



Family Inclusion Network

Child Safety Commission of Inquiry
Call for Submissions

Child protection litigation model and the legal process of applying for and making child protection orders

The current Queensland Child Protection Litigation Model – from PARENTS' PERSPECTIVE

January 2026

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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Child Safety Commission of Inquiry

Call for Submissions

Child protection litigation model and the legal process of applying for and making child protection orders

About this Submission

The submission has two parts:

- Part One (page 11 to 40) sets out the **key components** of the ‘child protection litigation model’ as intended and/or written in government legislation and policy (such as the *Child Protection Act 1999*, the Child Safety Practice Manual, and the Children’s Court’s Child Protection Benchbook). **Parents’ examples** are then used to illustrate how these policies are experienced in reality. Supporting reading and literature references are provided. And finally, **recommendations** and/or **areas for future discussion** are suggested.
- Part Two (page 41 to **Error! Bookmark not defined.**) provides an additional selection of **parents’ comments in response to [the specific questions asked by the Commission in November 2025](#)**.

About Micah Projects’ partnership with parents

Micah Projects has been working in partnership with parents who have experienced child protection involvement for over 25 years. The organisation has been involved in local, state and national networks and organisations who are committed to seeing parents have a voice, and have access to support and access to fair processes in the decision-making of the child protection system. A shared vision is for parents to be seen as stakeholders in the strategic directions, processes and reform of the legislative, policy and practice frameworks of the responsible department of child safety and families.

Micah Projects for many years was unfunded in this vision, but since 2016 the Family Inclusion Network (FIN) has been funded and has been more actively involved in facilitation of dialogue in Southeast Queensland between parents and government departments, statutory bodies, academic research, and the community sector. Additionally, Micah Projects provides direct family support services from which workers witness the impact of the unfair practices and powerlessness that parents experience.

About the Family Inclusion Network (FIN), Southeast Queensland

The Family Inclusion Network (FIN), Southeast Queensland is a network of parents and their allies working to improve the child protection and family support system. FIN brings together parents with lived (and living) experience with government and non-government agencies to work collaboratively on policies and issues that affect families experiencing the child protection system. The Family Inclusion Network is an activity of Micah Projects.

Should readers of this Submission wish to contact FIN for more information, we can be contacted via email info.fin@micahprojects.org.au or telephone 3013 6032.

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The current Queensland Child Protection Litigation Model – from PARENTS' PERSPECTIVE

Six **must read** messages:

- Currently there is a significant **imbalance of power** in the processes that remove children.
- Parents (and their children) need **entirely new models** of legal representation and legal service delivery. We do not believe the necessary improvements can be achieved by modifying the existing system.
- The new model must demonstrate and measure improvements in the **protection of rights of the parent (and the child)** and **hold all parties accountable** throughout. Done in the right way, legal representation and advocacy for parents (both legal and otherwise) will not exacerbate the inherent adversarial nature of the process. On the contrary, we envisage a new model can be **cooperative, rights-based, and build fairness and accountability between parties**.
- Many consider the child protection system's defining characteristic is 'anti parent'. That is, parents have been cast as the enemy or the pariah, while the state and carers are seen as the child's saviour and protector. After 20 years of advocacy, we would like to think this **attitude and culture** is changing. Unfortunately, the gains achieved in recognising and involving parents as stakeholders in Queensland have slowed. While the advancements 'post-Carmody' were significant (the funding of a small systems-advocacy program in Southeast Queensland, the creation and embedding of a statewide Parents' Advisory Committee, and the development of a Charter of Rights for Parents); more recently parents' evidence-based suggestions for improvement have been largely unheeded.
- It is well-known that there have been **three reviews in three years** into Queensland's child protection litigation model. FIN has also held several workshops and meetings with parents and government stakeholders, as well as providing literature. By now the questions and barriers must be familiar; however, there is an inability to make progress on the ideas, innovations, and evidence. The current Inquiry therefore holds **enormous possibility for true transformation**.
- Lastly, we must honour and learn from **the lessons of the past**. For over 30 years Micah Projects has walked alongside adults who, as children, experienced removal and are now living with the lifelong impacts. Parents, families and children have a human **right to family**. If a child is removed from their family, or not able to have contact with their family (for a short or long period), then decision-makers must be accountable for providing **written information about the decision** and the processes, so that everyone can clearly understand **what occurred and why**. These are significant pieces that are often missing for a lifetime (or more). This has been told to us over decades by adults who were children of past removals. It is also what parents tell us today. "Never again" is the hope. Past, present and future – all have the same call for **rights and accountability**. This time there must be change.

Summary Table: The model, the reality, the recomm

We have constructed most of this Submission around the **Child Protection Litigation Model's key components** (as currently intended and/or written in legislation and policy). **Parents' examples** are then used to illustrate how these policies are experienced. And finally, **recommendations** and/or **areas for future discussion** are suggested.

Ten Key Components	Excerpts – from Parents' and Services' Reality	Two high-level Recommendations
<p>1. The Purpose of the Child Protection Act Mandatory Reporting Assessment Decisions</p> <p>(See page 11)</p>	<p>A traumatic, perplexing, isolating time:</p> <p><i>"I asked for support..."</i> <i>"I rang the Department over 60 times..."</i></p>	<p>Currently there is a significant imbalance of power in the processes that remove children.</p> <p>Parents (and their children) need an entirely new model of legal representation. (We do not believe the necessary improvements can be achieved by modifying the existing system.)</p> <p>The new new model must demonstrate and measure improvements in the protection of rights of the parent (and the child) and hold all parties accountable throughout.</p> <p>Done in the right way, legal representation and advocacy for parents (both legal and otherwise) will not worsen the inherent adversarial nature of the process. On the contrary, we envisage a new model can be cooperative, rights-based, and build fairness and accountability between parties.</p> <p>Two high-level Recommendations for parents and their children:</p> <p>Parents need a new model of legal representation:</p> <p>Recommendation 1 Implement mandatory legal representation (throughout the process and beyond) to uphold parents' rights and ensure accountability of all</p>
<p>2. Preliminary / Emergent / Temporary Orders – TAO, TCO, CAO</p> <p>(See page 16)</p>	<p>This stage in the legal process is led by the Department of Child Safety and its legal branch: the Office of Child and Family Official Solicitor (OCFOS).</p> <p>In this earliest stage, a fundamental area for improvement in the litigation model is the practice of 'unborn child notifications and newborn removals'. (see page 18) <i>"I had him, but it was that next morning... they took him... I'm like, where's my son? "oh, you can't see him, you have to wait till you talk to the department"</i></p>	
<p>3. Parties to Proceeding Model Litigent Principles</p> <p>(See page 20)</p>	<p>During this stage, legal processes move to another government agency, the Department of Justice, and their legal branch: the Director of Child Protection Litigation (DCPL).</p>	
<p>4. Legal Representation</p> <p>(See page 24)</p>	<p>Parents say the process to get to an Order can take 12-18 months: from '<i>temporary order</i>' to finalisation of a child protection order (if relevant).</p> <p>Parents say that "everyone is bunkered down..." evidence gathering, and going through court processes to get an Order. Then the family's efforts have to shift from keeping the child <u>out of care</u>, to retaining contact visits, a relationship, and reunifying if possible.</p>	
<p>5. Longer-term Child Protection Orders</p> <p>(See page 27)</p>	<p>While legal representation is the central recommendation in this Submission, it is relevant to note that parents who have experienced the trauma child removal are eligible for very little support from the 'child protection system'. Group <i>parenting courses</i> are usually available, however most individual and family support services stop when the child is removed. These will only recommence when/if reunification plans commence. Parents are isolated and unsupported.</p>	

Ten Key Components	Excerpts – from Parents’ and Services’ Reality	Two high-level Recommendations
<p>6. First appearance</p> <p>(See page 28)</p>	<p>Often parents have no legal advice nor representation until this ‘<i>first appearance</i>’ stage in the model (if then). The first appearance can be months into the process.</p> <p><i>“I didn’t realise Child Safety <u>had</u> a legal system”</i></p>	<p>parties.</p> <p>(See page 8)</p>
<p>7. Social Assessment Parental capacity to understand</p> <p>(See page 30)</p>	<p>Independent reports are outsourced. They are extremely powerful: advising the court about the best way to protect the child’s best interests. For these Assessments, parents often do not know what they are attending, have not provided informed consent, and have no choice in provider: they must use the court’s listed ‘independent’ assessor.</p>	<p>Parents need a new model of legal service delivery:</p> <p>Recommendation 2</p> <p>Implement multidisciplinary law offices in the Queensland Community Sector. These would be similar to those in New York City: lawyers work in a team that also includes social workers providing support, and peer workers who are parents with lived experience.</p>
<p>8. Reunification</p> <p>(See page 32)</p>	<p>There appears to be little consideration of reunification in the ‘child protection litigation model’.</p>	<p>(See page 9)</p>
<p>9. Permanent care order</p> <p>(See page 35)</p>	<p>In the 2010s systems began putting timeframes on some Orders to address the problem of children drifting ‘in care’ for years. The <u>2017 Victorian Inquiry into their experience of ‘permanency’ implementation</u>ⁱ found an 11% decrease in the number of children reunified with their parents; and growing gaps in case planning, inclusion of family members, provision of documents, and stated plans to parents and families.</p>	<p>(See page 9)</p>
<p>10. Other Acts and legal matters</p> <p>(See page 36)</p>	<p>After Child Safety exits, families are again left alone and more afraid than ever to seek help, “<i>picking up the pieces</i>” from their experiences. Often there are a range of other legal matters related to the Child Safety investigation: these continue. Ongoing advocacy and support (legal and otherwise) is needed. Family and Domestic Violence court matters, for example, are relevant for a majority of families.</p>	<p>(See page 9)</p>

Recommendations:

Two high-level recommendations, eight additional recommendations, and three areas for further discussion

To summarise in another way, Micah Projects' Family Inclusion Network (FIN) submits two **high-level recommendations** for the consideration of the Child Safety Commission of Inquiry. We also submit eight **additional recommendations**; and three **areas for future discussion**.

High-level recommendations	Additional recommendations	Areas for future discussion
<p>Recommendation 1 - Implement mandatory legal representation (throughout the process and beyond) to uphold parents' rights and ensure accountability of all parties.</p> <p>Currently the Queensland child protection litigation model does not mandate nor adequately fund parents' legal representation.</p> <p>Parents (and their children) need an entirely new model of legal representation. We do not believe the necessary changes can be achieved by modifying the existing child protection litigation system.</p> <p>There is an imbalance of power in the processes that remove children: access to information and representation is not equitable for all parties. Parents' access to their rights and to accountability must be significantly improved to address this imbalance.</p> <p>(See page 8)</p> <p>Recommendation 2 - Implement multidisciplinary law offices in the Queensland Community Sector.</p> <p>Parents need a new model of legal service delivery. This should be through interdisciplinary (or multidisciplinary) law offices across Queensland. These would be similar to those in New York City: lawyers work in a team that also includes social workers providing support and peer workers who are parents with lived experience.</p> <p>This model would be block funded and delivered by community legal centres and/or First Nations' legal services; they would be co-located with a non-government family support service.</p> <p>(See page 9)</p>	<ol style="list-style-type: none"> i. Merit and means tests should not be applied to parents involved in child protection matters (in the same way as they are not applied to the child in proceedings). (Page 20) ii. The selection, allocation and use of independent assessors should be improved with a 'preferred supplier' panel of providers who are subject to regular standard quality reviews. This would also allow choice for parents. (Page 30) iii. Specialist legal services are non-negotiable parts of the system: services such as Women's services, youth services, Aboriginal and Torres Strait Islander services, and services for people with disability. (Page 30) iv. There must be full commitment to the Child Protection Act's principle that family (and therefore reunification) must be the focus of the child protection system and the litigation model. Also to use the 'least intrusive' options, and to provide families with post-reunification support so the family can heal from their experience. (Page 32) v. The department should regularly publish detailed performance data in relation to reunification. (Page 32) vi. Legal representation should support parents, at any stage, to access their rights and processes in line with the Charter of rights for parents involved with the child protection system in Queensland. (Page 39) vii. The Charter of Rights for Parents should be legislated and fully implemented to embed parents' rights. (Page 39) viii. New or amended early resolution or alternative dispute resolution processes must involve and consult parents in a genuine co-design of new model/s - from the design stage through to implementation and evaluation. (Page Error! Bookmark not defined.) 	<p>We would be happy to join future discussions on these areas:</p> <ul style="list-style-type: none"> • Family support is a vital topic if the State is committed to the best interests of the child, now and for the rest of their life. <p>There are many possible systems, approaches, and models that would reduce costs to the taxpayer over time, improve outcomes for children living with their families, and reduce the lifelong health burden of trauma that results from the removal of children.</p> <p>(See page 11)</p> <ul style="list-style-type: none"> • Mandatory reporting inevitably increases the load on child protection systems with finite resources: the more time spent on reporting (followed by investigation), the less time spent on earlier practical support. <p>We are interested in what evidence links mandatory reporting and the resulting increased reporting numbers, with improved long-term child outcomes. Child protection system 'performance data' still appears to focus on counting outputs and throughput rather than impact and long-term outcomes.</p> <p>(See page 14)</p> <ul style="list-style-type: none"> • Unborn child notification and newborn removals. Appropriate and immediate legal representation is critically important at the point of an 'unborn child' notification and/or newborn removal. <p>(See page 18)</p>

Recommendation 1 - Implement **mandatory legal representation (throughout the process and beyond)** to uphold parents' rights and ensure accountability of all parties.

What should 'mandatory legal representation' for parents include?

Below is a summary of features that parents and service providers have suggested to FIN over time. Features include eligibility, funding programs, longevity and core purpose. Alongside these are workforce characteristics needed to be present in the legal services: such as person-centred and trauma-informed approaches.

Solution: Features of 'mandatory legal representation' for parents

Throughout this paper, wherever we refer to *parents' need for mandatory legal representation*, we mean the following.

Parents need mandated legal representation that is:

- a) **pro-actively** provided legal **representation** not just legal advice
- b) available with **fewer eligibility tests** (merit, means, conflict) eg. block funded
- c) focused on the Act's principle that **reunification** must be the focus, and use the "**least intrusive**" options
- d) available for parents with concerns about **reviewable decisions** and/or **independent assessments** (such as social assessments)
- e) **provided throughout** - from the **earliest** possible opportunity (earlier than current practices suggest that legal representation is needed)
- f) accessible for **other related legal matters** - lawyers could represent parents in **any aspect of court proceedings that arise from the child protection matter** (such as common assault charges, or Domestic and Family Violence matters)
- g) **ongoing** - legal representation remains until **after the 'Child Protection litigation' process is over** (because, after Child Safety exits, families are "picking up the pieces" from their experiences; they are also often progressing with **Family Law** or other **legal matters that were intertwined with the child protection allegation**)
- h) a **consistent person or team** throughout
- i) obligatory and immediate at the point of an **unborn child notification**
- j) **person-centred, trauma-informed** and the **workforce is appropriately trained** as such

The system / sector that provides mandated legal representation ensures:

- k) **redistributed funding** - the model would be **funded differently to current legal funding**
- l) **specialist legal services** - such as women's services, youth services, Aboriginal and Torres Strait Islander services, and services for people with disability - are non-negotiable parts of the system
- m) **accessibility across the State** - meeting the needs of parents in regional, rural and remote areas through **community legal centre partnerships** and/or **First Nations' Legal Services**
- n) **interdisciplinary (or multidisciplinary) law offices** are the standard: where **lawyers** work in a team that also includes **social workers** providing support, as well as peer **workers** who are parents with lived experience providing advocacy
- o) the model is based on **human rights** and adheres to **administrative process** in line with the Child Protection Act as well as departmental practice frameworks

Recommendation 2

Implement **multidisciplinary law offices** in the Queensland Community Sector. These would be similar to those in New York City: **lawyers** work in a team that also includes **social workers** providing support, and **peer workers** who are parents with lived experience.

What is an 'interdisciplinary approach'?

Parents need a new model of legal service delivery. The following excerpt focuses on **one model** operating in three non-profits across New York City.

We are aware that a small number of similar models operate elsewhere, including but not limited to Western Australia ([Ruah Community Services](#)) and in the United Kingdom. (In England after the most recent review, parent advocacy legal services akin to those in the US were recommended. Parental Advocacy services are being used in some parts of England, but they are still relatively new).

In 2026 there is a clear opportunity for Queensland to be lead in this area internationally because of the many existing reviews and recommendations that cite the need for interdisciplinary legal services and/or recommend this model, including but not limited to:

- Scotland - a recent Scottish report that cited “a concerning scarcity of solicitors with the capacity to advise and represent birth parents in legal proceedings... Such services are urgently needed and require sustainable resourcing, not least in terms of time.”ⁱⁱ
- Europe - a 2024 Dutch paper examined the “justification of the out-of-home placement and therefore the separation of a parent and a child” as assessed by the European Court of Human Rights (ECtHR). In recent years, the involvement of parents and children has become more and more important in the case law ⁱⁱⁱ
- England - a three-year study is examining current programs of this kind: [The Nuffield Foundation’s research](#) will conclude in July 2026^{iv}

Case Study: Interdisciplinary approaches to legal representation for parents in child protection systems (New York City)

In 2007 the New York City Mayor’s Office of Criminal Justice funded three non-profit organisations to provide “interdisciplinary legal defence for parents”. We refer to these offices collectively as “interdisciplinary law offices” or “multidisciplinary offices”. The organisations are:

- the **Center for Family Representation** (who also have developed and provide training to professionals in their “[Cornerstone Advocacy model](#)”)
- the [Family Defence Practice of Brooklyn Defender Services](#) (formerly Legal Services New York City), and
- the [Bronx Defenders](#)

Interdisciplinary law offices include a **lawyer**, a family support **social worker**, and a **parent peer worker** with lived experience of the system.

Case Study: Interdisciplinary approaches to legal representation for parents in child protection systems (New York City)

In 2019, a large published study showed that “multidisciplinary representation reduced children’s time in foster care by nearly four fewer months during the 48 months following the petition filing, through faster early reunification outcomes, as compared to parents who were represented by solo practitioners”^v.

“The study revealed four principal qualities of the work performed by the interdisciplinary law offices that help explain the success achieved by these offices in their representation of parents.

- Uniform high-quality representation: The interdisciplinary law offices engage in **uniformly high-quality representation**, as characterized by development of a case theory and legal strategy for adjudication, and advancement of other client objectives and issues that support reunification (eg. litigation to increase visitation).
- Interdisciplinary representation: A second key factor in the success of the interdisciplinary law office model is that **most parents are represented by a lawyer along with a social worker and/or parent advocate**. While the legal staff address in-court representation, social work staff support the parent outside the courtroom, including advocating for parents at agency conferences, assisting parents to enrol in court-ordered programs, and otherwise attending to their needs.
- Careful attention to the parent’s emotional well-being: Another factor found by the study is the degree to which the interdisciplinary offices pay attention to the client’s emotional well-being throughout the case. **Parent advocates, in particular, occupy a unique position, bringing their own personal experience to the parent’s situation**. The interviews revealed how often parents felt supported.
- Equal attention is paid to court appearances and agency meetings: A defining quality of interdisciplinary practice is to have a **social worker or parent advocate accompany parents to meetings and conferences with the child welfare agency**. This meant that parents rarely need to face these conferences alone, which parents state is a positive; it also changes the results – the presence of an advocate shifts the dynamic of the conference and ensures that the parent’s voice will be heard.^{vi}”

Source: Guggenheim, Martin, Gerber, et al, *Understanding the Effects of an Interdisciplinary Approach to Parental Representation in Child Welfare*. 2020.

Read more about interdisciplinary law offices:

- Understanding the Effects of an Interdisciplinary Approach to Parental Representation in Child Welfare. (2020) <https://www.sciencedirect.com/science/article/pii/S0190740920304643?via%3Dihub>
- Cornerstone Advocacy in the First 60 Days: Achieving Safe and Lasting Reunification for Families (2009) <https://toolkit.parentadvocacy.net/wp-content/uploads/2020/10/Cornerstone-Advocacy-Article.pdf>
- American Bar Association website - Representing Parents https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/article_collections0/representing_parents/
- In Western Australia – Ruah Community Services – specialist legal services - <https://ruah.org.au/services-support/specialist-legal-services/>
- Programs focussed on the court and legal system – page 53-55 – A necessary engagement: an international review of parent and family engagement in child protection. Mary Ivec / Anglicare Tasmania. <https://www.anglicare-tas.org.au/research/a-necessary-engagement-an-international-review-of-parent-and-family-engagement-in-child-protection/>

Part One

The Child Protection Litigation Model – from Parents’ Perspective

Part One of this Submission sets out the **key components** of the ‘child protection litigation model’ as intended and/or written in government legislation and policy (such as the *Child Protection Act 1999*, the Child Safety Practice Manual, and the Children’s Court’s Child Protection Benchbook). **Parents’ examples** are then used to illustrate how these policies are experienced in reality. Supporting reading and literature references are provided. And finally, **recommendations** and/or **areas for future discussion** are suggested.

1. Purpose of the Child Protection Act | Mandatory reporting | Assessment decisions

	Component	Policy Intent (government source documents)	Parents’ and Services’ Reality & Issues
1.1	<p>The Child Protection Act 1999 (the Act)</p> <ul style="list-style-type: none"> • Purpose and Principles of the Act • The Paramount Principle 	<p>The main principle for administering the Act is that the safety, wellbeing and best interests of the child, both through childhood and for the rest of the child’s life, are paramount.</p> <p>The Department of Justice and Attorney-General’s <i>Child Protection Benchbook</i>^{vii} states “being a child in the child protection system can be a traumatic experience, with long lasting effects that could impact upon them for the rest of their lives. Decisions in this jurisdiction should not be taken lightly and the interests of the child should always be put first.” (p.13)</p>	<p>As written, the Queensland Child Protection Act’s purpose is broader than what the responsible agencies, practices, and funding currently enable and enact.</p> <p>The Act discusses the best interests of the child, with their family having primary responsibility for their upbringing, and the Act stipulates that the family should be supported if a child is removed.</p> <p>Despite this legislative requirement, successive governments and administrations have consistently failed to substantively respond to parents’ calls for better early intervention and family support.</p> <p>The Department has repeatedly stated that their role is “tertiary”.</p> <p>Families’ ability to live and thrive with their children is impacted by their access to (or lack of access to) a broad range of services. The number of services – and the constraints places on them – also impacts the way services can operate when working with families involved with the Department.</p> <p>The issues faced by families are well known: including access to housing, crisis homelessness services, domestic and family violence services, healthcare, disability support, early years education, support through the education systems, and parental access to education, employment and training.</p>

Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
1.2	<p>"Other guiding principles" of the Act</p> <p>"Other guiding principles" of the Act include:</p> <p>Section 5B - ... b) A child's family has primary responsibility for their upbringing, protection and development</p> <p>c) The preferred way of ensuring a child's safety and wellbeing is through supporting the family</p> ... f) If a child is removed from their family, support should be given to the child and the child's family for the purpose of allowing the child to return to the child's family if the return is in the child's best interests ... k) A child should be able to maintain connection with parents and kin if appropriate ... (m) a delay in making a decision in relation to a child should be avoided , unless appropriate for the child; (n) a child has the right to express the child's views about what is, and is not, in the child's best interests	<p><i>"I rang the department and QPS over 60 times in two months... to start protective parenting... the burnout and problems happen so quickly... and by the time you get to that point, months later – you just can't anymore. Then they took two undiagnosed children."</i> (parent, 2025)</p> <p><i>"... I asked for support... realising I didn't quite have the stamina to be everything that my [children] needed. ... I had become our only productive support network. I had the whole world on my shoulders... and when I crumbled underneath it, they took my children away."</i> (parent, 2022)</p>

Area for Future Discussion – Family Support and Early Intervention

There is significant evidence that, in supporting families and protecting children safely, the child protection system should not operate as a silo.

Despite many Inquiries in Queensland, nationally and internationally a pathway forward for greater collaboration and coordination to support families earlier to prevent unnecessary removal of children has made limited progress. In over 20 years of advocacy, we have learned there is no appetite to prioritise investment in early intervention and/or shift investment away from the tertiary agency. Now is an important time to address this long-standing systemic deficit.

We recognise the current ‘cost of living crisis’ (with a changing economy, growing privatisation of some services, and population growth) is creating further challenges for government as they seek to provide universal services to all citizens. **More family support services are however a non-negotiable priority.**

Family support and specialist services (that are truly prevention and early intervention-focused) work with families to address the stressors in their lives that can become the root causes of family instability.

Family support is a vital topic if the State is committed to the best interests of the child, now and for the rest of their life.

There are many possible systems, approaches, and models that would reduce costs to the taxpayer over time, improve outcomes for children living with their families, and reduce the costly lifelong health burden of trauma that results from the removal of children.

Further examination and discussion are needed.

Prompts for discussion:

- **Legislative reform** – Might (further) policy and practice reform enable the current *Child Protection Act* to better able to achieve its purpose (the *safety, wellbeing and best interests of the child, both through childhood and for the rest of the child’s life*)?
- **New legislation** – Alternatively might a **new, stand-alone ‘family support Act’ be required to deliver the necessary family support and specialist services?** Micah Projects has previously advocated for a new Act to focus on earlier supports and services to families. Some other jurisdictions have implemented this. Consideration may be warranted now.
- **Additional, quarantined budget allocation** – It is clear that additional funding is needed for early intervention and family support, separate from the Department of Child Safety. The funding must be quarantined from the Child Safety tertiary function so that it is not repeatedly subsumed into crisis work, as has occurred many times before. Overtime these investments would begin to address the current skyrocketing expenditure on alternative care.

Read more:

- [“Overview of the Family First Prevention Services Act” 2025](#). The Annie E Casey Foundation^{viii}.
- In Australia, Victoria has two Acts: the [Children, Youth and Families Act 2005](#) (CYFA) for child protection intervention, services, and care orders; and the [Child Wellbeing and Safety Act 2005](#), for broader, *universal prevention* and information sharing for *all* children – including reforms like Child Safe Standards and the Child Information Sharing Scheme (CISS).

We look forward to a future discussion about this topic.

Mandatory reporting | Assessment decisions (Cont.)

	Component	Policy Intent (government source documents)	Parents’ and Services’ Reality & Issues
1.3	Mandatory reporting 13E Mandatory reporting by persons engaged in particular work (a) a doctor; (b) a registered nurse; (c) a teacher; (d) a police officer who ..., is responsible for reporting under this section; (e) a person engaged to perform a child advocate function...; (f) an early childhood education and care professional.	‘Mandatory reporting’ of child abuse refers to the legislated duty held by certain occupations and roles to make report (or notify). Over the past decades successive reviews of societal and institutional failures to protect children have resulted in further increases in the number of occupations and roles being added to the mandatory reporting regime.	A ‘reasonable person’ might consider mandatory reporting as an effective way to increase safety for children by providing ‘early detection’, clarity, structure and obligation. However current evidence seems to suggest there is a limit to the benefit of mandatory reporting, and that more reporting is not necessarily better. “...recent experiences with expanded mandatory reporting in Pennsylvania have highlighted a host of unintended consequences, with no evidence of improved outcomes for children” (Raz, 2020 ^{ix}). Unintended negative consequences can include: <ul style="list-style-type: none">· mandatory reporting has played a part in the increased volume of notifications over time, and the resulting pressures on the system· the reporting credo is “if in doubt – report”· families can become increasingly distrustful of government, health and support workers (assuming they will “report them” for any vulnerability)· help-seeking is reduced as distrust grows, which in turn impacts the effectiveness of support or therapeutic work

Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
<p>13F Mandatory reporting relating to children in care</p> <p>(Child Protection Act 1999)</p>		<ul style="list-style-type: none"> parents speak of instances where Domestic and Family Violence or other conflicts lead to 'vexatious' notifications made to mandatory notifiers (with the knowledge that they are mandated to report) <p>Mandatory reporting negatively affects some parents and families more than others (parents with a low fixed income, First Nations parents, parents with a disability, parents with a language, religion, culture, or background that differs from the mainstream for example). Universal instruments such as mandatory reporting are not applied nor responded to in a neutral way because they exist alongside biases in the system and organisational cultures.</p> <p>Parents with Disability</p> <p>For parents with disability, for example, a mandatory notification often does not lead to the right response for the child or family:</p> <ul style="list-style-type: none"> <i>"... [some] workers' experiences of the interaction between their clients and child protection services are extremely negative... As a result, some workers [if there is discretion] are very reluctant to report abuse because they perceive the response of child protection services to be poor."</i>^x (Mandatory Reporting of Child Abuse and Marginalised Families. 2015) <p>Parents with disability have consistently told us they need a trusted, consistent service and access to early practical support and resourcing. It is not helpful when parents avoid support for fear of "being reported".</p> <ul style="list-style-type: none"> <i>"... early mandatory reporting is not effective in ensuring an adequate response for parents with disability and their children. For example, "Pre-birth notifications for parents with disability should not go to child protection - they should go to a specialist disability coordinator to get help and training early".</i>^{xi}

Area for Future Discussion – Mandatory reporting

Mandatory reporting inevitably increases the load on child protection systems with finite resources: and, the more time spent on reporting (followed by investigation), the less time spent on earlier practical support.

“Reporting on” families is a reactive, often hands-off approach. Families need a proactive approach.

We are interested in what evidence links mandatory reporting, and increased reporting numbers, with improved long-term child outcomes. Child protection system ‘performance data’ still appears to focus on counting inputs (eg. number of workers, or funding quantum), outputs (eg. number of reports, assessment decisions) and throughput (eg time taken) rather than impact and long-term outcomes.

We look forward to a future discussion about this topic.

2. Preliminary / Emergent / Temporary Orders – TAO, TCO, CAO

Component		Policy Intent (government source documents)	Parents’ and Services’ Reality & Issues
2.0	<p>Applications to the Court:</p> <p>Preliminary Orders / Emergent Orders</p> <ul style="list-style-type: none"> Temporary Assessment Order (TAO) 	<p>A Temporary Assessment Order (TAO) is a short-term order as part of an investigation to assess a child’s protection needs where the parent/s’ cooperation or consent is not forthcoming, or it is not practicable to obtain such consent.</p> <p>For a Temporary Custody Order (TCO) - a Magistrate can also decide an application without notifying the child’s parents or hearing them on the application. (p41)</p>	<p>FIN has never heard parents say they were made aware of the legal processes and expectations. It is of course very likely there <i>was</i> an attempt to convey this information however, the parent is experiencing acute stress and trauma at this moment and therefore has a diminished ability to understand and retain information.</p> <p>As written, the procedures for ‘preliminary orders’ heavily advantage ‘the system’ and disadvantage the parents. Cooperation and consent need only be attained “if practicable”.</p> <p>Intrusive removal orders are taken if the assessment work is likely to take “more than 3 days”. (How long the work will take is dependent on many factors including staffing,</p>

Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
<ul style="list-style-type: none"> · Temporary Custody Order (TCO) · Court Assessment Order (CAO) 	<p>A Court Assessment Order (CAO) - authorises actions necessary as part of an investigation to assess whether a child is in need of protection if the consent of a parent has not been obtained or it is not practicable to obtain that consent and more than 3 days is necessary to complete the investigation and assessment. (p.43)</p>	<p>training, workloads, and resourcing: however it is the family who ultimately bear the impact.)</p> <p>When a child is removed, the parent is left not knowing what they can or should do. They are not offered support and often there is no clear pathway for reunification.</p> <p>Despite good intentions, the statutory child protection workforce cannot play two roles: they cannot be the decision-maker about the removal of children and also be the trusted family support worker for the parents and family as a whole.</p> <p>Cooperative, and empathic relationships are needed. Parents need to know what happens with the information that they share and how it is translated into evidence and court proceedings. Parents seek clarity on the purpose of departmental worker's role. Many parents have felt betrayed when information they have shared about their life becomes 'evidence for the prosecution'. This may be improved by clarity about roles and processes.</p> <p>Commonly, parents say they have moved from a 28-day order to a 12-month or 2-year order without adequate legal representation or an understanding of why such an order has been made.</p> <p>In the litigation model, we note that in this example (where there is an extension of time and escalation of orders) the family's matter also shifts from the Department of Child Safety and OCFS, to the Department of Justice and DCPL. While this must add time, cost and complexity – parents are rarely aware of the two legal branches and the many-person processes that are taking place behind the scenes.</p>

Key Evidence: Unborn child notifications and newborn removals

The Australian Institute of Health and Welfare (AIHW) Child Protection Australia series^{xii} and others cite increasing numbers of families being reported to child protection services as ‘unborn child notifications’ or ‘unborn child reports’. The Queensland Family and Child Commission states “each year, about 1,500 unborn children in Queensland are the subject of CPNs. Among the Australian states and territories Queensland has the second highest number of Aboriginal and Torres Strait Islander children subject to unborn reports.”^{xiii}

We consider this **one of the most significant areas for improvement in the litigation model**, and in child protection practice more generally.

“I had him, but it was like... next morning... they took him. They took him and then I had just a panic attack... Where's my son? I want to see my son. And she said, well, that's not going to happen. You're not going to be able to see your son. We're going for a temporary order. So it's like a three-day order. You need to do a drug test. Then we'll talk about you seeing your son.”
(Parent, 2025)

A chapter of the most recent Child Death Review Board Report 2024-25 focuses on the processes where families are reported during pregnancy and in the period following birth: the report describes it as “a profound rights question: getting the right balance between “protection” and prevention”^{xiv}.

It is important to note that data also shows that younger children often **stay longer in care**. This may be for a range of reasons, including placement policies and suitability for foster care. Due to their age they may be seen as a priority for both intervention and for placement seeking work. Perhaps because of this prioritised placement work, many younger children are then considered to be in a ‘safe and stable’ placement. Visitation and reunification work is then less urgent and time passes. A “placement” is not family.

The practice of newborn removal was common enough to have been suggested by parents as a specific stand-alone right when they were consulted on the development of the *Charter of Rights for parents involved with the child protection system in Queensland*.

- **“4. Protection of Family**

- *Your right to protection of families and children (section 26) Families are entitled to protection. Families are the fundamental group unit of society and are entitled to be protected by society and the State. Queensland’s Human Rights Act 2019*

- **4.4. acknowledging childbirth is a sacred experience** — *bonding (including breastfeeding) is an important time for the child and you have the right to fully experience it together”* (page 8)

“The removal of babies at birth or early in their life results in a disconnection from their family, community, country and culture, with serious detrimental impacts on their physical, mental, emotional, social and spiritual health and wellbeing, both in the immediate sense and over the course of their lifetime. Separated mothers and babies are

Key Evidence: Unborn child notifications and newborn removals

deprived of the opportunity for skin-to-skin contact, breastfeeding, bonding, and early mother-infant attachment, all critical for an infant's physical, cognitive, sensory and relational development. Once lost, this unique period of time in the life of a child and family cannot be recovered.”^{xv}

Healing the Past by Nurturing the Future - Emerging Minds (2019).
Qualitative systematic review and meta-synthesis of pregnancy, birth and early postpartum experiences and views of parents with a history of childhood maltreatment. <https://doi.org/10.1371/journal.pone.0225441>

Recommendations or Areas for Future Discussion – Preliminary, Emergent, or Temporary Orders – TAO, TCO, CAO

Recommendation 1 - Implement **mandatory legal representation** (throughout the process and beyond) to uphold parents' rights and ensure accountability of all parties.

Area for Future Discussion – Unborn child notifications and newborn removals: Appropriate and **immediate legal advocacy and representation** is critically important at the point of an 'unborn child notification'.

We do not intend to construct an overly adversarial, legalistic environment at such a time however, as Robyn Sweet KC, the Senior Counsel Assisting the Commissioner has said, *“it is hard to imagine a more drastic action from the State than to remove newborn children from their mother's breast – while the mother and child are being cared for in hospital...”* . Therefore until such time as appropriate, community-based multidisciplinary support is available to families – legal protection of their rights is imperative.

In regard to First Nations families, we defer to recommendations from Community Controlled organisations such as the Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP) which may include, but not be limited to:

- investment in the community controlled sector as the primary means of support and casework
- dedicated specialist positions focused on perinatal cases
- collective decision making

We look forward to participating in future discussions.

3. Parties to the Proceeding | Model Litigant Principles

Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
3.1	<p>Parties to the Proceeding</p> <p>Despite the legal branches, roles and personnel currently built into the litigation model, the formal 'parties to child protection proceedings' number just three:</p> <ul style="list-style-type: none"> · The applicant (the State of Queensland) · The respondent parents; and · The child. 	<p>Legal representation is not equitably accessible to all parties.</p> <p>For parents several eligibility criteria reduce their access to legal representation.</p> <ul style="list-style-type: none"> · a means test – some parents say they need to choose between employment and retaining eligibility for their lawyer; other parents with low fixed incomes do not qualify because, for example, they have inherited their home · the merit test - parents say they often do not satisfy this test as it is widely assumed that “the State will win” · conflict of interest is another frequent reason for the rejection of Legal Aid in-house representation applications <p>Fathers – ‘conflict of interest’ often impacts partners. A recent Scottish report that cited “a concerning scarcity of solicitors with the capacity to advise and represent birth parents in legal proceedings” also noted that “fathers are less likely to be represented through professional advocacy in pre-proceedings in England or to be fully involved in these processes... Leading the authors to call for far greater support for birth fathers, not to the diminishment of services for mothers, but alongside and in addition...”</p> <p>“Supporting fathers and mothers cannot be seen as a zero-sum game, where service development for one necessarily diminishes or sits in opposition with the other... we are arguing for the development of services that hold men equally accountable for the safe care of children and avoid positioning women as disproportionately responsible for children’s welfare. Such services are urgently needed and require sustainable resourcing, not least in terms of time.”^{xvi}</p>

Parties to the Proceeding

As stated, in the current litigation model, the formal ‘**parties to child protection proceedings**’ number just three: the applicant (the State of Queensland), the respondent parents, and the child. For parents the avenues for legal advice, representation and support are restricted by funding, eligibility criteria, and practitioner skill deficits. Avenues for the two other parties appear to be less challenging.

Who Represents “the Child”?

A child can be represented by:

- a **separate representative** - makes recommendations to the court about what they think is in the child's best interests. This may be different from what the child wants. The separate representative may decide to have a report called a social assessment report prepared.
- a **direct representative** - an older child may instruct their own lawyer (called a direct representative) to appear in court to represent their wishes or views, if able to be ascertained; and
- a **Child Advocate** - can also support a child to express their views and wishes to the court.

Grant of Legal Aid funding

If a child or young person wishes to be **directly represented**, they can apply to Legal Aid for a lawyer to be appointed (with the assistance and support of a trusted adult if needed). Young people under the age of 18 years **are not subject to a means test** and, in many cases, young people will be able to obtain a grant of aid for initial advice and consideration of their matter (**currently if the young person is the subject of an out of home order they also satisfy the merit test**).” (pg. 62)

Who Represents “the Applicant” (the State of Queensland)?

At different times, the State is represented and/or supported by:

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

Department of Child Safety

The Office of the Child and Family Official Solicitor (OCFOS) **provides child safety service centre staff** with early legal advice and representation for child protection matters. They help improve the quality of the material prepared by Child Safety for Court, and improve decision-making about what should happen to keep children safe.

Director of Child Protection Litigation (DCPL)

Independent statutory agency within the Department of Justice portfolio

The main purpose of the DCPL is to apply for child protection orders **on behalf of the State of Queensland** and to conduct the resulting legal proceedings in the Children’s Court of Queensland.

Crown Law

Department of Justice

Crown Law is the Government’s own legal unit: it is not typically part of the child protection litigation process, however Queensland government departments and agencies may use Crown Law services for certain categories of law.

Model Litigant Principles

Component		Policy Intent (government source documents)	Parents' and Services' Reality & Issues
3.2	Model Litigant Principles	<p>'Model litigant principles' state that"</p> <ul style="list-style-type: none"> • "fairness will be achieved when litigation is conducted promptly, efficiently, consistently and proportionately and in a manner that does not take advantage of another party's limited financial or other means" • Child protection proceedings are "unique and should not be conducted in a manner that is overly adversarial" • Similarly, court outcomes "should not be thought of in terms of 'winning' or 'losing' the case." (Benchbook, p.32) 	<p>The reality appears to be the opposite of the 'model litigant principles'.</p> <p>Parents say they are denied legal representation or the lawyer will indicate they <i>"do not have a chance - and side with the Department"</i>.</p> <p>The processes are not prompt nor efficient.</p> <p>Many parents have significant vulnerability that impact what they understand, what they consent to, and how they behave – all of which can be misinterpreted to support a position by the Department on what is in the best interest of the child. The trauma of being removed from a parent can significantly effect the overall wellbeing of the child now and across their life course.</p> <p><i>"It was meant to be six weeks – it took two years."</i> (Parent, 2024)</p> <p><i>"Parents are required to meet strict time limits and requirements, but child safety, foster carers and lawyers seem to not be held to the same standards."</i> (Parent, 2024)</p>

Recommendations or Areas for Future Discussion – Parties to the Proceeding | Model litigant principles

Recommendation 1 - Implement **mandatory legal representation** (throughout the process and beyond) to uphold parents' rights and ensure accountability of all parties.

Additional recommendation 'i' – **Merit and means tests should not be applied** to parents involved in child protection matters (in the same way as they are not applied to the child in proceedings).

Key Evidence: Caution against applying additional eligibility tests and thresholds

A 2024 Dutch paper examined the “justification of out-of-home placement and therefore the separation of a parent and a child” as assessed by the European Court of Human Rights (ECtHR). It looked at both **substantive obligations** (does it serve to protect the interests and is it necessary in a democratic society), and **procedural obligations** (are parents and children given the *opportunity to effectively participate in the decision-making* process that led to the out-of-home placement).

“The distinction between substantive and procedural obligations is not always easy to make: they can overlap and influence each other. It is, however, important in each case to make sure which obligations are violated because this determines the nature of the failure of the state.”

The paper goes on to say that the right to legal representation has only become increasingly important in the case law of the ECtHR in the last decade.

“During the last couple of years the involvement of parents and children has become more and more important in the case law of the ECtHR about the separation of parents and children due to an out-of-home placement. According to the ECtHR, **sufficient involvement** of parents and children in placement procedures means that parents must be **able to fully present their case, which in practice means that they should have access to legal representation.**”^{xvii}

But the ECtHR summarised, in *Soares de Melo*, that a parent has a right to legal representation **when certain criteria exist**. This has led to complexity and uncertainty about ‘when a case meets these criteria?’.

For Queensland, it may therefore be reasonable to **caution against applying additional eligibility tests and thresholds** to parents’ right to legal representation. This would increase cost, complexity, uncertainty and time. It would also reinforce the current power imbalance.

4. Legal Representation

	Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
4.0	Legal Representation	<p>The Court has an obligation to:</p> <ul style="list-style-type: none"> ensure, as far as practicable, that the child's parents and other parties (including the child, if present) understand the nature, purpose and legal implications of the proceedings and any order or ruling of the court the child, the child's parents and other parties have a right to appear, and they may be represented by a lawyer where a parent appears in an application for a child protection order and is not represented, the Court may continue with the proceeding only if it is satisfied the parent has had reasonable opportunity to obtain legal representation. (p.29,51,96) 	<p>Currently the Queensland child protection litigation model does not sufficiently support parents' right to legal representation. Parents do not have <i>"reasonable opportunity to obtain legal representation"</i>.</p> <p>In theory, Legal Aid funding, representation, and/or lists of lawyers are available to parents.</p> <p>In reality, lawyers with expertise and experience in child protection are rare; and there is not enough Legal Aid an/or Community Legal Centre funding.</p> <p>For example - if a parent in southeast Queensland contacts Legal Aid, they may be emailed a list of 20 possible legal services. Less than half of these will be found to currently offer child protection services. From there, actual availability and experience of lawyers will further reduce the pool to perhaps two or three. Parents in regional, rural and remote parts of the state will likely not have options.</p> <p>Legal representation is, of course, a human right however particular legal service delivery models have also been demonstrated to improve outcomes for children and families.</p> <p>We reject the view that increased legal representation would create an overly 'adversarial' approach. To the contrary we envisage a service model that can be cooperative, rights-based, and build fairness and accountability between parties.</p>

Recommendation 2 - Implement **multidisciplinary law offices** in the Queensland Community Sector. These would be similar to those in New York City: **lawyers** work in a team that also includes **social workers** providing support, and **peer workers** who are parents with lived experience.

Why this Matters

Under the *Human Rights Act 2019*, all Queenslanders have the right to:

- recognition and equality before the law (section 15)
- a fair hearing (section 31)

In Queensland’s child protection system, however, parents’ human rights and the aspirations of the ‘model litigant principles’ are not currently operationalised. As stated throughout this Submission, parents need better access to legal representation. A new model of legal service delivery should be implemented in Queensland that features multidisciplinary teams focused on supporting parents. This model should be **block funded** through community legal centres and/or First Nations’ legal services and co-located with support services. (In the US these innovative court programs are both “encouraged through legislation and **rewarded through demonstration grants**”^{xviii}.)

Examples of interdisciplinary legal services:

- In **Western Australia** [Ruah Community Services](#) specialist legal services team brings together qualified lawyers, paralegals and community workers to provide services ranging from legal advice, early intervention and advocacy, to legal representation for eligible clients across the areas:
 - Mental Health
 - Care and Protection
 - Family and Domestic Violence
 - Criminal Law proceedings
 - Guardianship and Administration Orders
- In **New York City**, interdisciplinary law offices include a lawyer, a family support social worker, and a parent peer worker with lived experience of the system. In 2019, a large study was published which showed that “multidisciplinary representation reduced children’s time in foster care by nearly four fewer months during the 48 months following the petition filing, through faster early reunification outcomes, as compared to parents who were represented by solo practitioners”^{xix}.

(See page 9)

Key Evidence: Therapeutic jurisprudence (and specialist courts)

Therapeutic jurisprudence focuses on the law's impact on emotional and psychological wellbeing: looking at less damaging ways of resolving issues (Weinsten 1997 and 1999 in Ivec!).

Often the literature analyses child custody (Family Law) disputes, citing the potential for emotional and/or psychological impact. There are similarities in child protection cases: “the adversarial process in a child custody context can be both traumatic for the child and damaging to the relationship of the parents who, despite their divorce, need to have some relationship in the future for the sake of the child. This analysis exposes how the adversarial process encourages inflicting of harm on the other party, presenting a case of a ‘bad parent’ — similar to proceedings in child protection proceedings”¹.

In Queensland, over the past 20 years, a number of ‘specialist courts’ have been successfully trialled and then implemented. While not community-sector ‘interdisciplinary’ legal services, these models include some common features – for example, early dispute resolution, co-located support services, non-legal advocacy support and/or culturally safe and appropriate, trauma-informed peer and community member support.

- [Drug and Alcohol Court](#)
- [Mental Health Court](#)
- [Murri Court](#)
- [Specialist Domestic and Family Violence Specialist Court](#)
- [Youth Court \(Townsville\)](#)

We do however prefer the community-sector ‘interdisciplinary legal service’ recommended throughout this Submission. While positive additions, therapeutic or specialist courts alone would add additional investment into large government or institutional edifices where change can be slow, cumbersome, and proportionately more expensive. Large government institutions can also be inaccessible for many parents and families due to past experiences and distrust of authorities. Community-led, local supports are more effective and inclusive.

5. Longer-term child protection orders

Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
5.1	<p>Applications to the Court: Child Protection Orders</p> <p>The child's parents are respondents to the application and the chief executive must serve a copy of the application on each of the child's parents personally or by leaving it at or sending it to the last known address of the parents.</p> <p>The Children's Court may only decide the application in the absence of the parents if the parents have been given reasonable notice and fail to attend court or the court is satisfied it was not practicable to give the parents notice of the hearing. (p.47)</p>	<p>The power imbalance feels particularly stark as parents experience the gathering of evidence, the serving of papers, and being given late notice, or no notice, of court matters.</p> <p>One of the most distressing aspects described consistently by parents is Affidavits. <i>"This is not me!"</i></p> <p>Parents frequently describe large volumes of material being included (parents wonder if it is "for effect") when much of it would reasonably be considered irrelevant to the matter. Conversely many parents are frustrated when they provide material, records, or reports to the Department, which the parents consider vital to the matter, but these appear not to be considered, nor included in the application.</p> <p><i>"There was incorrect information in the Child Safety affidavit. It took 8 months and 5-6 court appearances (incl adjournments) to be able to produce an affidavit that showed where Child Safety's affidavit was incorrect. That's not ok."</i> (Parent, 2024)</p> <p><i>"A parent spoke of how criminal charges relating to them dating back to 1991 were submitted in an affidavit in 2018. When the affidavit was presented to court it made it look like this was all current. They had committed the crimes when they were 17 and had been clean from all alcohol and drugs for 26 years."</i> (Parent, 2024)</p>

6. First Appearance

	Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
6.1	First Appearance	<p>As the litigation model is described, often the “first appearance” is also the first time the model mentions a parent and/or their legal representation being present.</p>	<p>Often parents, say they experience this first appearance “months after” their children were removed.</p> <p>This far into the undeniably traumatic process of child-removal without appropriate, accessible, independent advocacy, legal advice, and/or representation for the parents is unacceptable.</p> <p>FIN is not aware of any timeframe or workflow data for the litigation processes but parents consistently say that timeframes get revised or extended regularly.</p> <p>Parents estimate that it takes around “12-months to 18-months” from application to finalisation of the Order.</p> <p>This of course refers to the time it takes for the process of a child is coming INTO care. It does not refer to the time spent in care and/or to reunify.</p> <p><i>“I lost another year with my children because they were under a court assessment order for 12 months before the short-term custody order was put in place. I tried to say to DCPL, well, I've already done a year. So why can't we take a year off the orders so that I would have my children returned like in a month? And no.”</i> (parent, 2025)</p> <p><i>“There should be a set timeframe between the end of the investigation for child safety and this is when you have to have your court stuff submitted to court, ready to go. In my mind, it would be two weeks, three weeks tops maybe. Obviously I know that's crazy short for government.”</i> (parent, 2024)</p>

Key Evidence: Parents do not receive support services if children are removed

While this Submission focuses on legal processes, it is relevant to know the broader difficulties parents endure while they are trying to remain connected with their child/ren.

It often surprises people to learn that parents who have had their children removed are not eligible for support services. They are offered group parenting courses (such as 123 Magic, or Circle of Security) and generally these are the only supports provided by Child Safety or Child Safety-funded NGOs once children have been removed. Parents therefore find themselves alone to source all the services and specialists they need and/or the supports listed on their Case Plan.

Depending on waitlists, some departmentally-funded family support services (eg. Intensive Family Support (IFS) or Family Intervention Service (FIS)) may become available on the proviso the family is working towards reunification, or once they have been granted and maintain sufficient regular overnight visits.

As previously stated, the *Child Protection Act 1999* discusses the best interests of the child, with their family having primary responsibility for their upbringing, and the Act stipulates that **the family should be supported if a child is removed**.

Section 5B - ...

f) If a child is removed from their family, **support should be given to the child and the child's family for the purpose of allowing the child to return to the child's family** if the return is in the child's best interests.

Further Section 7 – the **Chief executive's functions** –

(1) For the proper and efficient administration of this Act, the chief executive's functions are—

- (a) providing, or helping provide, **information for parents** and other members of the community about the development of children and their safety needs; and
- (b) providing, or helping provide, **preventative and support services to strengthen and support families** and to reduce the incidence of harm to children; and
- (c) providing, or helping provide, **services to families to protect their children if a risk of harm has been identified**; and
- (d) providing, or helping provide, services for the protection of children and responding to allegations of harm to children; and ...

Recommendations or Areas for Future Discussion – Child Protection Orders | First Appearance

Recommendation 1 - Implement mandatory legal representation (throughout the process and beyond) to uphold parents' rights and ensure accountability of all parties.

Recommendation 2 - Implement multidisciplinary law offices in the Queensland Community Sector. These would be similar to those in New York City: lawyers work in a team that also includes social workers providing support, and peer workers **who are** parents with lived experience.

Case Study: “Timeframes are made explicit...” – Cornerstone Advocacy

Timeframes are key in the “Cornerstone Advocacy” model (with its four cornerstones: visiting, placement, services, conferences).

Timeframes are made explicit and small adjustments and greater clarity and accountability - including courts’ seeking “a status report on visiting” should court dates be protracted.

Read more: Cornerstone Advocacy in the First 60 Days: Achieving Safe and Lasting Reunification for Families (2009) <https://toolkit.parentadvocacy.net/wp-content/uploads/2020/10/Cornerstone-Advocacy-Article.pdf>

7. Social Assessment Report | Parental Capacity to Understand Proceedings

	Component	Policy Intent (government source documents)	Parents’ and Services’ Reality & Issues
7.1	Social Assessment Report	<p>The court may make an order requiring “a written social assessment report about the child and the child’s family be prepared and filed in the court”.</p> <p>An appropriately qualified practitioner may carry out the social assessment.</p> <p>The practitioner does not incur liability for an act or omission done or omitted to be done honestly and without negligence in carrying out the social assessment. <i>(Child Protection Act 1999)</i></p> <p>A social assessment report includes information about a child’s history, living situation, views and wishes.</p>	<p>The outsourced social assessment is an extremely powerful component of the litigation model.</p> <p>It contains recommendations to the court about the contractor’s views about the best way to protect the child’s best interests.</p> <p>Parents say when they attend a ‘social assessment’ appointment, they do not know what they are going to, and have not provided informed consent.</p> <p>Parents highlight concerns about having no choice in provider – they must use the court-appointed ‘independent’ assessor.</p> <p>Parents have concerns that there is a bias. (One parent spoke of a psychologist who has done over 600 assessments over 16 years for Child Safety and has purportedly never found in a parent’s favour.)</p> <p>Understandably parents often disagree with ‘independent assessors’ recommendations. But in order to raise this concern with the court or tribunal,</p>

Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
		<p>parents must speak to a lawyer - swiftly - before decisions are made about their child. Legal representation is therefore also needed for this and other broader purposes.</p>
7.2	<p>Parental capacity to understand proceedings</p> <p>We are aware that the recent (unpublished) survey of parents experiencing the Child Safety system found more than one-third of respondent parents said they had a disability.</p> <p>The <i>Child Protection Act 1999</i> – Section 106 (2) – “Court to ensure parties understand proceeding” states:</p> <p>(2) “if the child, parent or other party has difficulty communicating in English or a disability that prevents him or her from understanding or taking part in the proceedings, the Childrens court must not hear the proceeding without an interpreter to translate or a person to facilitate their taking part in the proceeding”.</p> <p>The <i>Children’s Court Benchbook</i> states “If all parties come to an agreement about the most appropriate child protection order, and the court makes this order, the Magistrate still has an obligation to provide reasons for their decision under section 104 of the Act, and to be satisfied of the matters in section 59 of the Act” (p.84).</p>	<p>Parents and families are a deeply diverse group; they have many strengths and may also experience multiple vulnerabilities that create an intersectionality of significant barriers and challenges when faced with the complexity and detail of the child protection litigation model.</p> <p>Parents with disability are particularly impacted.</p> <p><i>“I refused to tell them I had [a disability]. I was trying to hide it. As soon as they did the capacity assessment and they knew I had a disability, that's when child safety went downhill. oh, she's got a disability, she can't cope with the kids and all this stuff.”</i> (Parent, 2025)</p> <p>Parents need accessible interdisciplinary legal teams appropriately skilled to support parents with disability to raise concerns with courts and/or tribunals.</p> <p>(Reminder – see page 8 – features of ‘mandatory legal representation for parents’)</p>

Recommendations or Areas for Future Discussion – Social Assessment Report and Parental Capacity to Understand

Recommendation 1 - Implement mandatory legal representation (throughout the process and beyond) to uphold parents’ rights and ensure accountability of all parties.

Recommendation 2 - Implement multidisciplinary law offices in the Queensland Community Sector. These would be similar to those in New York City: lawyers work in a team that also includes social workers providing support, and peer workers **who are** parents with lived experience.

Additional recommendation ‘ii’ - The selection, allocation and use of independent assessors should be improved with a ‘preferred supplier’ panel of providers who are subject to regular standard quality reviews. This would also allow choice for parents.

Additional recommendation ‘iii’ - Specialist legal services are non-negotiable parts of the system. Services such as Women’s services, youth services, Aboriginal and Torres Strait Islander services, and services for people with disability.

8. Reunification

Component		Policy Intent (government source documents)	Parents’ and Services’ Reality & Issues
8	Reunification	<p><i>Child Protection Act 1999</i></p> <p>4 The purposes of this Act are— (a) to provide for the protection of children; and (b) to promote the safety of children; and (c) to the extent that it is appropriate, to support families caring for children.</p> <p>5B ... b) A child’s family has primary responsibility for their upbringing, protection and development ...</p>	<p>Parents experience of reunification is characterised by extended time delays, lack of clarity, sporadic communication, and frequent “goal post changing”.</p> <p><i>“There should be more transparent parenting goal plans with clearly stated goals and benefits. A roadmap for improvement. Parents need goals and things they can look forward to.”</i> (parent 2024)</p> <p>Once the energy and attention to litigation and placement have passed, the process of reunification does not seem to be a priority.</p> <p>The process does not feature significantly in the Child Protection Litigation Model nor in any detail in Child Safety practice and procedures (with the exception of “Permanent</p>

Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
	<p>c) The preferred way of ensuring a child's safety and wellbeing is through supporting the family</p> <p>...</p> <p>(m) a delay in making a decision in relation to a child should be avoided, unless appropriate for the child;</p> <p>SBA "Principles for achieving permanency for a child"</p> <p>...</p> <p>(2) For ensuring the wellbeing and best interests of a child, the action or order that should be preferred, ..., is the action or order that best ensures the child experiences or has—</p> <p>(a) ongoing positive, trusting and nurturing relationships with persons of significance to the child, including the child's parents, siblings, extended family members and carers; and</p> <p>(b) stable living arrangements, with connections to the child's community, that meet the child's developmental, educational, emotional, health, intellectual and physical needs; and</p> <p>...</p> <p>(4) For deciding whether an action or order best achieves permanency for a child, the following principles also apply, in order of priority—</p> <p>(a) the first preference is for the child to be cared for by the child's family"</p>	<p>Care Orders" (see page 35) to be deployed when reunification "has not been achieved" for whatever reason).</p> <p>The child protection litigation model therefore appears to diligently litigate to remove children from their parents; however their return is not currently a well-documented nor resourced area of practice.</p> <p>It is interesting to note language: the <i>Child Protection Act</i> has few references to "reunification" per se. The drafting instructions and/or other jurisdictions may shed light on why this is. Our assumption is that reunification with parents ("first preference") is the purpose of the Act – given its foremost references to parents and family, to the "wellbeing and best interests" of the child, to timeliness, to "ongoing positive trusting nurturing relationships", and to "stable living arrangements". There may be a conscious or unconscious bias in practice to think otherwise: to think that these should be provided by the state, carers and institutions.. Perhaps the Act needs to make "reunification" more explicit in order to improve this area?</p> <p>As stated elsewhere, reunification rates have also been shown to improve where there is mandated legal representation for parents.</p> <p>Publicly available data about reunification rates may also improve accountability and funding prioritisation. (To our understanding, the Department does not have detailed performance data in relation to reunification.)</p>

Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
	<p><i>Child Protection Practice Manual:</i> "A case plan clearly states:</p> <ul style="list-style-type: none"> · the goal and actions to achieve permanency for the child, and timeframes for achieving them · an alternative permanency goal, if the primary goal is reunification" 	

Recommendations or Areas for Future Discussion – Reunification
<p>Recommendation 1 - Implement mandatory legal representation (throughout the process and beyond) to uphold parents' rights and ensure accountability of all parties.</p>
<p>Recommendation 2 - Implement multidisciplinary law offices in the Queensland Community Sector. These would be similar to those in New York City: lawyers work in a team that also includes social workers providing support, and peer workers who are parents with lived experience.</p>
<p>Additional recommendation 'iv' - There must be full commitment to the Child Protection Act's principle that family (and therefore reunification) must be the focus of the child protection system and the litigation model. Also to use the 'least intrusive' options, and to provide families with post-reunification support so the family can heal from their experience.</p>
<p>Additional recommendation 'v' - The department should regularly publish detailed performance data in relation to reunification.</p>

9. Permanent Care Order

Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
9	<p>Permanent Care Order</p> <p>In response to the issue of children and young people 'drifting in care' legislative changes were enacted in 2020/21.</p> <p>Child Safety practice is currently to "consider recommending a long-term guardianship order or a permanent care order when reunification has not been achieved</p> <ul style="list-style-type: none"> · within two years of the development of the child's first case plan (after coming into care) and · is unlikely to be achieved within a timeframe considered appropriate for the child (taking into account their age and stage of development)" <p>(Practice Manual "<u>Decide the Type of child protection order</u>", accessed 26/11/25)</p>	<p>FIN is not aware of the progress of Queensland's 2020/21 permanency amendments implementation in Queensland.</p> <p>We are however aware of the Commissioner's curiosity about the "magic two years" regarding permanency. Our experience would indicate that for some parents, the two-year timeframe feels appropriate, for many it does not.</p> <p>It may be useful to note that the <u>2017 Victorian Inquiry into their experience of 'permanency' implementation</u>^{xx} found an 11% decrease in the number of children reunified with their parents; and growing gaps in case planning, inclusion of family members, provision of documents, and stated plans to parents and families.</p>

Recommendations or Areas for Future Discussion – Permanent Care Order

Recommendation 1 - Implement **mandatory legal representation (throughout the process and beyond) to uphold parents' rights and ensure accountability of all parties.**

Recommendation 2 - Implement **multidisciplinary law offices** in the Queensland Community Sector. These would be similar to those in New York City: **lawyers** work in a team that also includes **social workers** providing support, and **peer workers** who are parents with lived experience.

Additional recommendation 'iv' - There must be full commitment to the Child Protection Act's principle that **family (and therefore reunification)** must be the focus of the child protection system and the litigation model. Also to use the **'least intrusive' options**, and to provide families with **post-reunification support** so the family can heal from their experience.

10. Other Acts and legal matters

	Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
10.1	<p>Domestic and Family Violence - and - Child Protection interface</p> <ul style="list-style-type: none"> Domestic and Family Violence Protection Act 2012 	<p>Anecdotally, Domestic and Family Violence is present in the majority of Child Safety investigations.</p> <p>While no public statewide data is available, the Department of Child Safety's 'Child in Care Census 2024' (that informed the commencement of the Commission of Inquiry), states "68% of children entering the out-of-home care system had "been exposed to domestic violence" ^{xxi}.</p>	<p>Victims of crime are over-represented in the child protection system.</p> <p>The protective parent who is the victim of domestic and family violence has little support to navigate the dual system.</p> <p>Common experiences:</p> <ul style="list-style-type: none"> the protective parent being blamed and/or criminalised the parent who has been using violence is granted custody and/or contact rights in excess of the protective parent permanent injuries sustained as a direct result of domestic violence being used by the Department as a reason to remove children or not return children. <p><i>"We were (victims) blamed for not protecting our children. The Department said "we want a clear action plan that you would take to remove yourself and your children from the situation". But when you don't have anywhere to go and Child Protection gets involved, you (the mother) will always be the one who was responsible for not removing your child from danger. You can't change that or take a course to show you won't do it again."</i> (Parent, 2016*)</p> <p>* This 2016 quote is cited intentionally. While practices have improved in some instances, the experiences of the protective parents FIN speaks with is largely unchanged.</p>

	Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
10.2	<p>Child Protection interface with other legislation or jurisdictions</p> <p>For example</p> <ul style="list-style-type: none"> • Criminal Code Act 1899 • Victims of Crime Assistance Act 2009 • Juvenile Justice Act 1992 • Family Law Act 1995 (Cth) 	<p>Child protection matters can interface with <i>Family Law</i>, the <i>Criminal Code</i> and other legislation.</p>	<p>Parents tell us that, as part of the child protection process, there are often instances of being charged under other Acts. For example:</p> <ul style="list-style-type: none"> • common assault • failure to provide the necessities of life • child stealing • drug misuse <p>The inconsistency of Criminal Code charges and the inter-relationship with Child Protection evidence-gathering is an issue with long-term consequences for families, including Blue Card implications.</p> <p>For the parent these legal matters will typically be ongoing for years. The burden of proof is different, the lawyers will be different, and the parent is often liable for significant additional expenses.</p> <p>This continues to impact many families who are navigating the difficult and isolating period of reunification, or long-term orders.</p> <p>For this reason we recommend that legal representation continues.</p>

Case Studies: Interface with other Acts – specialist legal teams in Western Australia and the United States

In Western Australia [Ruah Community Services](https://ruah.org.au)' specialist legal services team brings together qualified lawyers, paralegals and community workers to provide services ranging from legal advice, early intervention and advocacy, to legal representation for eligible clients across the areas:

- Mental Health
- Care and Protection
- Family and Domestic Violence
- Criminal Law proceedings
- Guardianship and Administration Orders

Read more: <https://ruah.org.au/services-support/specialist-legal-services/>

In the United States, The Bronx Defenders support residents across criminal, civil, family, and immigration cases—and reach thousands more through holistic advocacy, social work, and community-based services. **Read more about their child protection work:** <https://www.bronxdefenders.org/our-work/defending-new-yorkers/family-defense/>

Recommendations or Areas for Future Discussion – Child Protection interface with Domestic and Family Violence, and other legislation

Recommendation 1 - Implement **mandatory legal representation (throughout the process and beyond) to uphold parents' rights and ensure accountability of all parties.**

Recommendation 2 - Implement **multidisciplinary law offices** in the Queensland Community Sector. These would be similar to those in New York City: **lawyers** work in a team that also includes **social workers** providing support, and **peer workers** who are parents with lived experience.

Other Acts and legal matters (Cont.)

Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
<p>10.3</p>	<p>Interface with the <i>Queensland Human Rights Act 2019</i></p> <p>The key sections of the <i>Queensland Human Rights Act</i> that interface with the <i>Child Protection Act</i> are:</p> <ul style="list-style-type: none"> • Right to recognition and equality before the law (section 15) • Right to freedom of expression (section 21) • Right to a fair hearing (section 31) • Right to protection of families and children (section 26) • Cultural rights - generally (section 27) • Cultural rights - Aboriginal peoples and Torres Strait Islander peoples (section 28) • Right to privacy and reputation (section 25) 	<p>In Queensland's child protection system - parents' human rights are not currently operationalised.</p> <p>In 2022, Micah Projects, FIN and parents co-developed the <i>Charter of Rights for parents involved with the child protection system in Queensland</i>^{xxii}. This was a proud achievement for Queensland's parent movement.</p> <p><i>"I think what I will give the Department is, how they worked on this.. they came to the table, and they did it quickly and it was out quickly. They said they were going to do that, and they did it. Within 3 months. That's remarkable. It is."</i> (worker, 2023)</p> <p><i>"I just think it's great. I think the Charter of Rights is fantastic. We've just got to find a way to get it out there."</i> (parent, 2023)</p> <p>In 2023, the Department funded the 12-month evaluation of the Charter (<i>"Review of the Charter of Rights for parents involved with the child protection system in Queensland. Report to the Department of Child Safety, Seniors and Disability Services"</i> June 2024.)</p> <p>The report indicated many actions required for full implementation were required. And are still required.</p> <p><i>"You need to do community engagement about rights. You can't just do a road show to 5 main towns... That won't cover it for education. If you're going to do it, you need to be serious. If it costs a lot – do it. We're talking about equality and human rights..."</i> (parent, 2023)</p> <p><i>"...it makes me realise just how important it is to be hearing the views of parents... What is it that will work? And it makes me start to think that one of the solutions is that it needs to be offered from many different angles, and for each parent it will be</i></p>

Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
		<p><i>successful from someone else, whether it's their GP, whether it's a lawyer, whether it's [NGO]... if it's available from many different places, then hopefully it starts to cover most families because each person, something different will work."</i> (2023)</p> <p>It is for this reason we call for mandatory legal representation so parents can access their rights. We further call for the <i>Charter of Rights for Parents</i> to be legislated and fully implemented to embed parents' rights.</p>

Recommendations or Areas for Future Discussion – Queensland Human Rights Act

- Recommendation 1** - Implement **mandatory legal representation (throughout the process and beyond) to uphold parents' rights and ensure accountability of all parties.**
- Recommendation 2** - Implement **multidisciplinary law offices** in the Queensland Community Sector. These would be similar to those in New York City: **lawyers** work in a team that also includes **social workers** providing support, and **peer workers** who are parents with lived experience.
- Additional recommendation 'vi'** - **Legal representation should support parents, at any stage, to access their rights and processes** in line with *Charter of rights for parents involved with the child protection system in Queensland.*
- Additional recommendation 'vii'** - The *Charter of Rights for parents* should be **legislated and fully implemented** to embed parents' rights.

Part Two

Parents' responses to the Inquiry's questions about the Child Protection Litigation Model

Following is a small selection of additional recent parent comments on the questions asked by the Commission of Inquiry on 13 November 2025. The quotes relate to parents in the periods 2014-2015 and 2020-2025.

To read comments and suggestions from more than 50 other parents whose experiences were between 2016 and 2024, please follow this link [FIN-CP-Litigation-Review-Parent-Consultation-Report-2024.pdf](#).

How easy did you find the legal process?

- *I was thinking I don't need a lawyer because I've done nothing wrong and all that. And I didn't realise that Child Safety has a legal system. (parent 2025)*
- *I just thought, okay, they've taken the kids, like they came in, took the kids, no court, no nothing like that, and then they will be returned. (parent 2025)*
- *hit you when you're at the lowest of the low. they just, here, like an envelope, here. and it's a legal aid brochure. I was trying to apply, like all by myself. (parent 2025)*
- *I found it was, "do what they say", you've got no choice. And it's whether or not you go to court. They say, "okay, two year interim order". And you have to say okay, and you walk out. (parent 2025)*
- *a legal aid centre. I went there and they turned me away because I didn't have any papers. And I'm like, well, what ***** papers am I supposed to have? "Papers from the department" they said. I didn't have any. (parent 2025)*

Did you have any specific challenges through the process and if so, what were they?

- *I signed the short-term custody order because they backed me into a corner and virtually was the legal aid lawyer saying, if I didn't sign the short-term custody orders, then they were looking at taking out 18-year guardianship orders. (parent 2025)*
- *I've got all this contradictory evidence of what you're [Dept's] saying, and what a therapist is saying. (parent 2025)*
- *[Lawyer] left an hour into [family group meeting]. That was the total funding allocated. So I was left the other hour having to deal with child safety by myself. (parent 2025)*

[Parent with a newborn]

- *I had him, but it was that next morning... they took him. They took him and then I had just a panic attack... I'm like, where's my son? "oh, you can't see him, you have to wait till you talk to the department". So I've gone to leave and I've got men and security guards and stuff and they took me. And there's this lady with a lanyard. She's a support worker, but I didn't know who she was... And she actually got the CSO or team leader on the phone for me to be able to talk to.
And I was like, I want to see my son. And she said, "well, that's not going to happen. You're not going to be able to see your son. We're going for a temporary order. So it's like a three-day order. You need to do a drug test. Then we'll talk about you seeing your son". (parent 2025)*

[Parent with disability]

- *I refused to tell them I had [a disability]. I was trying to hide it. as soon as they did the capacity assessment and they knew I had a disability, that's when child safety went downhill. oh, she's got a disability, she can't cope with the kids and all this stuff. I'm like, hang on, you tell me to do specific programs, I do them. I know what my strengths are and what my negatives are. if I put my bum down and my head to it, I can do anything. And now my CSO and team leader are saying, you do not need to do any more parent courses because you have done too many. (parent 2025)*
- *They think, oh, she didn't care about her kids and all that. I went out, I asked for help. I even asked child safety before the kids were removed for help. I asked the kids' therapists, I asked everyone I knew and no one helped me until it was too late. (parent 2025)*

[Bias due to parents' socio-economic status]

- *The same rules don't apply for the lower income. (parent 2025)*

What support or help did you get during the process including legal representation?

- *the legal system was okay because I think within two months of it all starting, I had **one lawyer and she was amazing**. She was like fighting from every second of all the courts and all that. Being there for the family meetings and all that. I've had the same lawyer from day one. (parent 2025)*
- *I was supposed to get a two-year custody order last year. But because of the CSSC, I refused it and we were fighting it, like everything. Until the moment we moved to [**another CSSC**], then I agreed to it. Because now, instead of doing the two years, they're saying 12 months and the kids will be home. (parent 2025)*
- *Yeah, as long as you have a **good FIS worker**, like a good support worker and that to advocate for you that you need it done. (parent 2025)*
- *so **family intervention service (FIS)**, I don't know what other ones, but I'm just using that because that's my example. I've got this lady and she's an absolute gem. (parent 2025)*

What support or help would you like to have been given during the process? How do you think the legal process could be improved?

- *Peer workers! Lived experience advocates early. (parent 2025)*
- *And what I would suggest, like [peer workers] go in on the front line, when you fall onto the child safety system radar and they're about to come and remove the children, then you send in the ones with the **lived in experiences** and then that's the kind of: "Okay, we've got it, but they're not going to remove your children immediately". (parent 2025)*
- **Relationships:** *at that early stage parents can be abrupt and shut off. It takes a lot to start opening up and gaining trust. If there's the right person, and time, parents will "flourish" "come leaps and bounds since then". (parent 2025)*

Did you feel that your perspective and concerns were given consideration?

- *I felt very tricked by my CSO. I asked "Should I go and see somebody?". No. I could have talked to somebody there and possibly have gotten adjourned, but I didn't know at the time. (parent 2025)*
- *I had no idea what the judge was saying. And he just went, "yeah, it's granted" because the child safety officer there, they're saying whatever they're saying. **I didn't even get to present my stuff or be heard or anything.** And so then I never went to any court cases after that. (parent 2025)*

- *this is where the **lawyers get mixed up** – they're there to help our family, not go against us with child safety and be like manipulated. And whatever child safety says to them, they take it on board, but I don't want that to warp their whole reason of why **they've been assigned to this family, you know, like to be able to help.** (parent 2025)*
- *No, they can't discriminate if you're having a crappy day ... (out of **anyone** in society, you're going to have a crappy day). Yeah, the lowest.. when they did the capacity assessment, it was actually two days after I said goodbye to my youngest daughter. I've asked for a new one and they're like, we can't do it because of the price of them. (parent 2025)*
- *they didn't give me **choice** for that forensic psychological assessment. I said, no, I want someone independent of the department. I actually haven't given informed consent either of what this assessment is for. (parent 2025)*

Anything else?

- *after the short-term orders was signed, legal aid was like, oh, okay, all right, the orders are in place, bye. Through [other parents I found out] that you can still get a lawyer, like a **post-order grant of aid.** (parent 2025)*
- *I've like done my placement, been offered a full-time job. But I'm like, no, I can't take it because **I'll lose my legal aid.** (parent 2025)*
- *So in my **affidavits**, I have other children's names in my affidavits, right? And I had a woman from [another place] contact me and said, I've got bits of your affidavit in my affidavit. They've copied and paste, forgot to take out the names and put my personal stuff into another person's affidavits and I have another little boy's name. (parent 2025)*

- *I lost another year with my children because they were under a **court assessment order for 12 months** before the short-term custody order was put in place. I tried to say to DCPL, well, I've already done a year. So why can't we take a year off the orders so that I would have my children returned like in a month? And no. (parent 2025)*

Opportunities for early advice and early resolution of matters. – e.g. court ordered conference / family group meetings

Looking back on the process, FIN parent-members and advocates describe the period after the litigation process starts as a period of silence and confusion: they say the Department “bunkers down” and focuses on the litigation process: this is the time it takes for evidence gathering, court processes, and finalising an order (rather than providing therapeutic, practical or family support). Parents say this process can be a “lost” 12-18 months.

Therefore, any opportunity for early support – prior to the litigation processes starting, or immediately after it starts is needed.

Early support and collaboration between parents and Child Safety in the first instance requires a simpler process.

Additional recommendation 'viii'

Parents welcome being consulted and involved - from the design stage through to implementation and evaluation – in a genuine co-design of new model/s aimed at early resolution or dispute resolution.

Further reading:

- Please also see the [Family Inclusion Network \(FIN\)](https://d2yuko1qrkt9v.cloudfront.net/live/docs/FIN-Resources/FIN-CP-Litigation-Review-Parent-Consultation-Report-2024.pdf) Southeast Queensland's previous submission on this topic (2024)
<https://d2yuko1qrkt9v.cloudfront.net/live/docs/FIN-Resources/FIN-CP-Litigation-Review-Parent-Consultation-Report-2024.pdf>

ⁱ Commission for Children and Young People, Vic. <https://nla.gov.au/nla.obj-3117988804/view> (accessed 4/12/25)

ⁱⁱ Scottish Government commissioned report by AFKA. Final Report: Supporting Roots (2023)

<https://www.gov.scot/binaries/content/documents/govscot/publications/research-and-analysis/2023/02/supporting-roots/documents/final-report-supporting-roots/final-report-supporting-roots/govscot%3Adocument/final-report-supporting-roots.pdf> and

[Part 1: Short Evidence Review on Support for Birth Parents - Supporting roots: report - gov.scot](#)

ⁱⁱⁱ Iris Reinders and Joost Huijjer, 'The Legal Representation of Parents and Children During Placement Procedures in the Light of Article 8 ECHR' (2024) 20(2) Utrecht Law Review 40–53 <https://utrechtlawreview.org/articles/10.36633/ulr.938#4-legal-representation-of-parents-and-children-in-the-light-of-article-8-echr>

^{iv} Nuffield Foundation. Parental Advocacy in England: a realist evaluation of implementation. <https://www.nuffieldfoundation.org/project/parental-advocacy-in-england> Accessed December 2025.

^v Gerber, L. A., Guggenheim, M., Pang, Y. C., Ross, T., Mayevskaya, Y., Jacobs, S., & Pecora, P. J. *Understanding the effects of an interdisciplinary approach to parental representation in child welfare*. Children and Youth Services Review. (June 12, 2020). <https://doi.org/10.1016/j.childyouth.2020.105163>.

^{vi} Gerber, L. A., Guggenheim, M., Pang, Y. C., Ross, T., Mayevskaya, Y., Jacobs, S., & Pecora, P. J. *Understanding the effects of an interdisciplinary approach to parental representation in child welfare*. Children and Youth Services Review. (June 12, 2020). <https://doi.org/10.1016/j.childyouth.2020.105163>.

^{vii} "The Child Protection Benchbook is intended to provide practical and informative assistance to magistrates sitting in the child protection jurisdiction. The work undertaken in this jurisdiction is unique with 21 specialist Childrens Court Magistrates appointed around the State. As at the time of publishing this Benchbook is up to date to include the second tranche of amendments to the Child Protection Act 1999 in the Child Protection Reform and Other Legislation Amendment Act 2022."

Childrens Court of Queensland, Supreme and District Court, Office of the Chief Magistrate. *Child Protection Benchbook, Second edition*. (October 11, 2023). https://www.courts.qld.gov.au/_data/assets/pdf_file/0003/485274/cc-bb-childrens-court-child-protection-proceedings-benchbook.pdf

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- ^{viii} Annie E. Casey Foundation. *Overview of the Family First Prevention Services Act*. (March 11, 2025). <https://www.aecf.org/blog/overview-of-the-family-first-prevention-services-act#:~:text=To%20implement%20FFPSA%2C%20states%20are,abuse%20treatment%20and%20parenting%20support>
- ^{ix} Mical Raz. Calling child protectives services is a form of community policing that should be used appropriately: Time to engage mandatory reporters as to the harmful effects of unnecessary reports. *Children and Youth Services Review*, Volume 110, 2020 <https://doi.org/10.1016/j.childyouth.2020.104817>
- ^x Douglas, H., & Walsh, T. *Mandatory Reporting of Child Abuse and Marginalised Families*. (2015) http://rcfv.archive.royalcommission.vic.gov.au/CustomData/Exhibits/HAD/WIT.0075.001.0235_R.pdf (accessed 4/12/25)
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