



**Family  
Inclusion  
Network**

Valuing children  
Partnering with families  
Embracing diversity

Level One, 209 Boundary Street, West End Q 4101  
PO Box 3449, South Brisbane Q 4101  
Phone 07 3013 6030 | Fax 07 3013 6039  
info@finseq.org.au | finseq.org.au

Strategic Policy and Legislation Team  
Department of Children, Youth Justice and Multicultural Affairs

By email: [CP\\_Legislation@cyjma.qjf.gov.au](mailto:CP_Legislation@cyjma.qjf.gov.au)

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### **Dear Strategy Policy and Legislation Team**

The Family Inclusion Network Southeast Qld (FIN) welcomes the opportunity to provide feedback to the sunset review of the *Child Protection Regulation 2011* (the Regulation).

FIN is a Southeast Queensland 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.

This feedback responds to the questions raised in the consultation document regarding efficiency and effectiveness, whether the Regulation is still required, and any improvements that can be made. We have responded to the sections of the Regulation most relevant to the parents of FIN and included their feedback in this submission.

### **General matters for consideration**

FIN observes that the *Child Protection Act, 1999* (the Act), the Regulation, and the Child Protection Practice Manual (the Practice Manual) create a complex system that is challenging for parents to navigate. For example, there are 35 policies in the Practice Manual under the “Support a child in care” section alone.

FIN expects cross-referencing of the Act, the Regulation, and the Practice Manual will occur as part of the sunset review to reduce verbiage, remove doubt, and alleviate load and inaccessibility for workers, carers, and families who may wish to understand the law and their rights.

FIN notes the Regulation pre-dates the *Human Rights Act 2019*, and section 5(c) of the Act, the “Additional principles for Aboriginal or Torres Strait Islander children”. However, some policies in the Practice Manual have been updated to cross-reference the *Human Rights Act 2019* and the Child Placement Principle.<sup>1</sup> FIN is of the view that the Regulation should be updated in line with the *Human Rights Act 2019* and the principles under the Act.

## Part 2 - Placing child in care

### Section 2 - Agreement to provide care for the child

The agreement to provide care for a child removed from their parents is currently between the chief executive and an approved carer.<sup>2</sup> FIN believes the child’s parents and family should also be a party to this agreement (as they are to the Family Group Meeting and Case Plan) and that their views, wishes, and goals regarding reunification be included as a term of the agreement.

FIN also propose that, in addition to the prescribed terms of medical, therapeutic, educational, and special needs, the agreement should also reflect information which aligns with the standards of care outlined in the Act, for example information about the child’s **cultural identity, engagement in cultural or religious practices, and the recreational activities** they enjoy.<sup>3</sup> This will provide an approved carer with unique information about the child’s needs and existing connections, enabling them to fulfil their obligations as a suitable person to have the custody or guardianship of a child.

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

Including information about reunification goals and unique information about the child acknowledges that the capacities of each family, and each parent, are different. Sharing this information will help to facilitate a collaborative relationship between birth families and approved carers.

- *“We need some common sense. They said, “If you love your daughter, you would want her back NOW.” ..... But I am aware enough to know that I can’t care for her well enough: just yet. I know that I am working to fix things, to get healthy, to get ready. It’s not about LOVE. It’s about logic.”*

### Section 3 - Matters to consider before telling or notifying parents

Parents have clearly expressed that they never stop being parents even when their children go into care; that they can, and do, change and may go on to have other children. Parents

new to the system have consistently reported they do not feel respected or valued within the child safety system.

Regarding the child's placement, the Act states "the chief executive must, as soon as practicable after deciding in whose care to place the child, tell the child's parents **in whose care the child is placed** and **where the child is living**".<sup>4</sup>

We note that, as per the Regulation, before telling or notifying parents about their child's placement, the chief executive must consider several matters, including whether a "relevant person" has a history of violence.<sup>5</sup>

Given the definition of "relevant person" includes a parent of the child, or a partner of a parent of the child, or another person closely associated with a parent of the child, it is conceivable that most people considered a "relevant person" will be the child's entire family and social network.<sup>6</sup>

Use of wording "is likely to" in the matters for consideration is predictive in nature so it has the potential to exclude a relevant person without evidence or sound reasoning, being based on a subjective prediction of a person's future behaviour.<sup>7</sup>

Parents in FIN report that there is often a considerable delay in being told with whom and where their child has been placed. FIN's understanding of the implications of the Regulation, or perhaps other factors such as workplace culture and/or other written policy or procedures, mean that, in effect, parents are never told with whom or where their child is. At least initially.

Parents in FIN say they feel they are being asked to "earn the right" to know more detail, but sometimes this takes years. FIN queries if this is the intended outcome of the Regulation as it is currently written, especially given it is a reviewable decision.

Parents provided FIN with feedback about how the Regulation, in its current form, impacts their access to information about where their child is living and in whose care they are placed:

- *"I didn't get to know where my child was for some time. After showing a healthy relationship with carer and build trust - then we could know the suburb. Later on in reunification I got to go to the carers house..."*
- *"Originally I was provided names at an early family group meeting, although I was never formally given addresses or even locations of carers due to their safety."*
- *"I have never received any information on when my children are moved, where they are living or who is looking after them. This is especially the case with the*

*resi's. ... I have recently been given the name and phone number of the house manager but this has taken several years."*

In the Regulation, "matters to consider before telling or notifying parents" relate to violence, intimidation, threats, and harassment. FIN provides further comments from parents about their experience of navigating and existing in both the child protection system *and* the domestic and family violence prevention system:

- *"I couldn't see my child. I wasn't a risk. The unnecessary emotional harm caused to the child and the parent during court process is damaging beyond measure."*
- *"I left one abusive relationship and ended up in another one with DoCS."*
- *"Every family and situation is different, however they like to label you and once that is done they won't look at anything else."*
- *"Not understanding the complexities of family violence. Not understanding or willing to understand cultural abuse. Victim blaming. Not helping me with practical things."*
- *"What is a good service or worker? They understood reality of life not being perfect rather than bureaucratic ticking of boxes - common sense rather than going by a list of what is and isn't DV or abuse/neglect."*

### **Review of the decision**

We note parents can apply to QCAT for a review of the decision not to provide information about where their child is living and with whom. However, similar to other feedback and complaints mechanisms available to parents, the process can feel confusing and intimidating.

Parents provided the following feedback to FIN about review processes:

*"...there is already a web of possible other processes and avenues for parents to seek natural justice. However, this web is confusing and excluding: Is it an 'internal complaint' (which does not feel objective enough)? Is it a 'reviewable decision' via the Queensland Civil and Administrative Tribunal (QCAT)?*

*Where does the Community Visitor within the Office of the Public Guardian fit for families seeking an independent person for their child to have a say?*

*The Queensland Family and Child Commission's website suggests "if you have a complaint about a child safety matter, contact the Queensland Ombudsman". In*

*which case, does the Ombudsman look at the substance of decisions, or are they confined to ensuring systems are established that comply with the 'Australian/New Zealand Standard Guidelines for complaint management in organisations?'"<sup>8</sup>*

### **Part 3 – Regulation of care**

The Regulation lists specific characteristics about a child that must be recorded, however there is no requirement to record a child's **gender, cultural background, or ethnicity**.<sup>9</sup> This information is important to reflect the child's identity and to provide context to their experiences and needs.

Currently the definition of a "significant event" includes "contact between the child and the child's family".<sup>10</sup> Under this section, FIN would suggest that records include the **parent/family's views, wishes, and actions**, as the existing clause "contact between the child and the child's family" may not accurately capture this.

As an example, some parents provide weekly letters for their children and they are deeply curious if the facility or the child receives the letters. As we know from many years of experiences of people in care, knowing that a parent has been reaching out for years may become a "significant event" for the young person.

### **Part 4 – Confidentiality in relation to administration of Act**

Currently the chief executive officer "may" have regard to certain matters when deciding whether to give approval to publish information, however FIN believes this should be amended to read "must" to ensure all matters are considered.<sup>11</sup>

We note the amendments under the Child Protection Reform and Other Legislation Amendment Bill 2021 are due to come into effect on 21 May, 2023. There is an opportunity to align the wording of the principles for the child's participation with this part of the Regulation.<sup>12</sup> FIN's preference is to continue to also include reference to the views of the child's parents in this section so that both the child's views and the parent's views are considered.<sup>13</sup>

### **Part 7 – Suitable person**

FIN notes that the requirements described across the suitable person categories are inconsistent. For example, a person with custody or guardianship of a child needs to be able and willing to care for a child in a way that meets the standards of care, however according to the Regulation, an approved foster carer does not.<sup>14</sup>

FIN is also concerned about the lack of transparency around decisions relating to a person who is considered a "suitable person for associating on a daily basis with a child".<sup>15</sup> Parents

frequently mention their concern about the people regularly visiting the carer or the carer's site or home.

In addition, FIN notes the consultation material used the term "Adult Household Member". It is unclear whether this term will be used in connection with section 25 of the Regulation in the future. FIN holds concerns about how this person will be assessed as not posing a risk to the children or child's safety and how this decision will be communicated to parents.

We note that other matters, including **employment history and physical or mental health**, may be considered when deciding if someone is a suitable person.<sup>16</sup> While these considerations are discretionary, FIN is curious about what examples of these may prevent a person from being deemed a suitable person but would not be a potential limitation of human rights or breach of anti-discrimination legislation?

FIN is working to remove barriers for people with a child protection history to work in a non-child related role such as a Parent Advocate role (who may be able to sit on carer selection panels for instance). While the Regulation is clearly related to direct care or contact with children, we suggest that restrictions (even discretionary ones) be considered through a human rights and anti-discrimination lens.

## Conclusion

In conclusion, we have identified concerns about inconsistencies and complexities in the Regulation. We have identified changes to working with parents, increased clarity relating to placement in care, and timely and up-to-date notifications of where and with whom the child is placed which are critical for parents.

We have also identified changes needed to increase inclusion of parents in decision making and timely notification of changes. We have also included recommendations relating to factors to consider when reviewing decisions, in regulation of care, confidentiality, and identification of suitable persons.

The inclusion of parents as partners in all decision making will decrease some of the trauma associated with child removal for both parents and their children.

As we mentioned at the beginning of our submission, FIN expects that the Regulation will be updated and made consistent with other instruments such as the policies in the Practice Manual, including requirements to provide blue cards or exemption card details.

We thank you for the opportunity feedback on the sunset review of the Regulation. Should you have any questions or require further information, please contact Jenny Whitworth on 3013 6030.

Yours sincerely



**Jenny Whitworth**  
Coordinator  
Family Inclusion Network



**Karyn Walsh**  
CEO  
Micah Projects

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<sup>1</sup> Department of Children, Youth Justice and Multicultural Affairs, 'Placement of children in care: Policy 578-3', *Child Safety Policy* <https://www.cyjma.qld.gov.au/resources/dcsyw/foster-kinship-care/placement-children-in-care-578.pdf>

<sup>2</sup> Child Protection Regulation 2011, section 2(1)

<sup>3</sup> Child Protection Regulation 2011, section 2(1)(f)-(g); Child Protection Act, section 122

<sup>4</sup> Child Protection Act, sections 85(2)-86(2)

<sup>5</sup> Child Protection Regulation, section 3(2)

<sup>6</sup> Child Protection Regulation, section 3(3)

<sup>7</sup> Child Protection Regulation 2011, sections 3(2)(c)-(e)

<sup>8</sup> FIN, Child safety complaints process– parent feedback 2022

<sup>9</sup> Child Protection Regulation 2011, sections 7(2) and 10

<sup>10</sup> Child Protection Regulation 2011, section 7(3)

<sup>11</sup> Child Protection Regulation 2011, section 11

<sup>12</sup> Child Protection Reform and Other Legislation Amendment Bill 2021, clause 11

<sup>13</sup> Child Protection Regulation 2011, section 11(g)

<sup>14</sup> Child Protection Regulation 2011, sections 17 and 22

<sup>15</sup> Child Protection Regulation 2011, section 25

<sup>16</sup> Child Protection Regulation 2011, section 26