

# Queensland Family and Child Commission Submission

To: Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee

Date: 14 March 2016

Topic: Director of Child Protection Litigation Bill 2016 and Child Protection Reform Amendment Bill 2016

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The Queensland Family and Child Commission (QFCC) was established on 1 July 2014 to ensure all Queensland children and young people are cared for, protected, safe and able to reach their full potential. The QFCC is pleased to provide a submission to Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee outlining our feedback in relation to the Director of Child Protection Litigation Bill 2016 (the DCPL Bill) and the Child Protection Reform Amendment Bill 2016 (the CPRA Bill). The QFCC has previously been consulted and provided feedback in relation to these Bills.

The QFCC is mandated under section 9 of the *Family and Child Commission Act 2014* to oversight Queensland's child protection system. Broadly, the QFCC supports the proposed amendments under the DCPL Bill and the CPRA Bill.

## Queensland Family and Child Commission

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## Oversight of the Director of Child Protection Litigation

### QFCC's position

The QFCC strongly supports the provisions in relation oversight under the DCPL Bill, specifically:

- the DCPL falling in scope of the QFCC's oversight of the child protection system, and
- enabling the Child Death and Serious Injury Review Panel (the Panel) to review the Director of Child Protection Litigation's (the DCPL) involvement in relation to a child's death or significant injury in certain circumstances.

### Recommendation

The QFCC strongly supports the provisions under the DCPL Bill in relation to oversight of the DCPL.

### Supporting QFCC's position

As already highlighted, the QFCC has legislative responsibility for overseeing Queensland's child protection system.<sup>1</sup> As the DCPL will have a role in the child protection system, it is appropriate that the DCPL fall within scope of the QFCC's child protection oversight role. This will support the QFCC to provide a comprehensive approach to overseeing Queensland's child protection system.

In addition, the Panel performs an oversight role in relation to reviewing the deaths or serious physical injury of children known to the Chief Executive (Child Safety) in certain circumstances.<sup>2</sup> As it is proposed that the DCPL will be making decisions in relation to child protection order applications, it would be seriously remiss if the Panel's oversight role did not extend to the DCPL.

Oversight performs a valuable role in improving accountability and outcomes for children and young people in the child protection system. The value of oversight in relation to Queensland's child protection system has been recognised including by the former Crime and Misconduct Commission in its report titled *Protecting children: an inquiry into abuse of children in foster care*.<sup>3</sup> More recently, Queensland's Child Protection Commission of Inquiry indicated the importance of having oversight in some way.<sup>4</sup>

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<sup>1</sup> *Family and Child Commission Act 2014* (Qld), s9

<sup>2</sup> *Child Protection Act 1999* (Qld), Chapter 7A

<sup>3</sup> Crime and Misconduct Commission (2004), *Protecting children: an inquiry into abuse of children in foster care*, pp121-124

<sup>4</sup> State of Queensland (Queensland Child Protection Commission of Inquiry) (2013), *Taking Responsibility: A Roadmap for Queensland child protection*, pp446-449

## External appeal or review mechanism

### QFCC's position

The QFCC supports an external review or appeal mechanism being made available to the Chief Executive (Child Safety).

#### Recommendation

The QFCC recommends prescribing an external review or appeal mechanism for those matters where the Chief Executive (Child Safety) does not agree with the DCPL's decision and the reasons for the decision.

### Supporting QFCC's position

The duty of the State in intervening in the private lives of families to protect children and young people is very serious. Given the Chief Executive (Child Safety) has the significant responsibility in relation to the protection of children in Queensland under the *Child Protection Act 1999*<sup>5</sup>, this officer should have an external recourse for the review or appeal of matters where they do not agree with the DCPL's decision and the reasons for the decision.

The QFCC acknowledges that under clause 39 of the DCPL Bill, the DCPL may issue written guidelines and this may include *procedures about how the chief executive (child safety) may seek an internal review of a decision of the director for which reasons are required to be given under section 18*.<sup>6</sup> The QFCC supports an internal review process. However, there should be an external review or appeal mechanism available for the Chief Executive (Child Safety).

## Defining non-party

### QFCC's position

To provide clarity, the QFCC recommends providing parameters to define a non-party to a proceeding under clause 25 of the CPRA Bill.

#### Recommendation

The QFCC recommends providing parameters to define a non-party to a proceeding under clause 25 of the CPRA Bill.

### Supporting QFCC's position

The QFCC supports expanding *the extent to which the court may allow an individual to take part in proceedings under section 113*.<sup>7</sup> It is important that significant people in a child's life are able to inform the court where appropriate. However, the current section 113 of the *Child Protection Act 1999* clearly defines 'non-party'. Providing parameters to define a non-party under clause 25 of the CPRA Bill would provide clarity.

<sup>5</sup> *Child Protection Act 1999* (Qld) s7

<sup>6</sup> Director of Child Protection Litigation Bill 2016 (Qld), cl39

<sup>7</sup> Explanatory Notes, Child Protection Reform Amendment Bill 2016 (Qld), p6