



Office of the
Director-General

Department of
**Child Safety, Seniors
and Disability Services**

Your reference: A1154075
Our reference: CSSDS 03863-2023

Ms Corrine McMillan MP
Chair
Community Support and Services Committee
cssc@parliament.qld.gov.au

Dear Ms McMillan

Thank you for your letter requesting information from the Department of Child Safety, Seniors and Disability Services (the department) to assist the Community Support and Services Committee (the Committee) with its examination of the Child Protection Regulation 2023 (the Regulation).

The purpose of the *Child Protection Act 1999* (the Act) is to provide for the protection of children, promote the safety of children and, to the extent that it is appropriate, support families caring for children. The Act is administered under the principle that the safety, wellbeing and best interests of a child, both through childhood and for the rest of the child's life, are paramount. The Regulation provides practical detail for administrative decision-making and operational processes to support the administration of the Act.

Part 8 of the Regulation sets out the matters for consideration when deciding if a person is a 'suitable person' to be, among other things, a foster, kinship or provisionally approved carer, or to perform particular roles in relation to a licensed care service. Section 27 of the Regulation enables a broad scope of matters to be considered in determining suitability.

I note the Committee's request for further information about the matters relevant to considering whether a person is a suitable person to be a foster or kinship carer, or a nominee for a licence. The 'other matters' that may be taken into account in a suitability assessment will depend upon the role for which an assessment is being undertaken and the circumstances of the assessment.

While there is discretion about matters that may be considered, the information and matter must be 'relevant' to suitability. In practice, information about 'other matters' is only obtained when the consideration of that information will directly inform the suitability assessment, and with the consent of the applicant. Any information the department believes will impact a person's suitability for a role is raised with the applicant, who is then afforded procedural fairness through an opportunity to respond.

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In the context of determining whether someone is a suitable person to be a foster or kinship carer, guidance on the discretionary information that may be considered is set out in the department's Child Safety Practice Manual. Depending on the individual circumstances of the carer, the department may request additional medical information about the applicant to explore their ability to fulfil their responsibilities, such as the daily care of the child and meeting the standards of care in the statement of standards, which may be affected by any physical or mental health issues.

Other matters that may be considered in assessing whether someone is a suitable person to be a foster or kinship carer include:

- referee checks from current or previous employers or other personal referees who know the applicant;
- information from foster and kinship care service providers who have had previous contact with the applicant; and
- international child protection or criminal history checks if applicants have lived overseas for six months or more.

In determining whether someone is a suitable person to be the nominee for a licence, in addition to requirements such as reviewing child protection history and personal history, it may be necessary for the department to consider whether a person's employment history is contrary to the requirements of the role, including whether they have sufficient experience to undertake the role and previous disciplinary information recorded when performing similar roles. Suitability may be determined following a consideration of information including referee checks, qualifications and work history.

The broad discretion to consider any matter relevant to deciding whether a person is a suitable person is necessary for meeting the paramount principle of the Act and ensures that the suitability of individuals providing care or care services to children is adequately assessed. In addition to decisions made by the department, the broad scope of this discretion is necessary to enable courts to consider any relevant matter in making decisions about whether a person is a suitable person to have custody or guardianship of a child.

Further, the exercise of this discretion is informed by the requirement that decisions made by the department are compatible with human rights under the *Human Rights Act 2019*, and prohibitions against direct or indirect discrimination on the basis of attributes prescribed in the *Anti-Discrimination Act 1991*.

If you require any further information or assistance in relation to this matter, please contact [REDACTED], Acting Director, Strategic Policy and Legislation, Department of Child Safety, Seniors and Disability Services on [REDACTED] or [REDACTED].

I trust this information is of assistance.

Yours sincerely



Deidre Mulkerin
Director-General

28 / 09 / 2023