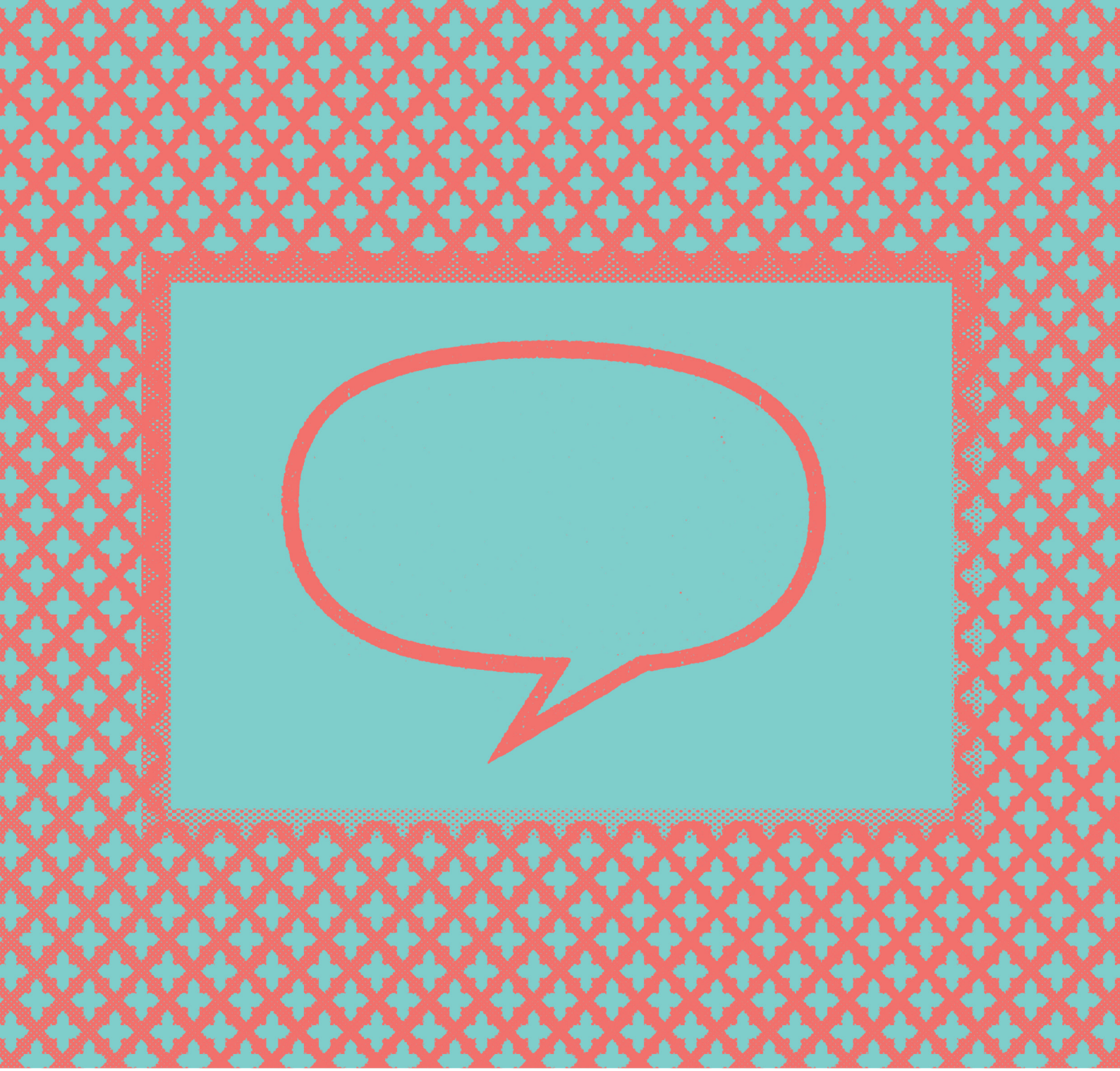

Submission on the Child Protection and Other Legislation Amendment Bill 2020

Family Inclusion Network SEQ

Valuing children
Partnering with families
Embracing diversity

AN ACTIVITY OF MICAH PROJECTS

Family Inclusion Network

Child Protection and Other Legislation Amendment Bill 2020

Submission to the Legal Affairs and Community Safety Committee, Parliament House, August 2020

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.

AN ACTIVITY OF MICAH PROJECTS

Funded by
Queensland Government

Submission on the Child Protection and Other Legislation Amendment Bill 2020

Committee Secretary, The Legal Affairs and Community Safety Committee, Parliament House, George St, Brisbane, QLD 4000 – via email lacsc@parliament.qld.gov.au

August 2020

Dear Committee Members

Thank you for the opportunity to make this submission to the Child Protection and Other Legislation Amendment Bill 2020.

We recommend that the Committee first and foremost read the attached, confidential compendia of parent experiences to gain the best understanding of the outcomes and impacts of this Bill.

For the last 25 years Micah Projects has walked alongside members of the Queensland community with lived experience of the child welfare system. Over this time, parents with children in the system, and children who have grown up in the system, have contributed to many different consultations, research projects and forums seeking change.

Micah Projects provides direct services to families and individuals who experience homelessness and domestic violence, and early intervention services to young pregnant and parenting women in Brisbane and Caboolture. Our goal in our work with families is to assist them to protect and nurture their children by working with them to have a home, an income, be safe and supported. However due to the lack of services in the community we see too many women - due to homelessness and domestic violence - have their children placed in care and very few services are funded to assist parents reunify with their children. This population of mothers, and their partners and extended family, are at most at risk of being disadvantaged by this Bill and the mandatory two-year framework for permanency planning for children in Out-of-Home Care and adoption. In 2019-2020 Micah Projects worked with over 1,370 families and 1,661 children - of which 904 were under five years of age.

Micah Projects has provided the backbone services to the Family Inclusion Network (FIN-SEQ) since its inception. FIN-SEQ aims to support parents have a voice within the child protection system. Through FIN, parents constantly tell us of their struggle to deal with the power imbalance between themselves and multiple service systems, especially child protection. Rather than the imbalance being recognised, the system identifies the parents as being unwilling and unable to care for and protect their children instead of highlighting the fragmented systems across, housing, health, education, domestic and family violence, child safety, corrections.

Encouragingly, in 2019, for the first time in Australia, parents who had experienced child removal were supported by FIN-SEQ to have a face-to-face meeting with the responsible State Minister. At this time, there was a government commitment for the ongoing inclusion of the voices of parents and families through a Statewide Parent Advisory Committee to meet four times a year to support the continual improvement of the system.

Micah Projects has worked with people who have experienced abuse in Out-of-Home Care and forced adoptions for the past 25 years. Micah Projects has supported people who identify as Forgotten Australians and has facilitated the Historical Abuse Network which has advocated for early support to families, and safety in Out-of-Home Care. Their experiences as adults who have discovered that they

were placed in care due to their parents (especially their mothers) being unemployed, living in poverty, experiencing homelessness and domestic violence, or being survivors of childhood abuse themselves have provided us with direct experiences of the lifetime legacy that separation from mothers, fathers , siblings, extended family and culture have on their childhood and on the outcomes of their adult life. Many were not placed in safer families, adoptive or foster care, groups homes, residentials or orphanages. It is on public record in multiple reports that the extent of the abuse of power and the extent to which physical, sexual, psychological abuse occurred and has left an intergenerational imprint on the lives of these people. The intergenerational impact of loss of identity, inability to access medical records and the loss of relationships and culture for all survivors - but especially for Aboriginal and Torres Strait Islander people – is incalculable. Many of the impacts on children were due to the policy or legislative settings of the day which did not enable children to be supported in alternative ways with their parents, their extended family and culture and community.

The contents of this Submission are informed by what we witness in working with people, what they tell us and how our work engages with children, parents, families and child safety.

The survivors of institutional child sexual abuse informs our view that *we meet the needs of children for protection when we meet the needs of their parents.* Early support for families is imperative, or we pay - and say sorry- later.

> "…To the sons and daughters taken from their mothers, we also say sorry and express our deep regret for the trauma that many of you have suffered. We acknowledge that you were denied the right to experience the bonds between you and your natural mother, father, siblings and other family members because of the practices that took place at the time of your birth. We know that for many of you this has caused immeasurable pain..." (excerpt from the Queensland Apology for forced adoption policies and practices, 27 November 2012)

It remains our hope that a more balanced system will emerge from proposals to *again* amend the *Child Protection Act (1999)* in Queensland.

Thank you for taking the time to consider our recommendations.

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Attachments:

1) Confidential - Parents' Experiences that Support FIN-SEQ's Submission, August 2020.

2) Give all our Children a Great Start – an alternative system response for safer children and stronger families

Summary of Recommendations

Recommendation 1 Section 59 of the *Child Protection Act 1999* be amended so that if the court was not satisfied the Department had "taken all reasonable efforts to provide support services to the child and family" then it could refuse to make the child protection order.

Recommendation 2 The Queensland government ensure that a right to legal representation in the Child Safety jurisdiction is embedded in the legislation and that the Legal Aid funding pool is expanded to meet this need

Recommendation 3 that the Amendment as drafted does not proceed.

We further recommend that the strong evidence base that exists be considered prior to any further changes to Queensland's permanency planning to deliver a broad and flexible range of options to achieve relational, physical, and legal permanency.

Stakeholders should also be consulted with reasonable timeframes for response.

Recommendation 4 The two-year timeframe for 'permanency' should serve as a guide, not a fixed timeframe.

We further recommend that the Child Protection Act 1999 is amended so that biological parents are afforded their right to apply to have a Permanent Care Order revoked.

FIN-SEQ recognises the significant over-representation of Aboriginal and Torres Strait Islander in the child protection system, including in out-of-home care. We support recommendations and commit to actions proposed by QATSICPP, SNAICC and other community controlled organisations to demand information, accountability and change.

FIN-SEQ seconds and supports all recommendations of CREATE, including that children and young people should be included in decisions about their lives. This is especially critical in permanent decisions such as adoption.

Background - Family Inclusion Network, South East Qld

The Family Inclusion Network, South-East Queensland (FIN,SEQ) was formed in 2007 as a network of Brisbane parents and non-government organisations who believed the voices of families matter. It is acknowledged that as part of the post-Carmody reform agenda, FIN-SEQ attained five-year funding from the Queensland Department of Child Safety, Youth and Women (1 April 2016 - 31 March 2021). The Geographic Catchment Area is 'Brisbane' with negotiation able to occur for the North Coast, South East and South West Regions.

Approach to this Submission

The Family Inclusion Network, South East Queensland (FIN-SEQ) acknowledges the depth of evidence and opinion being brought to the table by a large number of organisations, services, peak bodies, academics, and politicians.

FIN-SEQ's submission therefore does not aim to summarise the evidence base for a more effective chid protection system in Queensland. Rather it seeks to uplift and highlight the rarely heard voices of the parents who have experienced child removal or the system more broadly.

Courageous and Determined - Extraordinary Parents

We ask the Committee to prioritise reading the experiences of parents covered in the confidential Attachment to this Submission.

The parents who speak with FIN-SEQ are courageous and extraordinary people - mostly women. They care deeply about their children and they have aspirations for themselves as a family. They have demonstrated great insight as they reflect honestly on challenges they have faced or are facing, they are inspiringly resourceful – continuing to seek support services when they've been 'knocked back' ten times, making do on (pre-COVID) income support that is well below the poverty line – and yet they are still committed to becoming advocates who can help change the system – so other parents 'get through this' better than they did.

Our experience does not at all reflect the common myth of a 'bad parent' who intentionally sets out to abuse their child, in fact many of the women as mothers have been exemplary in their attempts to be protective of their child or children in the face of significant domestic and family violence, and or in face of adversity, and unintended consequences arising from decisions they have made.

The most commonly substantiated forms of abuse in Australia are emotional abuse and neglect:

- Emotional abuse (59%) was the most common type of abuse or neglect, followed by neglect (17%). (Physical abuse (15%), and sexual abuse (9%) (AIHW, 2017-18[i])

Emotional abuse and neglect are both linked to social issues like poverty and family violence and are not caused solely by poor parenting or parental actions (Raissian and Bullinger, 2016)

- 1 in 6 children nationally live in poverty
- Last year, 5,381 children (aged up to four years) presented to Queensland Homelessness services [ii]
- 49% of parents with children in child protection had experienced domestic and family violence within the last year[iii]

Child removal <u>does not</u> address these issues – cannot address these issues. In fact, child removal, and even to a lesser extent *any* contact with the system, can leave parents and children worse off.

And, on top of that…

Parents who find themselves struggling have said to FIN that they also have these layers to process:

1. firstly, they are petrified of their children 'being taken'
2. secondly, if they *do* seek help, it can be 'used against them' or they are 'not eligible' to receive help; and
3. thirdly, if they do become embroiled in the Child Safety system, then they have no clear information about what is happening, nor what is required of them

There is so much evidence available to Parliament, to Government departments , non-government organisations , practitioners and the general public that demonstrates a child protections system is not the appropriate system to provide a safety net for citizens to have a home, an income, safety and quality of life. Not only do successive reports conclude policy settings are inappropriate, they also provide significant evidence of the harm done in the name of protection whilst in fact beginning a journey that leads to a lifelong legacy of psychological trauma and social disadvantage. .

The effort of policy makers and legislators would be better placed in addressing child poverty and family safety.

The Queensland Parents Advisory Committee

In their foundation document, Shared Strength[iv], the **Queensland Parents Advisory Committee** has stated their priorities for improving the system[iv]. These are:

1. An embedded, on-going statewide parent advisory committee;
   and also…
2. Mandatory legal representation for parents
3. Early support for families that addresses the causes of their struggles – housing, health, Domestic Violence
4. Intensive trauma-informed training for workers in the child protection system; and
5. Paid parent advocate roles in multidisciplinary teams with social workers and lawyers

Context and timing – COVID-19 and into economic recession

The Parliament is currently steeped in the consideration of the unprecedented economic climate we are already in, and are moving into. This is acutely relevant to Amendments to the Child Protection Act 1999.

Any policy change that may *increase* pressure on families is to be very cautiously examined as there is a clear correlation between monetary struggle and the risk of unintentional child maltreatment.

The 2016 paper **'Money matters: Does the minimum wage affect child maltreatment rates?'** found that increases in the minimum wage lead to a decline in overall child maltreatment reports, particularly neglect reports. Specifically, a $1 increase in the minimum wage implies a statistically significant 9.6% decline in neglect reports. This decline is concentrated among young children (ages 0–5) and school-aged children (ages 6–12)[v]. These findings suggest that policies that increase incomes of the working poor can significantly improve children's welfare, especially younger children.

Very low household income intensively affects parents' ability to make the decisions that they *would like* to make – had they the financial means. It is poverty therefore that brings many, likely most, families to the attention of child protection systems.

The Salvation Army's (2017) survey of children in families[vi] states:

- Our survey more than half (54%) experienced severe deprivation and went without five or more essential day-to-day items:
- Approximately one in five could not afford medical treatment or medicine prescribed by the doctor
- nearly one in three could not afford a yearly dental check-up for their child
- Half could not afford up to date school items and 56% did not have the money to participate in school activities
- More than half (55%) could not afford a hobby or outside activities for their child
- Almost three in five respondents could not afford an internet connection for their child

Nearly two in five could not afford fresh fruit or vegetables every day and nearly one in four could not afford three meals a day for their child.

Such clear correlations make the need to work genuinely across State and Federal agencies imperative. In fact legislation and structural 'machinery of government' changes are needed to drive a wholistic response to child poverty. Most critically to ensure the economic security of women does not rely on remaining in abusive, and controlling relationships.

Comment on the proposed Amendments to the Child Protection Act 1999 are as follows:

1. What keeps children safe? Support for Families

Early support for families is imperative, or we pay -and say sorry- later.

The Deputy State Coroner's report into the death of Mason Jet Lee (2 June 2020) took the opportunity presented by the Inquest to identify ways of preventing similar deaths in the future.

The Deputy State Coroner's findings cited the Carmody Inquiry's full exploration of adoption, and went on to assert that the small numbers of Permanent Care Orders or adoptions since then signified that the Carmody Recommendation 7.4 "has not been implemented in any real sense".

The re-iteration of this Recommendation became the sixth recommendation of the Deputy State Coroner; and has subsequently become the legislative Amendment before this Parliamentary Inquiry.

FIN-SEQ agrees with the many stakeholders who state that the recommendation about adoption could not, in effect, have prevented Mason's death, nor could it prevent similar deaths in the future.

The Carmody recommendations that *could* have made a difference in the circumstances of Mason and his family were Recommendation 13.20 and 13.21 to name just two.

The Carmody Inquiry Report - Taking Responsibility: A Roadmap for Queensland Child Protection from June 2013

13.20 - the Minister for Communities, Child Safety and Disability Services propose amendments to the Child Protection Act 1999 to provide that:
- before granting a child protection order, the Childrens Court must be satisfied that the department has taken all reasonable efforts to provide support services to the child and family
- participation by a parent in a family group meeting and their agreement to a case plan cannot be used as evidence of an admission by them of any of the matters alleged against them.

13.21 - the Department of Communities, Child Safety and Disability Services ensure, when filing an application for a child protection order, its supporting affidavit material attests to the reasonable steps taken to offer support and other services to a child's family and to work with them to keep their child safely at home.

Micah Projects supports the value of permanency and stability for children but is of the view that adoption as an option within the permanency principles, already exists. It does not need to be strengthened. Micah Projects supports the need for the government to ensure the Aboriginal and Torres Strait islander Child Placement Principles are met to address the unacceptable over representation of Aboriginal and Torres Strait Islander children in care. We do not accept that strengthening the adoption laws will address the issues of over representation, and meet the targets for reduction.

Why would recommendation 13.2 have made a difference to children and families who had come to the attention of Child Safety and the child protection system?

It should be noted that the Coroners report identified that the non-government family support worker went beyond her role to both support the family and raise concerns.

If these amendments existed in the *Child Protection Act* then the Department of Child Safety would need to have placed greater investment in a service system that would be able to respond to the needs of parents in a complementary way to responding to the risk that child safety workers have identified. In this decision-making process the evidence would be clearer about how the parent and children are responding to or engaging with services and how change is occurring over time for the child and the parents.

The accumulation and spiral of disadvantage and violence as outlined in the Coroner's Report requires a system of care and accountability that is both multi-agency and multi-disciplinary, two generational in approach (that is, parent and age-appropriate child responses are both implemented) through policy,

programs, and practices. All of which need to be grounded in an understanding of the consequences of childhood trauma in the past for the parent and in the present for the family and children.

To achieve safety, protection and stability for children with their parents a *system* - and not simply programs within *one system or silo such as Child Safety* - is required that are age-appropriate and in recognition of the different systems that each child and parent engage with over time.

What's needed?

A whole of government commitment is required to develop an ecosystem that involves multiple departments, partnerships with non-government community-based organisations and institutions, and diversity and depth in the range of programs, services, resources and entitlements that that are accessible to parents. From ***early support*** - characterised by self-referral that is ongoing until needs of family are met and stabilised - to ***specialist multidisciplinary responses*** to address risk and needs that are age-appropriate for children and engaging for parents to understand and respond to their child's developmental needs. Greater involvement and listening to the voices of all family members, with specific strategies for supporting children, are foundational to effective policy, program practices and services.

Micah Projects supports consideration of multi-agency investigation teams that are inclusive of team members from Departments of health, child safety and police, and for the right of non-government organisations to be at the SCAN table ***as a right***, not at the discretion of a child safety officer.

See Attachment: Give all our Children a Great Start

FIN is perplexed and disappointed that these legislative reform proposals have been drafted. Instead of focusing on finalising the raft of current and previous reforms that remain incomplete, the Parliament, the Department of Child Safety, and the broader system is being distracted by a discussion about adoption.

Reunification - Reunification is the legislated first priority in Queensland and in all other states in Australia. Despite this, the focus of this legislative amendment is on the third or fourth 'priority' in a procedural hierarchy of options for permanency. Additionally there are no specialist family reunification services on the scale required to support this objective.

The FIN-SEQ is deeply disappointed that the focus is being diverted from the first priority – reunification. Numerous reforms and reports over the decades have recommended better support families – this should be the focus of legislative amendments.

Might an audit of departmental actions outlining the steps they take to support parents be more useful in achieving safety for children or reduced numbers of children and young people in care?

Recommendation 1

If amendments to legislation are genuinely being drafted in the 'best interest of the child' then an Amendment to section 59 of the *Child Protection Act 1999* should be made to improve the balance between keeping or retaining ***permanency at home*** -and- should it be required, ***permanency be away from family***.

FIN-SEQ recommends that–
Section 59 of the *Child Protection Act 1999* be amended so that if the court was not satisfied the Department had "taken all reasonable efforts to provide support services to the child and family" then it could refuse to make the child protection order.

2. Mandatory legal representation

Parents of the FIN network and the Queensland Parent Advisory Committee (the QPAC) cite 'legal issues' as one of the key challenges facing families when they come into contact with the child safety system.

The post-Carmody introduction of specialist child protection lawyers and the Director of Child Protection Litigation has been a significant platform of reform that has added layers of legal decision-makers and complexity without commensurate additional assistance for parents to be fully informed about the legal implications and supported to take appropriate actions and/or make informed decisions.

Parents have identified significant barriers and issues in their experience of child protection-related legal proceedings, including:

- 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 because 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

In 2018, as drafting for the new 'Permanent Care Orders' (PCOs) occurred, FIN and other stakeholders were consulted. After the October 2018 implementation FIN-SEQ and others asked to be kept up to date. The numbers were said to be 'very low' and updates lost momentum. FIN-SEQ is therefore pleased that the Department is now undertaking audits and evaluations of the PCOs and permanency more generally. This is the logical first step before making further amendments to this area of the legislation.

As input to these considerations, FIN-SEQ contends that permanency decisions must not continue to proceed without mandatory legal representation for parents at every stage in proceedings.

Anglicare in Tasmania have recently sponsored a report called 'Rebalancing the Scales: Access to justice for parents in the Tasmanian Child Safety System' in which they make seven recommendations including that the "government ensure that a right to legal representation in the Child Safety jurisdiction is embedded in the legislation and that the Legal Aid funding pool is expanded to meet this need"[vii]. FIN-SEQ acknowledges and thanks the parent contributors to the Tasmanian report, and its author Teresa Hinton, and notes that the same recommendation intent has been made by the parents of the Queensland Parents Advisory Committee (the QPAC).

Again it is hard to reconcile how Child Protection legislation that does not provide mandatory legal representation is compatible with the Human Rights Act. Women as mothers, who are often the subject and respondents of the child safety system, even when they are the victims of domestic violence, abuse, cohersive control are disproportionately impacted by the lack of appropriate funding mechanisms and right to legal representation.

Recommendation 2

The recommendation of mandatory legal representation for parents has been made previously by the Queensland Parents Advisory Committee (the QPAC) – see *Shared Strength*.

In the context of the proposed further permanency amendments to the *Child Protection Act*

1999, FIN-SEQ re-iterates this priority: using the words of the 2020 report 'Rebalancing the Scales: Access to Justice for parents in the Tasmanian child Safety System' – FIN-SEQ recommends that– **the Queensland government ensure that a right to legal representation in the Child Safety jurisdiction is embedded in the legislation and that the Legal Aid funding pool is expanded to meet this need**

3. Broad and flexible range of options

Adoption is a mechanism for the legal transfer of parental responsibility from the birth parents to other carers. The ACT Human Rights Commission[viii] (2019) and others re-iterate that it is not a mechanism for responding to failures of parenting or keeping children and young people safe.

Why are we are examining this as a solution now? And what 'problem' are we seeking to solve?

- Is the 'problem' the number of children in government care – the answer is to support the family to heal, to build their capacity, their relationships, and to reunify
- Is the 'problem' children who languish in care for longer than deemed necessary, and are not seen nor supported – the answer is also to support the family to heal, to build their capacity, their relationships, and to reunify

Is the problem that the child protection system is considered a safety net to 'rescue children' rather than address the social issues of child poverty, inequality of access to universal and targeted services such as health, housing , training and employment, child care and school education and provide parents, family and communities with appropriate universal and targeted services to meet the needs of children and families? Instead of accepting that the systems of care and protection got it wrong, that it was a failure of the current system, the Deputy Coroner's report recommends legislation that will further traumatise families, children into the future rather than ensure there is greater accountability within a child protection system.

Is the problem the system failed to respond to the pleas of a mother who clearly stated she was under threat of being killed, with her children, by a man with whom she was in an intimate relationship.

The ACT Human Rights Commission went on to say there were few studies looking at long-term outcomes for children and young people who were adopted from care, compared with other long-term placement options, but one in the UK suggests that "few differences were found between children's levels of emotional and behavioural difficulties, and participation and progress in school, for those in stable long-term foster care and those in adoptive placements" (Thomas, C. *Adoption for looked after children: Messages from research. An overview of the Adoption Research Initiative* (2013 London: British Association for Adoption & Fostering).

The Amendment is also not consistent with the evidence of the multiple number of Inquiries and Reports into the life-long impacts of forced removals, of early separation of children from family and culture. This is true for all children not limited to Aboriginal and Torres Strait Islander children.

In 2012, the then Queensland government made an apology for forced adoption policies and practices of the past. Without also re-tracing the experiences of the Forgotten Australians, the Stolen Generation, and the survivors of institutional child sexual abuse, the directly comparable 2012 Queensland LNP Apology alone should give the Parliament pause to not rush unnecessary legislative reform towards future misguided adoption policies and practices.

> "…To the sons and daughters taken from their mothers, we also say sorry and express our deep regret for the trauma that many of you have suffered. We acknowledge that you were denied the right to experience the bonds between you and your natural mother, father, siblings and other family members because of the practices that took place at the time of your birth. We know that for many of you this has caused immeasurable pain..." (excerpt from the Queensland Apology for forced adoption policies and practices, 27 November 2012)

There is already the option for adoption if this is required. It does not need to be strengthened. The range of options for how permanency away from family could occur for children, with birth parents' continued involvement, could however be strengthened.

FIN-SEQ supports the exploration of a range of options that may achieve this relational, physical and legal permanency. This may include, but not be limited to:

- *Respite care for biological parents* - At present, Queensland employs respite carers for children placed in foster care or kinship care. The need for respite is one that is shared by parents involved

with child protection services. Some parents in the Family Inclusion Network have stated that if they had access to respite carers their children would not have been removed. Respite care is well recognised as a crucial method of promoting permanence within kinship and foster care families, yet has not been adequately explored as a method of promoting permanence within the family of origin.

- *Joint guardianship* - Joint guardianship is a concept that is familiar in the case of separated parents. Joint guardianship under the Joyce Model (See http://bcfamilylawresource.blogspot.com.au/2011/06/cut-and-paste-guardianship-definitions.html) allows two individuals to share in the decision-making and care responsibilities for a child. Joint guardianship models to help support parents who, due to capacity, may need assistance to meet all their guardianship responsibilities. For example, joint guardianship models could allow for key decisions about a child to be made by another party when a parent is experiencing temporary periods of incapacity due to mental illness. They may also be of assistance for parents with disabilities who, while able to care for their children, may need further support around key areas of decision-making.

- *Lifelong Families* – A model that is of interest in relation to holistic long-term planning for children is that of lifelong families, a program for working towards permanence with children in foster care developed by the Annie E. Casey Foundation in the United States.

- *Open Adoption* – 'Open' is a clarifying descriptor often now used when discussing contemporary adoption. There does not appear to be any one definition: however open adoption is taken to mean adoption in which the adoptive and birth families share *identifying information* and have *contact* with each other during and after the adoption process. FIN-SEQ would refer the Committee to others who have experience in this area as our reading would suggest that there is little agreement and many grey areas and alarm bells – not the least of which is the fact that adoption after the *involuntary removal of children* cannot in any way resemble the circumstance of a fully informed, consented and voluntary relinquishment. Furthermore, the ideal of Open Adoption – where both families retain contact – will be problematic: "Simply making a law that says any care arrangement will be open will not achieve openness, let alone relationship permanency for children.[ix]"

In case the policy intent of the Amendment was to reduce the number of children in care: evidence from Vic, NSW and this year from the UK[x] highlight that while pushing children out of care through options like adoption *should* reduce numbers – this is not in fact materialising. The thinking is this may be because of the focus on adoption (you get what you focus on), there is an encroaching 'child rescue' mindset – particularly in regard to unborn children/born into care. Geographic pockets of practice and culture that push for early removal (into adoption, for example) are also more likely to remove children at *any age* due to the scrutiny and risk averse mindsets. More worryingly, decades of language, models and research describing family support as "early intervention" has increasingly become conflated with the notion that state agencies should "intervene early" to remove children.

Recommendation 3

Adoption already has a place in current legislation and does not require over-statement or re-investigation. FIN-SEQ recommends to the Parliamentary Committee that **the Amendment as drafted does not proceed.**

We further recommend that **the strong evidence base that exists be considered prior to any further changes to Queensland's permanency planning to deliver a broad and flexible range of options to achieve relational, physical, and legal permanency**.

Options may include respite care for biological parents, joint guardianship, and innovative models of care and support as described above.

Adoption already has a place in current legislation and does not require over-statement or investigation, but legislation could be enhanced to offer a broader range of adoption options such as open adoption.

Stakeholders should also be consulted with reasonable timeframes for response.

4. Consult with the children and young people

FIN-SEQ notes the CREATE Foundation's comment that neither the Amendment nor the Statement of Compatibility acknowledge nor enshrine the child's participation or views in this process.

FIN-SEQ seconds the recommendations of CREATE that:

- "Children and young people should be included in decisions about their lives. This is especially critical in permanent decisions such as adoption
- The child or young person should be fully informed about the legal implications of adoption and supported to make an informed decision
- In the case of young children under three where they do not have the capacity to be involved in such a significant decision, adoption should only be considered as a last resort, in exceptional circumstances and in collaboration with the child's family and other support systems
- Principles for permanency should include and call for children and young people to be part of the process."

The Universal Declaration of Human Rights and Convention of the Rights of the Child proclaim that childhood is entitled to special care and assistance. They recognise the family as the fundamental group of society, and the natural environment for the growth and wellbeing of all its members and particularly children; families should be afforded the necessary protection and assistance so that they can fully assume their responsibility in the community. The child, for the full and harmonious development of his or her personally, should grow up in a family environment in an atmosphere of happiness, love and understanding.

Article 12 1. ensures the rights of the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child the views of the child being given due weight in accordance with age and maturity of the child, the child should be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly or through a representative or an appropriate body in a manner consistent with procedural rules of national laws.

Given that Adoption is so frequently applied to children under the age of five, Micah Projects would advocate for the **exploration of an independent Commissioner such as an Early Childhood and Family Commissioner or other relevant independent authority** for the purposes of :

- Developing, the policy, programs, and service response based on widely available evidence and responsive to the currently available data that drives instability and risk to children such as domestic and family violence, parental mental health and substance use, poverty and homelessness
- The impacts and needs of children who are experiencing instability and witness to violence and other risk factors with the evidence based judicial and service system programs that are available around the world to support the process of change for the children with their family and a network of formal and informal supportive relationships in community
- Breaking the cycle of inter-generational trauma through trauma informed policy development programs and practices and participation of people with lived experience to re balance the power between parents, families, and government systems and practices.
- Foster integration and collaboration were necessary between housing, health, justice, child safety, early years learning and disability systems.
- The legislative requirements to build upon the options for shared guardianship and open adoption
- Exploration of whether or not earlier support to parents and children requires legislation to ensure that children and parents can access the services they need in a timely, safe, appropriate and consistent manner by the departments that are responsible for the provision of services. 20 years of attempts to influence policy have failed to bring about the change in investment that is required to truly enable government systems response for the decision making about removal of children a) to be fully informed, and b)for parents to access the services that they are entitled to if the intention of the Child Protection Act and the hierarchy that the first intention of the Act is to reunify children with their parents. This simply cannot be adhered to with the current imbalance of investment in services to support children with their parents, and the imbalance of power that currently exists with the inadequate legal representation and policies to enable parents to have their parental rights recognised, represented and adhered to which are essential components of adherence to a Human Rights Act

5. Timeframes, Procedural Fairness, and Right of Appeal

Two-year timeframe – strict legislative timeframes for families are problematic. The focus instead should be on procedural fairness and support if ***permanency away from family*** is required.

The complex factors involved in restoring protective parental capacities, the current – as yet unevaluated – two-year timeframe should serve better as a guide, not a fixed timeframe in which 'all boxes must be ticked' and permanency occur.

In most cases it takes intensive, long-term support to restore 'protective parenting' for individuals with addictions to methamphetamine and other substances, with mental health issues, and those subject to partner violence. The strengthening of parent capacity is not usually a linear process—there is often a cycle of progress, regression and resistance. Progress can also be reliant on intensive intervention and follow-up. Stable housing, income support and assistance from family support agencies is essential.

This complexity is evident in the scenarios FIN-SEQ has supplied separately to this Submission.

Complaints and Appeals - Parents commonly mention to FIN that their complaints are not heard, responded to or dealt with in a satisfactory nor timely manner.

The availability of accessible, fair and efficient complaints handling is critical to the proper operation of the child safety system in Queensland. The department's current complaints management system is not meeting that need. This Queensland Ombudsman's second report makes recommendations aimed at assisting the department to implement best practice across all facets of complaints management (Qld Ombudsman's Media release - Management of child safety complaints – second report 2020).

Rather than the proposed legislative amendments to foreground further irrevocable legal orders such as adoption, FIN-SEQ recommends that the legislation should be amended so that parents are afforded their right to apply to have a Permanent Care Order revoked.

Parents Right to Revoke

Sections 65(1) and 65AA of the CP Act:
S65. Variation and revocation of particular child protection orders
(1) The litigation director, **a child's parent** or the child may apply to the Childrens Court for an order to—
(a) vary or revoke a child protection order, **other than a permanent care order**, for the child; or
(b) revoke a child protection order, **other than a permanent care order**, for the child and make another child protection order in its place.
65AA. Variation and revocation of permanent care orders
(1) **The litigation director** may apply to the Childrens Court for an order to—
(a) vary or revoke a permanent care order for a child; or
(b) revoke a permanent care order for a child and make another child protection order in its place.
(2) However, the litigation director may apply to vary or revoke **a permanent care order only if** the litigation director is satisfied—
(a) that—
(i) the child has suffered significant harm, is suffering significant harm, or is at an unacceptable risk of suffering significant harm; and
(ii) the child's permanent guardian is not able and willing to protect the child from harm; or
(b) the child's permanent guardian is not complying, in a significant way, with the guardian's obligations under section 79A(1).
Example— The child's permanent guardian is not, despite it being in the best interests of the child, helping the child maintain the child's relationships with the child's parents or another person of significance to the child.

(3) This part applies, with all necessary changes, to the application as if it were an application for a child protection order for the child.
(4) **The court may revoke a permanent care order** for a child only if it is satisfied the revocation of the order—
(a) is in the best interests of the child; and
(b) will promote the child's ongoing protection and care needs.

Recommendation 4

The two-year timeframe for 'permanency' should serve as a guide, not a fixed timeframe following which permanency orders are to be pursued. Timeframes need to be flexible, not rigid to take account of the complex factors that contribute to progress and regression for parent/s in building their protective parenting capacities.

We further recommend that the Child Protection Act 1999 is amended so that biological parents, a child and or young person are afforded their right to apply to have a Permanent Care Order revoked.

[i] Australian Institute of Health and Welfare (AIHW), Child protection Australia 2017–18
[ii] Australian Institute of Health and Welfare (AIHW), Specialist Homelessness Services data 2018-19
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[iv] The Queensland Parents Advisory Committee. Shared Strength. 2019 https://finseq.org.au/assets/docs/FIN-Resources/201910-SharedStrength-print.pdf 2019
[v] Kerri M. Raissian, Lindsey Rose Bullinger. Money matters: Does the minimum wage affect child maltreatment rates? Children and Youth Services Review. 2017
[vi] Salvation Army. Economic Social Impact Survey 2017
[vii] Hinton, Teresa. Rebalancing the scales: Access to justice for parents in the Tasmanian child safety system. 2020.
[viii] ACT Human Rights Commission letter to the Adoptions Taskforce. https://hrc.act.gov.au/wp-content/uploads/2019/03/Adoptions-Dispensing-with-Consent-of-Birth-Parents-HRC-Submission-Final-27-March.pdf. 27 March 2019
[ix] Family Inclusion Strategies in the Hunter. Maintaining connection and building belonging – response to the inquiry into approaches into a nationally consistent framework for local adoption in Australia.
[x] Bilson, A, Bywaters, P. Born into care: evidence of a failed state. *Children and Youth Services Review*. 2020