



AASW(Qld) submission to the Child Protection Reform Amendment Bill 2017

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Queensland Branch Office– Brisbane

17 Ross St, Paddington

BRISBANE, QLD 4065

PO Box 1015

MILTON QLD 4064

T 07 3369 9818

F 07 3217 6938

E aaswqld@asw.asn.au

www.aasw.asn.au

Enquiries regarding this submission can be directed to:

Queensland Branch President:

Dr Fotina Hardy

Queensland Branch Manager

Ms Mere Vitale

Email: aaswqld@asw.asn.au

Acknowledgement

The submission was prepared in collaboration with a number of social workers who work in the area of child protection.

Introduction

This submission is being made on behalf of the AASW Queensland Branch and has been developed by the Social Policy and Advocacy Sub Committee with the support of the National Office Social Policy Manager.

The Australian Association of Social Workers is the key professional body representing more than 10,000 social workers throughout Australia. Social work is founded on the principles of social justice, human rights and professional integrity. It aims to enhance the quality of life and support the development of the full potential of each individual, group and community in society through practise that is ethically accountable, professionally competent and transparent.

Social work is founded on the principles of social justice, human rights and professional integrity. It aims to enhance the quality of life and support the development of the full potential of each individual, group and community in society through practice that is ethically accountable, professionally competent and transparent. The AASW Code of Ethics (2010, p13) stipulates that:

‘Social work profession: promotes justice and social fairness, by acting to reduce barriers and to expand choice and potential for all persons, with special regard for those who are disadvantaged, vulnerable, oppressed or have exceptional needs’.

Policy objectives of the Bill

1. The Bill will achieve its objective of promoting positive long-term outcomes for children in the child protection system by:

Objective	Comment
amending the paramount principle for administering the Act to refer to the safety, wellbeing and best interests of children both through childhood and for the rest of a child’s life	In principle the AASW agrees with this and the importance of the long term wellbeing of a child. However, there is a concern that it can be difficult to make a definitive decision about the long term wellbeing of a child into the future, at a given point in time as things can change and it is important to recognise that with the right support this is possible. It is important that decisions about the long term best interests of a child are also balanced alongside a family’s capacity to safely care for their child in the future with appropriate support and intervention. Change is possible for many families with the right level of support and resources and we would argue that it is imperative that families are given these opportunities in a robust way to inform decision making.
inserting new permanency principles for ensuring a child’s best interests, with consideration of	While the AASW supports the importance of permanency and stability for the wellbeing of a

	<p>Responsibility needs to be balanced between the Department actively and purposefully supporting families along with families engaging to achieve this. At times the onus is just on the family and given the complexity of the families who become clients of the statutory child protection services, it needs to be recognised that a great deal of support and persistence is required to engage and assist them to address some of the issues.</p>
<p>preventing courts from making or extending short-term child protection orders where the combined total duration of an order or consecutive orders would be more than two years unless it is in the best interests of a child to do so</p>	<p>The AASW is concerned that the onus of proof has been reversed in this amendment. It is our view that the requirement remains that there needs to demonstrable proof that a long term order is necessary as opposed to the least restrictive option of a short term order. If there is an application made for a long term order, we argue that the Department needs to satisfy the court that it, the Department, has taken all steps to reunify.</p> <p>It is also noted that at times the Department is not able to commence meaningful case planning and actual intervention until some months after an order is made. Further, that the distress and crisis of an order can limit a family's ability to engage in the short term with the Department, recognising the significant power imbalance that exists. Therefore our concern is that this amendment would not allow sufficient time for meaningful engagement with a family, in particular with families where there is intergenerational trauma and child protection history. For these families a longer term view is needed, which is underpinned by strong scaffolding of services. It is for this reason that short term orders are often extended as it takes time to engage with, build trust and then provide effective intervention services.</p> <p>Our recommendation is that there needs to also be recognition about the barriers to families engaging, to service availability and suitability, and to the actual work undertaken by the Department to engage with a family. We would recommend that there needs to be a more nuanced approach to the issue of multiple short term orders that considers all these factors.</p>

<p>introducing a permanent care order as a new type of child protection order that will grant the guardianship of a child to a suitable person until the child turns 18 years of age, and is more secure than a long-term guardianship order</p>	<p>The AASW raises the following issues in relation to this amendment:</p> <p>Whilst recognising that the transfer of guardianship, particularly to another family member has merit, we argue that this must not be the order of first resort .A short term order with intense intervention aimed at working with parents towards reunification should be the first priority.</p> <p>A concern relates to revoking of these orders as it appears that this can only occur if an application is brought before the court by DCPL. Our concern is in relation to how the child or parent’s voice is heard in the process as this is not clear. For example how does a parent’s voice get heard in the revocation where there has been significant changes for the parent and they are now able to care for that child?</p> <p>There is also a question of the support provided to the potential ‘guardian’ to ensure the success of the placement. We know that foster carers and kinship carers require additional support and ongoing support when caring for a child or young person who has experienced trauma and it is our view that there needs to be appropriate scaffolding in terms of ongoing support for this role.</p> <p>A further consideration is that of how the process of a complaint can be made should issues arise. There would need to be clear, accessible and easy processes to ensure a smooth process for those involved. We would suggest this needs further detail prior to endorsing this amendment.</p> <p>While recognising the importance of a permanent ‘guardian’ under a permanent care order to be able to make decisions about the child without the delays of waiting on biological parents decisions thus creating greater stability and a sense of normality regarding decisions. However the AASW also recognises the importance of shared care decision making where a biological or kinship parent is able to contribute to decisions about their child, and would suggest that there needs to be greater consideration of models to</p>
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	support this where appropriate. This is consistent with the principles of the act 5FA (2) (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.
removing the need for a court to reconsider certain matters it has previously determined, when varying or revoking a long-term guardianship order for a child and making another long-term guardianship order or a permanent care order for the child, unless the court is satisfied that there are exceptional circumstances in the best interests of the child to do so	The AASW supports this amendment
requiring transition to independence planning to commence for a child in care from the age of 15 years, and for this to form part of the child's case plan from the next case plan review, and	The AASW supports this amendment
requiring the chief executive to make available, as far as practicable, to young people in their transition from care to independence up to the age of 25 years.	The AASW supports this amendment

2. The Bill will achieve its objective of promoting the safe care and connection of Aboriginal and Torres Strait Islander children by:

Objective	Comment
adding new principles that recognise the right of Aboriginal and Torres Strait Islander people to self-determination, and apply the five elements of the Child Placement Principle — prevention, partnership, placement, participation and connection — to the administration of the Act for Aboriginal and Torres Strait Islander children,	The AASW fully supports the inclusion of self determination in Section 5C and the five elements of the child placement principle.
requiring a case plan for an Aboriginal and Torres Strait Islander child to include details about how the child will be supported to develop and maintain connections with their family, community and culture	The AASW supports this amendment and recommends that the resources and support to enable this to be operationalised must be carefully considered. Without these the amendment will be ineffective and tokenistic. In particular ensuring that children are able to safely remain in community or where this is not

	possible, how meaningful and genuine connection is able to be achieved. Working alongside Aboriginal and Torres Strait Islander entities to identify resourcing issues and a bi partisan government commitment to funding and resourcing this will be essential.
enabling greater flexibility in how the chief executive, litigation director and a court seek and consider cultural advice in decision-making for an Aboriginal and Torres Strait Islander child, by facilitating the participation of the child and the child’s family in decision making, and	The AASW supports this amendment
enabling the chief executive to delegate one or more functions or powers in relation to an Aboriginal or Torres Strait Islander child to a suitable Aboriginal or Torres Strait Islander entity with certain safeguards.	<p>The AASW recognises that inclusion of this amendment will allow for community members, elders, families or a community organisation to also be involved in all significant decisions. It allows for the entity to be a resource for community rather than a resource for the department. It will also allow for this new entity to be involved with the family throughout the child protection continuum and not just intake or for cultural advice.</p> <p>The AASW raises the following questions and associated operationalisation implications as important to ensure the effectiveness of this amendment. It is vital that where responsibility is placed on an Aboriginal or Torres Strait Islander entity, that sufficient resourcing and support is put in place.</p> <p>What will constitute an entity? How is quality assurance / review of effectiveness going to be supported and monitored?; What support / resources/ training would be provided to such entities to enable them to undertake their role effectively?</p>

3. The Bill will achieve its objective of providing a contemporary information sharing regime for the child protection system by:

Objective	Comment
clarifying and simplifying the provisions in the Act that enable the sharing of relevant information while protecting the confidentiality of the	The AASW supports this amendment and the importance of effective communication and collaboration

information	
enabling 'specialist service providers' funded by the Queensland or Commonwealth Governments to share relevant information with each other for the purposes of: <ul style="list-style-type: none"> – supporting a child who may become in need of protection if preventative support is not provided to the child or the child's family, – helping a child who is in need of protection, and 	The AASW supports this amendment and the importance of effective communication and collaboration, and wherever possible with the permission and knowledge of a family.
clarifying that information about a pregnant woman and her unborn child can be shared for the purposes of assessing whether the unborn child will be in need of protection after birth and to offer help and support to the pregnant woman.	The AASW supports the importance of this amendment however we also would argue that there needs to be processes in place to ensure that a child is not unreasonably removed at birth and that opportunities to intensively work with the mother and father are provided so that the need to remove the child is alleviated.

4. The Bill will achieve its objective of supporting the implementation of other key reforms under the reform program and address identified legislative issues by:

Objective	Comment
clarifying that an authorised officer can apply for a temporary custody order for a child to ensure a child's safety after the chief executive has referred a matter relating to the child to the independent litigation director	The AASW supports this amendment
amending the definition of 'medical treatment' to clarify that a medical practitioner can vaccinate a child in the chief executive's custody	The AASW supports this amendment
enabling the chief executive to share information with interstate and New Zealand child welfare authorities to enable them to perform functions under their child protection laws	The AASW supports this amendment
enabling the chief executive to provide information to adults who were previously children in care, about their time in care, including information about other people	The AASW supports this amendment and would further suggest the importance of reviewing how information is comprehensively recorded and stored and what information is recorded as the Department has the responsibility of capturing a child or young person's 'life story'. Reviewing this and processes currently in place will be fundamental to ensuring that the information that

	an adult accesses about their time in care is as a comprehensive and respectful as possible.
enhancing the chief executive's ability to share information for research and related purposes	The AASW supports this amendment
enabling the chief executive to provide information to the parents of children who died while the child was in care	The AASW supports this amendment
enabling the chief executive to provide information to the Police Commissioner when police are conducting an investigation following the death of a child	The AASW supports this amendment
extending the prohibition against publishing identifying information about a child witness in criminal proceedings to include knowingly publishing information about a child who is, or is reasonably likely to be, a witness in a proceeding for a sexual or violent offence, and	The AASW supports this amendment
clarifying that an intervention with parental agreement can only be considered if the child will not be placed at immediate risk of harm if the child's parent/s withdraw their agreement; that, under intervention with parental agreement, the case plan for the child must include details about what is expected of the child's parents and the chief executive in carrying out the intervention; and that a court may have regard to a decision to end an intervention with parental agreement when considering making a child protection order.	The AASW recognises that quite often IPAs involve a great deal of risk for a child and therefore strengthening how these are used to maintain safety is appropriate. Essentially IPAs involve consent and a willingness to voluntarily engage with the Department, therefore it is essential that a robust assessment and case planning process occurs. The AASW also recognises that this involves a great deal of skilled practice to work with a family and associated resources to scaffold and support families to achieve the best outcomes.