



Queensland  
**Family & Child**  
Commission

Telephone: 07 3900 6000  
Reference: OoC – TF21/675 – D21/15232

30 September 2021

Ms Lynda Pretty  
Committee Secretary  
Community Support and Services Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Committee Secretary

Thank you for providing the Queensland Family and Child Commission (QFCC) with an opportunity to make a submission in relation to the Child Protection Reform and Other Legislation Amendment Bill 2021 (the Bill).

*Aboriginal and Torres Strait Islander Child Placement Principle*

The QFCC welcomes proposals in the Bill to reinforce children's rights in the legislative framework of the child protection system. In particular, the QFCC is pleased to see clause 12 of the Bill requiring Child Safety to make active efforts to apply the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP) when making a decision relating to an Aboriginal and/or Torres Strait Islander child.

The ATSICPP has the goal of reducing the disproportionate representation of Aboriginal and Torres Strait Islander children in the child protection system, and promoting their rights, safety and wellbeing.

On 23 August 2021, the QFCC released *Principle Focus: A child-rights approach to systemic accountability for the safety and wellbeing of Queensland's First Nations children*. This paper outlines the QFCC's comprehensive program of work to examine the dynamics of the over-representation of Aboriginal and Torres Strait Islander children in the child protection system. Through this program, the QFCC will conduct an in-depth, rights-based analysis of the implementation of all five elements of the ATSICPP across the system.

The QFCC holds concerns that the prevention element of the ATISCPP is not appropriately reflected currently in the *Child Protection Act 1999*, and this is not addressed in the current Bill. These concerns have also been shared directly with the Department of Children, Youth Justice and Multicultural Affairs.

At present, the current wording of the prevention element of the ATSICPP (s.5C(2)(a)) excludes an important aspect: the entitlement to access the services and supports that families require to enable children to be raised safely and thrive at home with their families.

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Expanding the definition of the prevention principle to include this aspect should not risk increasing the involvement of children in the tertiary child protection system. Indeed, it is critically important for minimising child protection involvement and upholding the rights of Aboriginal and Torres Strait Islander children to grow up within their own family and community.

The full prevention element recognises that protecting the rights of children to be brought up in their families requires that they have access to a full range of culturally safe and quality universal and targeted support services.

Prevention may include addressing social determinants of health, organisational reforms to address institutional racism, or more targeted earlier interventions aimed at supporting families and preventing children from entering the child protection system.

The narrow focus of the current definition is not consistent with the policy intent and the understanding of the prevention element expressed in the *National Framework for Protecting Australia's Children*, the Queensland Government's *Our Way* strategy, or the publications and practice resources developed by SNAICC and QATSICPP that currently guide implementation in Queensland and across Australia.

#### *Updated definition of kin*

The QFCC suggests the updated definition of kin in clause 68 of the Bill be amended to include a sub-definition that applies solely to Aboriginal and Torres Strait Islander kin, with a different set of criteria that acknowledges the need for cultural kin. The definition of Aboriginal and Torres Strait Islander kin should only include adults with a legitimate cultural connection to the child, rather than someone from within the child's broader community.

This is consistent with the QATSICPP *Position Statement on Aboriginal Kinship Care*, which states,

a tight definition of kin is essential to redress the historically broad interpretation that has privileged adults in the child's community or close family friends being considered kin for the purposes of identifying a placement, rather than meaningful mapping, identification, support and enabling of family members who have a legitimate cultural connection to the child.

#### *Domestic and family violence information*

Finally, the QFCC acknowledges the Bill proposes amendments to the *Working with Children (Risk Management and Screening Act) 2000* to allow Blue Card Services to obtain domestic violence information about blue card applicants. This implements recommendation 39 of the QFCC's report, *Keeping Queensland's children more than safe: Review of the blue card system* (the report).

While making this recommendation, the report highlighted the complexity of using this information as part of a working with children check. The dynamics of domestic and family violence are challenging, particularly where there is a risk the perpetrator of violence has been misidentified.

It is important that recommendation 40 of the report, which will require that domestic and family violence information is assessed by staff with sufficient expertise in multidisciplinary approach, is implemented alongside these amendments. This will help to make sure domestic and family violence information is used appropriately without further disadvantaging applicants who have already experienced harm.

If you or your officers have any queries in relation to this matter they may contact Tony King, Senior Executive Director, Corporate and Communication, on [REDACTED] or [REDACTED].

Yours sincerely



Cheryl Vardon  
**Principal Commissioner**  
**Queensland Family and Child Commission**



Natalie Lewis  
**Commissioner**  
**Queensland Family and Child Commission**