

# *Child Protection*

Families and the Law  
Information session

I would like to acknowledge the Traditional Custodians of the land on which we meet today, and pay my respects to their Elders past, present and emerging. I extend that respect to Aboriginal and Torres Strait Islander peoples here today.

# Overview of court process

## July 2016

### Office of the Child and Family Official Solicitor (OCFOS)

- Tracey De Simone

### Director of Child Protection Litigation

- Nigel Miller

# OCFOS

An in-house legal unit within Child Safety and is the principal point of contact for the DCPL. Our client is the Chief Executive.

Key responsibilities of OCFOS include:

- a) providing legal services and advice to Child Safety Service Centres (CSSC);
- b) applying for temporary assessment orders, court assessment orders and temporary custody orders (emergency orders);
- c) prepare, institute and conduct appeals, or respond to appeals, against decisions of the Childrens Court on applications for emergent orders
- d) working with CSSCs to prepare briefs of evidence for child protection matters that are being referred to the DCPL;
- e) working in partnership with the DCPL to prepare matters for filing in the Childrens Court and providing ongoing consultation in the review and management of those matters; and
- f) Liaising with CSSCs and the DCPL as necessary to progress child protection matters in a timely manner consistent with the safety, wellbeing and best interests of the children.

# OCFOS

- 79 legal officers across the state – 24/7 on call roster
- On the ground in every CSSC across the State
- Six Regions
  - North Queensland
  - Central Queensland
  - South West Queensland
  - North Coast
  - Brisbane
  - South East Queensland

# DCPL

An independent statutory authority located within the justice portfolio representing the State. Applicant and litigant of all Child Protection Orders

The main functions of the DCPL are to:

- a) prepare and apply for child protection orders (including applications to extend, vary or revoke a child protection orders) and conduct child protection proceedings in the Childrens Court of Queensland;
- b) prepare and apply for transfers of child protection orders or proceedings between Queensland and other participating States; and
- c) prepare, institute and conduct appeals against decisions of the Childrens Court of Queensland on applications for child protection orders, and decisions to transfer a child protection order or children protection proceeding to a participating State.

Where are parent/child applies to revoke an order the DCPL are respondents

# Legislation Amendments Background

- The Queensland Government is continuing to build a new child protection and family support system through its Supporting Families Changing Futures Reform program.
- Underpinning the system is contemporary legislation that better reflects the role of parents, families, communities, government, non-government and private sector in supporting Queensland children and families, now and into the future.
- Based on the recommendations of the Queensland Child Protection Commission of Inquiry, the department has undertaken a comprehensive review of the *Child Protection Act 1999* (the Act).
- The *Child Protection Reform Amendment Act 2017* (the Amendment Act) was passed by Parliament in October 2017 and assented in November 2017.
- The amendments commenced in a three stages approach:
  - **January, July and October 2018.**

# January Amendments

- On 29 January 2018, specific issues regarding information sharing and confidentiality provisions the *Child Protection Act 1999*. The sections enabled:
  - the disclosure of information to individuals who are, or have been, in out-of-home care, including information that relates to another individual (**new section 188C**)
  - the disclosure of information to a parent, or another person acting on behalf of the child, if a child dies while subject to a child protection order (**new section 188D**)
  - information to be provided to the Police Commissioner if an investigation is being conducted by the Queensland Police Service following the death of a child, including information about a notifier, (**new section 188E**)
  - the chief executive to enter into arrangements with child welfare authorities in other jurisdictions to give the corresponding chief executive relevant information, including information about an unborn child, so that action can be taken to perform a function under a child welfare law in the receiving jurisdiction (**new section 189AB**)
- To support the new section 188C, the department has introduced the Time in Care Information Access Service. This service can provide people who are or have lived in out-of-home care with a Time in Care Report, as well as a range of documents the department holds such as their birth certificate, school reports and medical reports. To find out more about this service, email [rti@communities.qld.gov.au](mailto:rti@communities.qld.gov.au).



# July Amendments

On 23 July 2018, provisions came into effect that:

- More effectively provides for the safety of children and young people subject to an Intervention with Parental Agreement (IPA) and ensures parents and the department are clear about their requirements under the IPA (**sections 51ZB, 51ZC, 59**)
- Enables the department to seek a vaccination for a child or young person in the custody of the CE to comply with their routine vaccination schedule or in an emergency situation (**section 97**)
- Clarifies the use of Temporary Custody Orders (**sections 51AB and 51AE**)
- Ensures QPS can issue child abduction alerts quickly in emergency situations without the department's approval (**section 194**)
- Ensures the confidentiality of child who is, or is reasonably likely to be, a witness in criminal proceedings (**section 193**)
- Provides for the department to more easily take part in a range of research and analytic projects (**section 189B**).

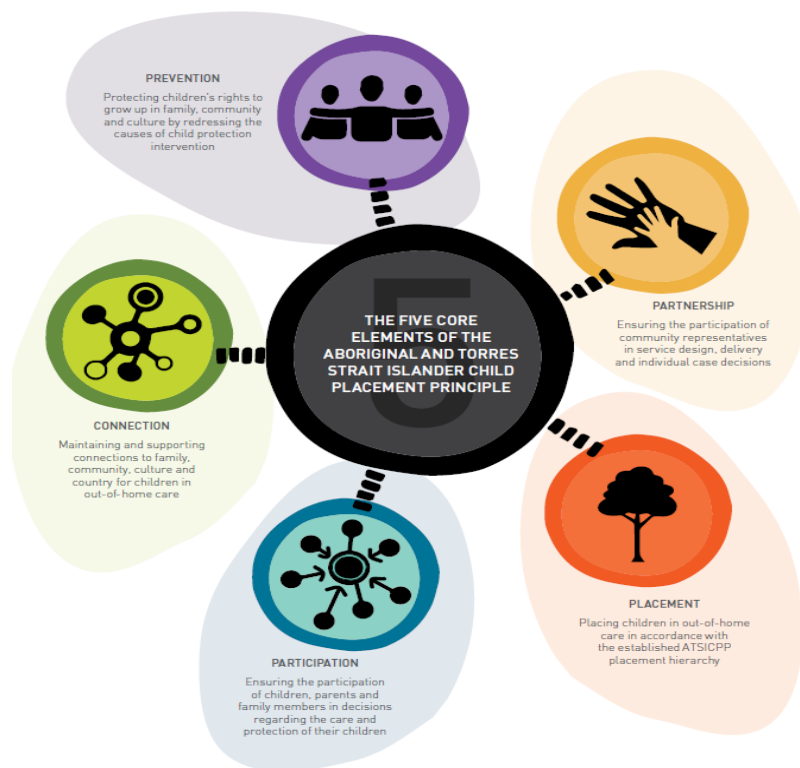
# October Amendments

On 29 October 2019, provisions came into effect in relation to:

- Safe Care and Connection (Child placement principle and family participation)
- Information Sharing
- Permanency
- Transition to Adulthood

# Five Elements of the Child Placement Principle

- All five elements of the CPP are now included in the Child Protection Act and everyone must make **active efforts** to implement the five elements ensuring engagements are affirmative, active, thorough and timely.



# The Service System...

- After much consultation across the State, a new model of service delivery have been developed.
- Family Wellbeing Services (FWS) were established across the State.
- Removal of reference to Recognised Entities in legislation.
- Family Participation Programs are being set up to provide families with opportunities for Aboriginal and Torres Strait Islander family-led decision making (FLDM) across the child protection continuum.
- Inclusion of the new concept of an Independent Aboriginal and Torres Strait Islander Entity (called the Independent Person).

# The Independent Person

Independent person resources:

<https://www.csyw.qld.gov.au/child-family/support-children-families/independent-person>

Independent person video:

<https://www.csyw.qld.gov.au/child-family/support-children-families/independent-person/information-families>



# Permanency...

- The amendments introduced a new permanency framework to promote timely decision-making, stability and positive developmental outcomes for children and young people.
- The new and expanded principles include preferences about the best way to achieve permanency for a child or young person, with the first preference being for the child or young person to be with his or her family.

# Permanency changes...

- Requires a child or young person's case plan to include permanency goals, actions for achieving those goals and places a stronger focus on concurrent case planning and timely decision-making (section 51B).
- Limits the making of consecutive short-term child protection orders to a maximum of two years, unless the Court is satisfied it is in the best interests of the child or young person (section 62).
- Simplifies Court processes for changing a child or young person's guardian from the chief executive to being another suitable person with the Court not required to reconsider previous findings that the child or young person is in need of protection (section 65).
- Introduces a new Permanent Care Order.



## Changes to Queensland's child protection legislation

Short Term Order (max 2 years)	Child Protection Orders until the young person is 18 years old				Other Permanent Arrangements	
	Long Term Guardianship to Chief Executive	Long Term Guardianship to a relative or other suitable person	Child Safety NOT involved →	Permanent Care Orders	Family Court "Lives with" Orders	Adoption
Child Protection Orders					Not Child Protection Orders	



# Information Sharing...

**Chapter 5A** of the *Child Protection Act 1999* provides the legislative framework for agencies to coordinate services and share information by:

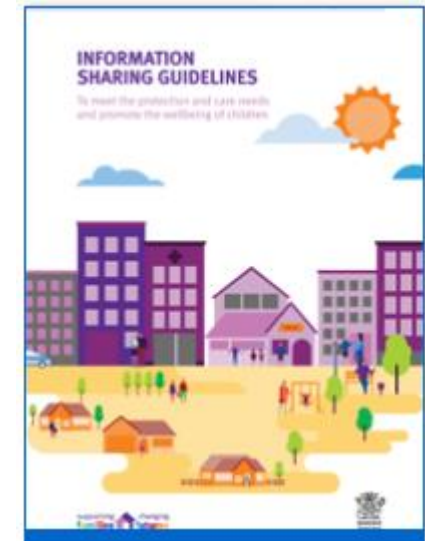
- Prioritising a child's safety over an individual's privacy
- Defining organisations that can share information
- Identifying the purpose for sharing information.

# Information Sharing...

## Amendments made to **Chapter 5A**, *Child Protection Act 1999*:

- **Section 159B:** Principles
- **Section 159C:** Chief Executive must publish guidelines
- **Section 159M:** defines prescribed entities, specialist service providers, and service providers
- **Sections 159M, 159ME:** who can share information and for what purpose
- **Section 159MF:** facts or opinions may be shared
- **Section 159N:** requirement of prescribed entities to share information when requested
- **Section 159NA:** what can not be shared
- **Section 187:** confidentiality obligations
- **Section 188:** maintaining confidentiality

# Information Sharing...



<https://www.csyw.qld.gov.au/about-us/partners/child-family/information-sharing>

The Information Sharing Guidelines can also be found at this link

# Resources & Contacts...

For more information about the changes to the child protection legislation, go to the Child Safety website:

[www.communities.qld.gov.au/childsafety/about-us/legislation](http://www.communities.qld.gov.au/childsafety/about-us/legislation)

For any questions or concerns, please email:

[CPAreform@csyw.qld.gov.au](mailto:CPAreform@csyw.qld.gov.au)

# Specific questions

Third Parties who are caring for children whose families are known to CS?

- Section 11
- Kinship carers
- Custody/guardianship, suitable persons
  - Definitions; Child Protection Regulation; section 122; blue cards

# Specific questions

Rights of Parents/Grandparents and other significant people when children are on CPOs?

- Section 5B, s112, Charter of Rights Schedule 1 - child's right to maintain relationships with parents and kin- place with kin where possible, then with siblings where possible – s83
- Section 73 – CE obligation to assist the child's family address the concerns
- Section 87 – Child to have contact with family
- Section 51L – family group meeting participation (and reviews)
- Section 113 – court proceedings
- Indigenous children – Independent Persons

# Effect of CPOs on other orders

Family court orders

- Section 69ZK

Protection Orders

- Childrens Court proceedings and the *Domestic and Family Violence Protection Act*