



Information Kit on Child Protection for Parents



South West Brisbane
**Community
Legal Centre**

South West Brisbane Community Legal Centre
in partnership with the Queensland Family and Child Commission



Queensland
**Family & Child
Commission**
| qfcc.qld.gov.au

About South West Brisbane Community Legal Centre

South West Brisbane Community Legal Centre is an independent not-for-profit community organisation.

We are located at:

Shop 55a Inala Plaza
156 Inala Avenue
Inala QLD 4077

We provide free legal advice on child protection and other legal issues.

We also provide a community legal education program entitled 'Child Protection: the law, practice and practical tips for community sector workers.'

Please support us to continue our work. South West Brisbane Community Legal Centre gladly accepts all donations to assist it in delivering services and resources to the community.

For more information, please call (07) 33727677.

Please note

This kit is intended to provide you with information only. If you have a legal problem, you should seek legal advice from a lawyer. Information provided here is believed to be accurate as at 22 March 2017.

Foreword by a mother

Emma is a mother who was successful in having her children reunified to her under a child protection order. This is her advice for other parents who are dealing with the child protection system:

You need to empower yourself.

Use the internet to educate yourself about the law, Child Safety policies, the language used by Child Safety, the language Child Safety allow, your rights, your responsibilities.

Be strong for your children, get the courage to ask for explanations, manage your emotions.

Play by Child Safety rules, and then you can call them to account.

Make agreements with Child Safety, and hold them to them.

Insist on time to prepare for meetings and to obtain a support person, don't accept a meeting at a moment's notice.

Be proactive: get a notebook, record every contact.

Be honest: and make sure Child Safety record what you say accurately.”

Contributed by Townsville Family Inclusion Network.

Family intervention Networks are independent groups that connect parents involved in the child protection system for the purpose of providing information, support and advocacy. See the contacts page for their details.

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Abbreviations that you may hear

CAO	Court Assessment Order
CCR	Child Concern Report
CIB	Criminal Investigation Bureau, Queensland Police Service
COC	Court Ordered Conference
CPA	<i>Child Protection Act 1999</i> (Qld)
CPIU	Child Protection Investigation Unit, Queensland Police Service
CSO	Child Safety Officer
CSSC	Child Safety Service Centre
DCS, DOCS, CSS, DCCSDS, Child Safety	Child Safety Services, Department of Communities, Child Safety and Disability Services (we will refer to this as Child Safety Services)
DCPL	Director of Child Protection Litigation
FGM	Family Group Meeting
FIS	Family Intervention Service
I & A	Investigation and Assessment
IPA	Intervention with Parental Agreement
LTG	Long Term Guardianship
OCFOS	Office of the Child and Family Official Solicitor
QCAT	Queensland Civil and Administrative Tribunal
RE	Recognised Entity
SDM	Structured Decision Making
STC	Short Term Custody
TAO	Temporary Assessment Order
TCO	Temporary Custody Order

Often used words

Adjournment

Postponing the hearing or mention of a case for a specified amount of time.

Adoption

Adoption is a legal process that transfers the legal rights and responsibilities of parenthood from a child's birth parents to a new set of (adoptive) parents. Adoption removes the legal relationship between the child and his or her birth parents and extended family.

Custody

The right and responsibility to care for and make decisions about the day-to-day needs of a child.

Guardianship

The legal responsibility for making decisions about the long-term care, wellbeing and development of the child. This includes decisions about medical procedures and enrolment in school.

Contact

Communicating with, seeing or spending time with a child. This may include telephone or face-to-face, unsupervised or supervised, in the home or at a specified location. It also includes forms of social media like Facebook and email.

Interim custody

On the adjournment of a proceeding for a court assessment or child protection order the Childrens Court has the power to make an interim order. 'Interim' means 'in the meantime'.

- An interim order made on adjournment of a court assessment order may grant temporary custody to the Chief Executive, or the child's parents.
- An interim child protection order made on adjournment of a child protection order can grant custody to a family member or the Chief Executive.

In some cases the court will consider the circumstances in which the child can have contact with the parents during the adjournment period.

Significant harm

Any detrimental effect of a significant nature on the child's physical, psychological or emotional wellbeing. Harm can be caused by physical, psychological or emotional abuse or neglect, or sexual abuse or exploitation. Harm can be caused by a single act, omission or circumstance; or a series or combination of acts, omissions or circumstances.

For harm to be significant, the detrimental effect on a child's wellbeing must be substantial or serious, more than transitory and must be demonstrable in the child's presentation, functioning or behaviour.

Family group meeting

A family group meeting is held by Child Safety Services to develop or review a case plan when they believe that a child or young person is in need of protection.

- It provides an opportunity for families to be involved in decisions about their child, and builds on the strengths and resources within the child or young person's family group, cultural community and wider community.
- The family group meeting is organised by a convenor who prepares and facilitates the meeting.
- The convenor may be a departmental officer or a person independent of Child Safety Services

The family group meeting brings together the child or young person (where appropriate), the family, those who best know the child and their family, and other relevant persons and agencies, such as a Recognised Entity for an Aboriginal or Torres Strait Islander child or young person.

A person's mere attendance at a family group meeting cannot be used as an admission of anything alleged against them in child protection proceedings. Neither can a person's participation in the development of, or agreement to, a case plan. However, any information relayed through a family group meeting may still be used in evidence in a child protection proceeding.

Court ordered conference

Court ordered conferences are meetings that are held if you contest the application made by Child Safety Services. An independent chairperson runs the meeting, and the aim is to get an agreement between you and Child Safety Services, to avoid going to a hearing.

Case plan

A case plan for a child is a written plan for meeting the child's protection and care needs. It is developed in a 'Family Group Meeting' between Child Safety Services, the child, their family and other people significant to the child and family. It records the goal and outcomes of ongoing intervention and identifies the agreed tasks that will occur to meet the goal and outcomes.

Although case plans will form part of the evidence in a child protection proceeding, a person's participation in the development of, or agreement to, a case plan cannot be used as an admission of anything alleged against them in child protection proceedings.

Placement

A placement describes the place where a child resides when they are in the care of Child Safety Services.

Social assessment report

A social assessment report includes information about your child's history, living situation, views and wishes based on interviews, Child Safety Services' records and previous reports. It also provides an independent opinion on the best way to protect your child's best interests.

A social assessment report is written by accredited social workers, psychologists or another professional considered by the court or tribunal to be an independent expert in child protection.

The court and tribunal will consider the report's recommendations when deciding whether a child protection order should be put in place for your child.

Courts and Tribunals

Magistrates Courts

The Magistrates Court is the first level of the Queensland Court System. The Magistrates Court also hears applications for Domestic Violence Orders.

Childrens Court

Magistrates Court matters involving juveniles (people under the age of 17) are dealt with in a special court known as Childrens Court. This court hears applications for child protection orders and youth justice (youth criminal) cases. Most child protection matters will be heard by a Magistrate, although the Childrens Court can also be constituted by a Judge.

Queensland Civil and Administrative Tribunal (QCAT)

QCAT is an independent administrative tribunal that deals with disputes about many different things, such as rental disputes, guardianship, debts, anti-discrimination, blue cards appeals and fences.

You can apply to QCAT to review some decisions made by Child Safety Services, including decisions about who a child lives with, where a child lives and what contact they have with their parents.

Family Court of Australia/ Federal Circuit Court of Australia

The Family Courts make orders in relation to disputes between parents about parenting and contact with their children after separation.

They also make orders about property settlements following separations of married couples or defacto partners and applications to return children who have been wrongfully removed from their home country.

If there are child protection proceedings under way, the Family Courts will usually require a 'statement of position' from Child Safety Services before they will make orders about parenting. In some circumstances, Child Safety Services may decide to intervene in the proceedings to provide the Court with relevant information.

They also make orders about property settlement after separation and divorce.

Most applications to the Family Courts for orders about parenting orders start with mediations such through the Family Relationship Centres.

District Court and Supreme Court

These are the higher levels of courts in Queensland. They both hear appeals from lower courts, serious criminal cases and disputes involving large amounts of money.

Understanding legislation - Acts and sections

The *Child Protection Act 1999* (QLD) is the main law about child protection. This is a Queensland Act of Parliament and can be found on the state government website www.legislation.qld.gov.au.

All Acts of Parliament, both Commonwealth (Australia-wide) and State laws can be found at www.austlii.com.au.

When you see an Act of Parliament referenced it will usually have an 's' standing for 'section,' and then the section number.

For example, s5A of the *Child Protection Act 1999* states "The main principle for administering this Act is that the safety, wellbeing and best interests of a child are paramount."

Key concepts of child protection

The child protection system and Child Safety

Child Safety Services, the Childrens Court or any other part of the government can only intervene in a child's life if the *Child Protection Act 1999* (QLD) or another law gives it the power to do so.

Child Safety Services' powers

The law gives Child Safety Services the power to:

- investigate concerns about children
- intervene in a child's life with the parents' consent under a care agreement
- arrange for support services to help a family to prevent a family from entering the child protection system
- apply to the court for a 'temporary assessment order' or a 'court assessment order' to give them power to investigate concerns about a child and have custody of a child without the parent's consent
- place children in out-of-home care
- approve foster and kinship carers to provide out-of-home care to children
- license care services to provide out-of-home care to children

The purpose of an investigation by Child Safety Services is to determine whether there is 'a child in need of protection'.

Court orders

The Childrens Court can only make a child protection order if it is satisfied that the child is 'a child in need of protection'.

Who is a child in need of protection?

A 'child in need of protection' is a child who:

- has suffered (past) significant harm
- is suffering (present) significant harm

- or is at unacceptable risk of suffering (future) significant harm

AND

- does not have a parent able and willing to protect the child from the harm.

The court must be satisfied that both of these requirements are met before a child protection order can be made.

What is significant harm?

Harm is a detrimental effect on a child:

Physically, such as bruises, broken bones or other injuries

Emotionally, such as depression, poor self-esteem or anxiety

Psychologically, such as the child's mind not developing properly, difficulties learning or forming 'attachments' to the person caring for them.

It doesn't matter who caused the harm or whether it was a single incident or many instances over time.

Harm can be caused by abuse, such as physical abuse, emotional abuse, sexual abuse or neglect.

Neglect is when a child's basic necessities of life are not met, such as food, housing, clothing, hygiene and supervision.

Sometimes one type of abuse can cause different types of harm.

For example, neglect could cause the child to be anxious (emotional harm), to be sick (physical harm) and to not be able to learn properly (psychological harm).

For harm to be 'significant', the effect on the child must be substantial or serious, more than just temporary and the effects of the harm must be able to be demonstrated.

It is important when working with Child Safety Services, to identify what kind of harm they are concerned about, so that you can address that issue specifically within a 'safety plan' and/or 'case plan'.

Is there a parent 'able' and 'willing' to protect from the harm?

If a child has been harmed, is being harmed or is at significant risk of harm, then the question is whether there is a parent that is 'able' and 'willing' to protect from the harm.

A parent may be willing to protect their child, but not have capacity to do so (that is, they are 'not able'). This includes situations where the parents' inability is due to ill health or because they are a victim of domestic violence.

Alternatively, a parent may have the capacity and be able to protect their child, but may choose not to do so (that is, they are 'not willing'). This includes situations where a parent chooses an ongoing relationship with a person who is harming their child. In many serious cases where a child has suffered, is suffering, or is at an unacceptable risk of suffering significant harm, the severity of the harm or risk of harm itself could be an indication that there may not be a parent able and willing to protect the child.

If a parent is 'willing' but not 'able' then a plan may be developed in collaboration with Child Safety Services to build the parent's ability to protect the child from harm.

It may be that a parent needs to demonstrate that they are 'able' to protect for a period of time before Child Safety Services will cease involvement.

If one parent is 'willing' and 'able' then the child protection system may no longer need to be involved. In these cases, if there are family disputes about whose care the child should be in, parenting arrangements can be determined under the family law system (through the Family Court of Australia).

The principles that guide decisions about children

Child Protection Act 1999 (QLD) principles

The court and Child Safety Services must consider the following principles when they make decisions about child protection. You can talk to Child Safety Services workers about these principles when meeting with them and negotiating with them

The Paramount Principle – bests interests of the child

In all decisions, the most important principle is that the safety, wellbeing and best interests of a child are paramount.

The child views and wishes

The views of the child affected by the decision should be sought and taken into account as appropriate.

If required, these people should be given help to understand a decision and their rights to respond to a decision.

Family preservation and reunification

Families have the primary responsibility for the upbringing, protection and development of the child and should be supported in this.

The preferred way of ensuring a child's safety and wellbeing is through the support of their family.

If a child is removed from their family, support should be given to the child and family to allow the child to return home if it is in the child's best interests.

If a child is removed from their family, as a first option, consideration should be given to placing the child with kin and to the extent possible, children should be placed together with their siblings.

A child should have stable living arrangements that provide a connection with their family and community to the extent that is in the child's best interests, and provide for their development, educational, emotional, health, intellectual and physical needs to be met.

A child should be able to maintain relationships with their family and kin and to know, explore and maintain the child's identity and values including their cultural, ethnic and religious identity and values, including Aboriginal and Torres Strait Islander children.

Fair and respectful decision-making

Decision-making should be done in a way that is open, fair and respectful of the rights of each person that is affected by the decision.

Privacy should be respected where possible.

Least intrusive order

The court must consider whether an 'order on less intrusive terms' would be sufficient to protect the child from the harm.

To consider this requirement, the court may ask: Does this order have to be for two years or is one enough? Can the order be for supervision rather than custody or custody rather than guardianship?

For example, when an order seeking guardianship until the child is 18 is sought, the court would consider whether a shorter order, such as a two year custody order would be sufficient to protect the child from the harm.

Aboriginal and Torres Strait Islander children

When making a significant decision about a child, Child Safety Services must give a recognised entity (an independent Aboriginal or Torres Strait Islander agency) for the child an opportunity to participate in the decision-making process.

If the Childrens Court exercises a power in relation to an Aboriginal or Torres Strait Islander child, it must consider Aboriginal or Torres Strait Islander traditions and customs relating to the child.

All consultations, negotiations, meetings and proceedings involving Aboriginal and Torres Strait Islander people are to be conducted in a way and in a place that is appropriate to Aboriginal tradition or Island custom.

An Aboriginal or Torres Strait Islander child should be cared for within an Aboriginal or Torres Strait Islander community, if possible, and the child should be helped to maintain a connection with their culture and help to preserve and enhance the child's sense of Aboriginal or Torres Strait Islander identity.

Reporting concerns about a child to Child Safety Services

If you have a reason to suspect a child in Queensland has suffered harm, is experiencing harm, or is at risk of experiencing harm, you can:

- Contact the Child Safety Services Enquiries Unit on 1800 811 810 to report the matter to your nearest Regional Intake Service during business hours. After business hours you can call the Child Safety After Hours Service Centre on 1800 177 135 or (07) 3235 9999. You can also complete an online report form on their website.
- Contact the Queensland Police Service (QPS) immediately by dialing 000 if you believe a child is in immediate danger or in a life-threatening situation.
- You may also consider contacting the Child Protection and Investigation Units of the Queensland Police Service if you believe that a crime has been committed or will be committed against a child. The number for Policelink is 131444.

Who can report their concerns to Child Safety Services?

Anyone can report concerns about a child to Child Safety Services. The *Child Protection Act 1999* provides that they are protected from liability if the report is made 'honestly and reasonably'.

If you are concerned about whether information that you are disclosing to a professional who you are working with, including a lawyer, is going to be confidential, it is best to ask the professional about their approach to confidentiality and notifying Child Safety Services.

Who must report their concerns about a child to Child Safety?

The *Child Protection Act 1999* requires certain professionals, referred to as 'mandatory reporters', to make a report to Child Safety Services, if they form a reasonable suspicion that a child has suffered, is suffering or is at an unacceptable risk of suffering significant harm caused by physical or sexual abuse, and may not have a parent able and willing to protect them.

Mandatory reporters should also report to Child Safety Services a reasonable suspicion that a child is in need of protection caused by any other form of abuse or neglect.

The categories of professionals who are 'mandatory reporters' are different in every state of Australia.

In Queensland, the following professionals are 'mandatory reporters':

- teachers in schools
- doctors
- registered nurses
- police officers with child protection responsibilities
- Child Safety Services workers
- employees of licensed care services such as residential care facility workers
- officers of the Public Guardian
- child care workers.

Even if someone is not included in one of these categories, they may still report their concerns for the following reasons:

- The organisation that they work for may have a policy that requires them to do so or an agreement with a Government department that they will do so.
- They may consider that they have an ethical duty to report.

Will information that I give to professionals be confidential? Will it be given to Child Safety Services or other parties?

Child Safety Services can receive confidential information from professionals like doctors and counsellors if:

- the professionals report concerns to Child Safety Services because they have legal or ethical reasons to do so
- they are 'subpoenaed' which means that the court has ordered that they provide the records to the court because they are relevant to the court proceedings
- they may have your agreement to provide the information to Child Safety Services.

When you speak to your lawyer, what you say is covered by 'Legal Professional Privilege', which means they cannot be forced to disclose the information unless need to do so to prevent a serious criminal offence or imminent serious physical harm to someone. It is important to discuss with your lawyer whether the information that you give them will be disclosed to anyone else and in what circumstances you would permit that to occur.

When you speak to a counsellor or another professional, you can discuss with them whether what you say is confidential and in what circumstances they will disclose. If they disclose when they should not do so it may be a breach of their ethical duties and you may be able to complain to the relevant professional organisation.

If you have objections to the other parties receiving certain information in court, such as mental health histories or criminal record details, you can raise this to the Magistrate, who can sometimes make restrictions about who can receive this information.

When information is reported to Child Safety Services

When someone gives information to Child Safety Services about harm or risk of harm to a child or an unborn child, a Child Safety Services intake officer will:

1. Gather and record the information
 - a. talk to the notifier in person to get the context
 - b. check previous child protection history, criminal history and domestic violence history
 - c. consult the recognised entity if the child is Aboriginal or Torres Strait Islander
 - d. gather relevant information from other people and agencies.
2. Tell the Queensland Police Service if there is a suspected crime against a child.
3. Use the 'Structured Decision Making' tool and consult with the team leader to make a decision. The Structured Decision Making tool is a series of questions and guides that helps the Team Leader form a decision. This tool makes decisions more consistent and equal.
4. A timeframe is assigned for the response, which will be 24 hours, five days or 10 days. If there are any urgent circumstances, if the family is likely to move to avoid investigation or if parent in the family has previously been responsible for the death of a child, the response will be 24 hours.
5. Decide the response. The outcome will be:
 - a. Record a notification

If the investigating officer has a reasonable suspicion that the child is in need of protection, that is, that the child has been significantly harmed, is being significantly harmed or is at risk of significant harm and may not have a parent able and willing to protect them from harm.

If a notification is recorded, the matter will be referred to a Child Safety Service Centre and they will continue the investigation.

- b. Child Concern Report

If the above criteria has not been satisfied, but there is still a need for Child Safety Services to take some action, the officer will record a Child Concern Report.

If a Child Concern Report is recorded, the officer may:

 - i. Provide information and advice to the family.
 - ii. Refer the family to another organisation such as a 'Family and Child Connect', and 'Intensive Family Support' service or another organisation who can provide support to the family.

- iii. Refer the matter to the Queensland Police Service or another state's child protection agency.
- c. No further action.
The officer will still record information about the intake and may refer the matter to another organisation to investigate, such as the Queensland Police Services or the child protection agency in another state, if appropriate.

When Child Safety Services or the Queensland Police Service are investigating

What to do?

- Find out the names of the people who are involved (the Child Safety Officer, Senior Team Leader, Manager), which Child Safety Service Centre is managing your case and the contact telephone number.
- If the children have been removed, ask for any paperwork (there should be a court order or care agreement).
- If Child Safety Services want you to sign something straight away, remember that you don't have to sign anything at that exact moment. You can ask for time to think about it and get legal advice.
- Keep EVERYTHING that is given to you by Child Safety Services.
- ALWAYS go to court (even if you are told you don't have to be there).
- Buy a diary and record all contacts and conversations you have with Child Safety Services (e.g. what was said and agreed to).

What should I do if Child Safety Services contact me?

1. Remember that everything you tell Child Safety Services will form part of their assessment. Also any evidence gathered could be used in criminal proceedings against you or others.
2. You do not have to answer any of their questions (there is no obligation under the *Child Protection Act 1999* (QLD) to do so). However, it is often best to try to be on good terms with Child Safety Services and cooperate with them by answering the questions if you feel comfortable to do so.

Remember the following when answering any question:

- Take your time to answer. Think about the question.
- If you don't understand something, ask what is meant by the question or statement.
- If you feel overwhelmed or confused ask for a break.
- It's also okay to ask for a support person to be present (such as a friend, family member or a lawyer).

- Take notes. Make sure your notes are not just in relation to face-to-face meetings but also include ALL contact with Child Safety Services staff or associated service providers.
- It is legal and permissible for you to record a conversation provided that you are one of the people in the conversation (e.g. you could use your mobile). You may decide to be upfront and open about your recording in order to preserve good communication with Child Safety Services staff. You are not allowed to record anything that happens in a courtroom or tribunal proceeding. Distribution or publication of some material in a child protections case may also be in breach of the *Child Protection Act 1999*, so seek legal advice if you are unsure.

Can they take my child without telling me?

Child Safety Services and the Queensland Police Service can take a child into custody if the child is at risk of immediate harm. They do have responsibilities under the *Child Protection Act 1999* to inform parent/s if they have removed a child.

They must tell at least one parent about the allegation of harm unless it would jeopardise a criminal investigation or expose the child to further harm.

Do I have to let them into my home?

The Queensland Police Service or Child Safety Services do not have an automatic right to be able to enter your home. However, whether they have the right to enter your home will depend on the circumstances.

- If Child Safety Services has been denied access to a child that they are investigating, or they reasonably suspect risk of immediate harm they may have the power to enter, search, remain there as long as is reasonably necessary, have contact with the child, using reasonable force if necessary.
- They may also seize things when entering a home to assess whether a child is in immediate danger or to carry out their assessment under a court order. They must give you a receipt for the items they take. (Make sure the receipt clearly identifies what has been taken. If possible photograph it before it is removed.) If a child is at risk of immediate harm, Child Safety Services may take the child with them and into their care. If Child Safety Services takes the child, they can only keep them for a maximum of eight hours, unless they apply for a court order (or already have a court order). If Child Safety Services has a Temporary Custody Order or a Temporary Assessment Order they can remove your child immediately and keep the child in custody for up to three days. They must give you a copy of the order. If it was an urgent application for an order they may not have it with them – you can demand that it be provided the next day.

NOTE: Child Safety Services or the Queensland Police Service can be involved in the investigation stage and the police have the same powers as Child Safety Services under the *Child Protection Act 1999*. It is important to remember:

- the Queensland Police Service can carry on their own investigations separate to Child Safety Services
- even if the police stop investigating the case or the matter isn't taken to court or that you are found not guilty in criminal law proceedings, Child Safety Services may still have child protection concerns, and may still seek a child protection order. Get legal advice on this.

Can they contact my child at school?

Child Safety Services or a police officer from the Queensland Police Service can have contact with your child at school or childcare centre before they inform you if they believe it is in the child's best interests.

Child Safety Services must tell at least one parent that they have had contact with the child and the reasons for that contact, unless it would jeopardise a criminal investigation or expose the child to further harm.

NOTE: your child is NOT obliged to answer any questions Child Safety Services ask if they do not want to. This means they can choose to remain silent or only answer some questions. They can also ask a support person to be present, such as a teacher, family member, support worker or lawyer.

Can they investigate my pregnancy?

Yes. Child Safety Services can investigate concerns regarding an unborn child, assess the likelihood that the child will need protection after he or she is born and offer help and support to the pregnant woman.

They must not, however, interfere with the rights and liberties of the pregnant woman.

Child Safety Services can contact relevant health professionals and interview partners and family with your consent to find out about the type of support you have.

Child Safety Services can work with you under a support service case while you are pregnant. This means that you would have a Child Safety Officer assigned to you and would work with them to develop a support plan.

The purpose of working with Child Safety Services during this period is to reduce the likelihood that the child will need protection after he or she is born.

Agreeing to work with Child Safety

Support service case

A support service case may be opened when:

- Child Safety Services has investigated and found that a child is not in need of protection, however, they believe your family would benefit from some support to help you and address any child protection concerns
- an investigation and assessment has determined that an unborn child will be in need of protection after birth
- a young person who has been in care still needs support following their 18th birthday.

A support service case involves providing, or helping provide, prevention, early intervention and support services to strengthen and support families, pregnant women and young people.

Under a support service case you will

- be assigned a Child Safety Officer (CSO)
- you will develop a support plan with them that specifies your support plan goals and actions,
- you will maintain regular face to face and telephone contact with your CSO
- you may be referred to other support services and
- your support plan will be reviewed every six months

The child's parents, pregnant woman or young person must consent to work with Child Safety Services and agree to participate in the development and implementation of a support plan before a support service case can be opened.

Intervention with Parental Agreement

Child Safety Services may consider working with parents under an Intervention with Parental Agreement (IPA) as an alternative to an application for a child protection order in court.

An IPA allows CSO to work intensively with a family to meet the protection and care needs of the child with the parent's agreement.

IPA cases are only used when:

- parents are willing and able to work with Child Safety Services to meet their child's protection and care needs, and
- it is likely that by the end of the intervention parents will be able to meet the needs of the child.

Under this agreement, Child Safety Services will organise a family group meeting to develop a case plan to address the needs of the child and how the child is to be protected from harm.

They may also:

- organise support services to assist the family to achieve its goals
- obtain the views of the child if it is possible to do so and even make your child part of any agreement
- arrange for a child to be placed in care for a short time (if you agree to sign what's called a 'Care Agreement').

A child will usually remain in the family home for all or most of this type of intervention, but may be in placed in out-of-home care for all or part of the agreement with the consent of the parents.

What is a Care Agreement?

A Care Agreement is a short-term agreement between you and Child Safety Services for your child to temporarily be in the care of Child Safety Services. This means that you agree to give Child Safety Services the right to make all day-to-day decisions about the child, including where the child is to live. Child Safety Services should consult with you about these decisions. There are two types of care agreements: 'Assessment Care Agreement' and 'Child Protection Care Agreement'.

Child Safety Services may ask you to agree to an Assessment Care Agreement, when they are investigating and assessing child protection concerns about your child. An Assessment Care Agreement can be made with only one of the parents in some circumstances. However, an Assessment Care Agreement cannot be made if one of the parents refuses to make the agreement.

Child Safety Services may ask you to agree to a Child Protection Care Agreement, when they have assessed that your child is in need of protection.

All Care Agreements must:

- be in writing
- state how long it is for
- state where the child is to live (including name, address and phone number of the person who will be caring for your child)
- state the contact arrangements
- state the type of decisions about the child you must be consulted about.

Tips

- Make sure the agreement is in writing and that you get a copy of it.
- Be aware that Child Safety Services can apply for a child protection order at any time during the Care Agreement.

What are my rights under a Care Agreement?

You will still have legal custody of your child during an Assessment Care Agreement and so will be responsible for making most decisions about your child's care.

During a Child Protection Care Agreement, Child Safety Services will have legal custody of your child and you will still be your child's guardian. You and your child have the same rights as you would if there was an order granting custody of your child to Child Safety Services in place.

Your child (the subject of the Care Agreement) may be a party to a Care Agreement.

How long does an Assessment Care Agreement last?

Assessment Care Agreements must not be longer than 30 days and cannot be extended.

How long does a Child Protection Care Agreements last?

Initially they should not be longer than 30 days. They can be extended but cannot be longer than a total of six months (adding up any periods the child has been in care under an agreement in the last 12 months).

It is important to remember that before an extension is granted, your child must have a current case plan. Make sure that before you go to a Family Group Meeting read the tips on pages 26 – 28.

Can I stop a Care Agreement?

Yes, at any time, but two days' notice must be given to Child Safety Services.

Be aware though that if Child Safety Services is of the view that your child is in need of protection, Child Safety Services may then refer the matter to the Director of Child Protection Litigation to apply to a court for an order giving Child Safety Services custody or guardianship of your child.

A Care Agreement ends automatically if Child Safety Services gets an order granting custody or guardianship of your child to Child Safety Services or another person.

Court documents

Application for a Court Assessment Order or Child Protection Order

This will contain Child Safety Services' reasons why they say that they need an order. It will also contain the date of the court appearance near the end of the document.

Affidavit(s)

An affidavit is a statement that is sworn under oath or affirmation. Usually this means that it must be signed in front of a Justice of the Peace or a Lawyer.

Unless they are by an "expert witness," they should contain only what the person saw or heard themselves, rather than "hearsay" evidence or "opinion" evidence.

In child protection matters these rules about evidence do not strictly apply, but they will affect the amount of weight that the Magistrate gives to that evidence in making his or her decision.

It is expected in child protection proceedings that the Director of Child Protection Litigation will file affidavits that contain the evidence on which they rely on to make the case for a child protection order. The statement may contain file notes, reports and other documents as an attachment. It is also expected that the other parties will also provide affidavits that contain the evidence on which they rely.

The Magistrate may give you a date by which time your affidavit is due when the matter is set down for a hearing.

You may get legal advice from Legal Aid or a Community Legal Centre to help you with your affidavit.

Submissions

Whereas affidavits contain the evidence on which you rely to make your case, "submissions" contain the arguments on which you rely to say why the Magistrate should make the decision that you want them to make. Submissions may be written or oral.

Social assessment reports

A social assessment report includes information about your child's history, living situation, views and wishes based on interviews with everyone involved, Child Safety Services' records and previous reports. It also provides an independent opinion on the best way to protect your child's best interests.

A social assessment report is written by accredited social workers, psychologists or another professional considered by the court or tribunal to be an independent expert in child protection. It is usually provided to the court by the Separate Representative (the lawyer acting in the best interests of the children).

The court and tribunal will consider the report's recommendations when deciding whether a child protection order should be put in place for your child.

You can request a translator if you need to when attending an interview with a report writer.

Child Protection Orders

Temporary Custody Orders (TCO) and Temporary Assessment Orders (TAO)

These orders can be made by a Childrens Court Magistrate to put a child in the custody of Child Safety Services for up to three days. They can be extended for an additional day and if Child Safety Services applies for another order before it expires, they will be continue to run until the next order is mentioned in court.

These orders allow a Magistrate to:

- order a medical examination
- allow the Queensland Police Service or a Child Safety Officer to have contact with the child
- allow the Queensland Police Service or a Child Safety Officer to enter and search the premises if the parents have denied access, and, if necessary, take the child into care
- direct a parent not to have contact with a child, or only to have supervised contact with the child.

The parents are not required to be notified of the application and the Magistrate can make the order without the parents being present.

The main difference between a TCO and a TAO is that for a TCO, Child Safety Services has already decided that there is a child in need of protection for whom they will be applying for an order, whereas for a TAO they are still investigating and assessing.

A Magistrate may make a TCO if he or she is satisfied that a child is at an unacceptable risk of harm if the Magistrate does not make the order and that Child Safety Services will be able to decide the most appropriate action to meet the child's needs and start taking that action during the order.

A Magistrate may make a TAO if:

- the Magistrate is satisfied that an investigation is necessary to assess whether the child is a child in need of protection, and
- the investigation cannot be properly carried out unless the order is made, and
- the Magistrate is satisfied reasonable steps have been taken to obtain appropriate parental consent to the doing of the things sought to be authorised.

A court hearing is not held and a Magistrate can issue this order by telephone, fax or radio.

If you have become aware that a TCO or TAO application is going to be made and you believe that any of the above steps have not been adhered to, such as you have not been asked for

your consent to do the things sought, you can request to be heard by the Magistrate before any order is made.

Child Safety Services or the Queensland Police Service must give you a copy of the order and explain it to you as soon as practicable.

Court Assessment Order (CAO)

These orders last for 28 days.

The four week time period for a court assessment order starts to run from the date when the application is first heard by the court. In other words, if Child Safety Services apply for a CAO and the matter is adjourned for two weeks, when they return to court after the adjournment they can only apply to have the order granted for the remaining two weeks of the four week total.

The parents should be notified of when the order will be heard by the Magistrate. The Magistrate should only make the order if he or she is satisfied that the parents have been given reasonable notice of the hearing and fail to attend, or that it was not practicable to give the parents notice of the hearing.

A CAO may be extended once, for up to 28 days.

The decision to apply for a child protection order

If Child Safety Services decide that it is necessary to apply for a Child Protection Order, they must prepare a “brief of evidence” to the Director of Child Protection Litigation.

The brief of evidence contains the affidavits, reports and other evidence which they rely on to prove that there should be a Child Protection Order.

The Director of Child Protection Litigation then makes the decision about whether they will apply for an order, and if so, what type and length of order they will apply for.

Child protection orders

A Child Protection Order is an order made by the Court where it has been decided that the child is a child in need of protection. Before making a Child Protection Order, the Director of Child Protection Litigation must satisfy the Magistrate that:

- the child has suffered or is suffering significant harm, or there is an unacceptable risk of significant harm to the child, and
- there is no parent able and willing to protect the child from that harm.

Before a child protection order is made the court looks at:

- Evidence about whether the child is in need of protection and whether an order is “appropriate and desirable” for the child’s protection. This might include things like affidavits (witness statements) from Child Safety Services workers and independent experts, a parent’s criminal history, domestic violence history, traffic history and reports by Child Safety Services (and other relevant reports about adult members of your household)
- Whether parent/s have been given the court documents (or reasonable attempts have been made by Child Safety Services to do this)
- Whether an appropriate case plan has been made and given to the court
- If the order has been contested, whether a court ordered conference has been held (or reasonable attempts to hold a conference have been made) and whether the child’s wishes or views have been made known to the court (if possible)
- Whether the protection of the child can be achieved by less intrusive terms? (This means thinking about questions like: ‘does the order have to be for two years or is one year enough?’)

Types of court orders

Type of Order	Maximum Length of Time	Meaning
<p>Temporary Assessment Order (TAO)</p>	<p>Three days, extendable up to three business days, and if Child Safety Services intend to apply for another order, it can continue to run until the new order is mentioned in court.</p>	<p>This order is sought when Child Safety Services is still assessing if the child is in need of protection and whether a child protection order is required.</p> <p>They can provide for the immediate custody of the child, authorisation of medical treatment and restriction of contact with a parent until an application for a Court Assessment Order or child protection order may be made to the court.</p>
<p>Court Assessment Order (CAO)</p>	<p>28 days after the day the hearing is first brought before the court.</p> <p>An application to extend the order for up to 28 days can only be made once.</p>	<p>This order is sought when Child Safety Services is still assessing if a child is in need of protection and whether a child protection order is required.</p> <p>The types of temporary custody orders can include one of or more of the following:</p> <ul style="list-style-type: none"> • having contact with the child • granting custody of the child to Child Safety Services • directing how much time a parent/other person should have supervised with the child • authorising a child to undergo medical treatment or examination <p>A party has 28 days from the time the order is made to appeal against the decision of the court to grant a CAO.</p>

Temporary Custody Order (TCO)	Three days, extendable up to three business days, and if Child Safety Services intend to apply for another order, it can continue to run until the new order is mentioned in court.	<p>These orders are used where Child Safety Services has decided that they are going to apply for a child protection order and that there is no need for a further assessment order.</p> <p>They can provide for the immediate custody of the child, authorisation of medical treatment and restriction of contact with a parent until an application may be heard by the court.</p>
Directive Order	One year	This is the least intrusive child protection order. This directs a parent to do or not do something to protect the child. This order can also direct a parent or other person to only have supervised time with the child.
Protective Supervision Order (PSO)	One year	This order allows Child Safety Services to supervise the child's wellbeing and protection while the child remains in a parent's care.
Short-Term Custody Order	Two years	This order grants custody of the child to Child Safety Services or a suitable family member.
Short-Term Guardianship	Two years	This order grants short-term guardianship to Child Safety Services.
Transition Order	28 days	<p>In some but not all circumstances Child Safety Services can make an application to the court for a transition period from the child's reunification back to the child's home.</p> <p>The court can make this order on its own if it decides it is appropriate.</p>
Long-Term Guardianship	Until child turns 18 years	This order grants long-term guardianship to Child Safety Services, a suitable family member or other person.

Departments, lawyers and other participants in child protection proceedings

Who can participate in child protection court proceedings?

The *Child Protection Act 1999* says that the following people can participate in child protection matters:

- A lawyer representing the Director of Child Protection Litigation (“DCPL”)
- A legal officer representing the Office of the Child and Family Official Solicitor (“OCFOS”)
- The child’s mother and father
- A person who ‘lives with’ or ‘spends time with’ orders in operation under the *Family Law Act 1975*
- A person who has custody or guardianship of the child under another law, or the law of another State
- A long-term guardian of the child
- The child, who may be represented by a lawyer called a ‘Direct Representative’
- A ‘Separate Representative’. This is a lawyer who represents the ‘best interests’ of the child
- A representative of the Office of the Public Guardian
- Other significant people in the child’s life who have received permission from the court to be involved in the proceedings.

Proving paternity

The recording of a father on a birth certificate is considered the primary evidence of parentage of a child.

In some cases, the parties may consider paternity testing. A DNA paternity test may be presented in court and then the court may make a finding that a person is or is not a child’s father.

DNA testing of the child may be performed with the consent of the child's legal guardian, or with the child's consent if the child is of sufficient age and maturity to make a decision about undergoing the test themselves.

A paternity test on the child may be ordered by the court if there is a TAO, TCO or CAO in place or on an adjournment of a child protection order.

Child Safety Services may also seek medical examination or treatment of a child, which may include paternity testing. If Child Safety Services seeks a medical examination or treatment of a child in their custody or guardianship, a health practitioner may do this despite one or both parents not consenting.

Child Safety Services may, in some circumstances, pay for the test to occur when it is in the child's best interests, such as when significant conflict about the child's parentage may result in a change in the child's placement or their usual family situation.

Mere speculation about who is the father will not be sufficient to cause Child Safety Services to fund a DNA test when a father is listed on the birth certificate.

Child Safety Services

Child Safety Services is a department of the Queensland Government with the purpose of protecting children and young people from harm or who are at risk of harm, and whose parents cannot provide adequate care or protection for them. Child Safety Services is part of the Department of Communities, Child Safety and Disability Services.

Child Safety Services is usually represented by the Office of the Child and Family Official Solicitor when appearing in court.

Roles of Child Safety Services staff

The following are some of the staff members at your Child Safety Service Centre. If you are discussing your case with a department worker, you may wish to ask them their role so that you understand what matters they may be able to assist you with.

Child Safety Support Officer (CSSO)

CSSOs support and assist the Child Safety Officers and often work directly with families.

Child Safety Officer (CSO)

Child Safety Officers investigate and assess notifications received by Child Safety Services and provide support and protective intervention to families. The CSO that is assigned to your case is usually your main point of contact with Child Safety Services.

They have limited decision-making ability, and some decisions are required to be made by the Senior Team Leader.

They report to the Senior Team Leader.

Senior Team Leader

A Senior Team Leader is responsible for a team of Child Safety Officers.

The Senior Team Leader has the ability to make decisions about placements and contact. For this reason they need to be contacted when you are seeking changes to these arrangements.

Family group meeting (FGM) convenor

The FGM convenor plans, prepares participants for and facilitates the family group meeting. They are independent of the case and does not have decision-making responsibilities for the case. The FGM convenor should remain neutral, assist and enable all to participate, and ensure that all attending feel safe throughout the process. The convenor also records the case plan developed at a family group meeting.

Senior practitioner

The senior practitioner supports and monitors the quality of the child protection service provided to children, their families and the community through:

- a specialist knowledge of child protection practice
- mentoring and developing the practice skills and knowledge of CSOs, CSSOs and Senior Team Leaders
- monitoring and facilitating the implementation of relevant legislation, delegations, policies, procedures and quality standards
- managing the ongoing improvement of child protection practice
- participating in, or conducting reviews of, complex or sensitive cases

Manager

The Manager is responsible for all staff and operations at a Child Safety Service Centre.

The Office of the Child and Family Official Solicitor (“OCFOS”)

The Office of the Child and Family Official Solicitor (“OCFOS”) is a unit of the Department of Communities, Child Safety and Disability Services (the same department as Child Safety Services.)

OCFOS is a team of legal officers who usually work in Child Safety Service Centres and provide legal advice and assistance to Child Safety Officers.

They are usually the applicant in short term and emergency orders such as Temporary Custody Orders, Temporary Assessment Orders and Court Assessment Orders.

OCFOS refer a matter to the Director of Child Protection (“DCPL”) Litigation if they are satisfied that an application for a child protection order is required. OCFOS do not make the final decision about whether or not the DCPL apply for an order and the type and length of the order.

The Director of Child Protection Litigation (“DCPL”)

The Director is responsible for preparing and applying for child protection orders and conducting child protection order proceedings in the Childrens Court. These activities are carried out by staff within the office of the DCPL.

This office is independent of Child Safety Services.

If Child Safety Services believe that a child protection is necessary, then they must provide a “brief of evidence” to the DCPL. Then the DCPL independently makes the decision about whether or not a Child Protection Order application should be made and the type of order that should be sought.

The purpose of having an independent office applying for child protection orders is to increase accountability, improve oversight of Child Safety Services and to improve the quality of the evidence on which child protection decisions are made.

Grandparents, relatives and other people significant in the child’s life

Members of the child’s family or another significant person in the child’s life can apply to court to be able to participate in child protection proceedings.

The court can decide the extent of a person’s participation in the proceedings and assign a person all of the rights and involvement of a party. They also have the right to be legally represented if they wish to be. In deciding whether a person may participate, and the extent to which they may participate, the court must consider the extent to which the person may be able to inform the court about a matter relevant to the proceedings and the person’s relationship with the child.

If you are a party you can make submissions to the court about who should be given these rights to participate in the proceedings.

Children participating in child protection proceedings

The *Child Protection Act 1999* states that wherever possible, children should be encouraged to participate in decisions affecting their lives. Meaningful participation by young people may include:

- parties and decision-makers actively listening to them
- young people receiving support to express their views
- having their views taken into account and recorded
- being involved and present if they wish to be in decision-making processes.

The law says that children and young people are entitled to information and involvement as is appropriate for their age, ability to understand, and psychological state, including information about the decision and reasons for the decision. The right for children in care to get information and have a say in decisions that affect them is included in the Charter of Rights for a child in care in the *Child Protection Act 1999*.

Children and young people may want to participate in different ways and the Magistrate can make directions about how a child can participate in child protection proceedings.

Children may be involved by:

- Attending Family Group Meetings, Court Ordered Conferences and other meetings
- Recording their views and wishes with a Child Safety Officer or an independent person, such as a Child Advocate at the Public Guardian, a Separate Representative or a social assessment report writer
- Having a Child Advocate give their views and wishes to the court
- Instructing a lawyer (Direct Representative) to represent them in court and advocate for them with Child Safety Services
- Writing a letter to the Magistrate
- Drawing a picture for the Magistrate or giving the Magistrate their 'three houses' drawing
- Addressing the Magistrate personally (with or without all parties present)
- Giving evidence in an affidavit (but only if they are 12 years old or over, represented by a lawyer and agree to giving evidence). Note that if a child gives affidavit evidence it may mean that they can be cross-examined by other participants in the proceedings.

Types of representatives for children

Direct representative

A Direct Representative is a lawyer who represents a child in the proceedings and provides the court information about what the child wants and argue for the child's point of view. A direct representative, like a lawyer for an adult, acts on the child's instructions.

A child might want a direct representative if they have strong views about what Child Safety Services or their parents are asking the court to do and they want to actively participate in the court processes.

The child can ask their Child Safety Officer, the court or the Separate Representative to help them to contact a Direct Representative. They can contact Legal Aid for help.

Legal services that act as Direct Representatives for children in child protection proceedings include Legal Aid, Youth Advocacy Centre and South West Brisbane Community Legal Centre.

Separate Representative

A Separate Representative is a lawyer appointed to represent your child's or children's 'best interests' in the Childrens Court and to ensure their views and wishes are presented to the court. This is different to acting on the 'direct instructions' from your child.

A Separate Representative can be appointed by the court during child protection proceedings if the Magistrate considers it important in protecting your child's best interests.

If this is the case, the Childrens Court will ask Legal Aid Queensland to appoint a lawyer to be the separate representative.

The Separate Representative will gather information about what is in the best interests of the child by:

- reading the information given to the court by you and Child Safety Services
- meeting your child in person
- requesting a social assessment report
- speaking to teachers, guidance officers or other people who have had spent a significant amount of time with your child
- requesting reports from other professionals such as social workers, psychologists or psychiatrists.

Office of the Public Guardian (“OPG”)

The Office of the Public Guardian (OPG) is an independent statutory body that is responsible for protecting the rights of children and young people in out-of-home care, residential care and youth detention, and vulnerable adults with impaired decision-making capacity.

One of the OPG's responsibilities is advocating for children and young people in child protection and supporting them to express their views and wishes when decisions are made about their care arrangements.

Child Advocates and Community Visitors work for the OPG to perform this role.

The Child Advocate

An Office of the Public Guardian child advocate can assist a child who is in the child protection system by:

- ensuring the child's views are heard and taken into consideration when decisions are made that affect their care arrangements such as family group meetings, court hearings and tribunals
- providing support in court conferences and organising legal and other representation for the child
- applying to the tribunal or court about changes to a placement, a contact decision—contact with parents and siblings—or a change to a child protection order
- helping resolve disputes with others, including making official complaints to the Queensland Police Service, health authority or the Ombudsman
- helping resolve issues with the child's school regarding suspensions or exclusions from class.

Community Visitors

Community visitors (CV) see children in out-of-home care, residential care, mental health facilities, and young people in detention or prison.

A CV will:

- listen to the child and support them
- help them to work through problems and issues
- check that the place where they are living is all right and that their needs are being met
- get information for them about people and services that can help you.

CVs usually visit when a child first enters out-of-home care. A child can also request a visit by sending a text message to the OPG or sending a message through the OPG website.

How can a party participate in child protection proceedings?

If you are a 'party' to a child protection proceeding it means that you can:

- stand at the bar table and talk to the Magistrate
- receive the court documents and request (or 'subpoena') documents and information about the case.
- provide statements (or 'affidavits') to give information to the court. The affidavits may be by yourself or another witness. If you are calling witnesses they must be available for cross-examination by the other parties on the hearing date.

- cross-examine other party's witnesses in a hearing.
- make submissions. Submissions are spoken or written arguments about what the court should decide. The parties usually make submissions near the end of a hearing.

If the child's parents for any reason cannot appear in person, another person appointed in writing by the parents may, with the leave of the court, present their views and wishes.

Going to Court

What should I do if I get a notice to go to court?

Seek legal advice or apply for Legal Aid as soon as possible. Contact details for Legal Aid Queensland, the Queensland Law Society for referrals to a private lawyer or a Community Legal Centre are contained in this kit.

Bring your documents to court. There is a duty lawyer service for unrepresented parties in child protection proceedings in some courts and it is easier for them to help you if you have your documents.

It is important to attend court whether you have a lawyer or not, as the court may make an order if you are not there.

Preparation for court

1. Get legal advice before you go.
2. Dress neatly in conservative clothes. It shows the court that you are serious.
3. Prepare! Know what you want. Make sure your lawyer has enough information too. It will help your case if you read what documents the Director of Child Protection Litigation has given you (e.g. their affidavit) and write down what you don't agree with – in dot points! Give this to your lawyer.
4. A good idea is to take notes into court with you about what you want to say. You will be asked questions and have a chance to have your say. Be aware that anything you say will be used to make the final decision. Think about what questions you may be asked.

Appearing in court

- Remember to be polite, call the Magistrate 'Your Honour'.
- Stand when the Magistrate is talking to you.
- Always act in a way that reflects the dignity of the court and the seriousness of the matter.
- Turn your mobile phone off.
- Remember that court's biggest concern is what is in the best interests of the child.
- If you do not understand what's going on, you can ask the Magistrate, the lawyer for Child Safety Services or if you are represented, your lawyer, to explain it to you.
- Tell the Magistrate if you need an interpreter.

- The court has to be satisfied that you have had a reasonable opportunity to obtain legal representation. You can ask for an adjournment so that you can apply to Legal Aid Queensland for a lawyer or get advice in a Community Legal Centre.

Adjournments

A mention is where the case is reviewed by the court and perhaps moved on to the next stage. The court can put off the proceedings to a later date (this could be for a number of reasons including allowing you to get legal representation). This is called an 'adjournment'.

A hearing or trial is where the court hears the evidence about the matter and makes a decision. Make a note of the time and date the matter is adjourned to.

The court can make an interim order (this means a temporary or an 'in the meantime' order) when they adjourn proceedings. A common interim order is an order giving temporary custody of a child to the Chief Executive (Child Safety Services) or sometimes to another person. This type of order allows Child Safety Services to have custody of the child until the final decision of the application is made. Other common interim orders relate to whether parents are allowed contact with their child and whether it must be supervised.

The court can also order:

- no contact or only supervised contact with a child
- a social assessment report
- medical examination or treatment of the child
- a family group meeting
- separate legal representation for the child
- a conference between you and Child Safety Services, convened by a person appointed by the court.

Interim contact

If you believe that you do not have enough contact with your child, you can tell the Magistrate about your concerns. The Magistrate has the power to make orders about contact.

What if the court made an order and I wasn't told in advance?

Seek legal advice immediately.

You have to be 'served' the documents properly. Usually the application for the court order must be given to you in person.

What if I don't go to court?

The case can be decided without you as long as Child Safety Services can prove that they have given you copies of the court documents (or made reasonable attempts to do so) within a reasonable time before the hearing.

What happens if there is a court order already?

Get a copy of the order, and any other paperwork you can and get some legal help.

Depending on when the order was made, you may be able to:

- appeal the decision (you only have 28 days after the decision was made to appeal it)
- apply to have the decision reopened by the court
- apply to have the order revoked or varied.

Getting “disclosure” of Child Safety Services’ documents, records and files

Child Safety Services has a duty to disclose all relevant documents to the Director of Child Safety Litigation (“DCPL”). Subject to some exceptions, the DCPL has a continuing duty to disclose these documents to you.

Some of the exceptions include documents that are records of therapeutic counselling sessions and documents that may endanger someone’s safety or psychological health.

The DCPL must inform you of your right to disclosure by means of a “disclosure form” within 20 days of the first mention.

If you have not received documents or other evidence that you think are relevant, you can ask the Magistrate to direct that the documents be provided to you.

Issuing a subpoena for Child Safety Records

You can arrange for records and reports to be supplied to the court before a trial. First, you need to lodge the relevant forms. Staff at the Childrens Court registry can explain how to do this. After you have lodged the forms, you need to apply to the court for ‘leave to inspect and copy the material’.

If you have witnesses to give evidence at a trial

You should bring to the hearing any witnesses who might help your case. If you intend to put their evidence before the court, you should have them complete an affidavit containing their evidence (a sworn statement) and provide it to all of the parties before the hearing. Usually, the court will set a deadline for when this needs to be done before a hearing.

Evidence that you may consider leading includes family and friends who have seen you with your child. Witnesses should wait outside the courtroom until they are called to give evidence. If you want a person as a witness but they do not want to come to court, you can make them attend by serving them with a subpoena.

Contact the Childrens Court registry to get more information about witness subpoena forms. If you have a lawyer, your lawyer can help you complete all required forms.

Inaccuracies in court documents

Many parents in child protection proceedings are very concerned when they find that some of the information in the court documents:

- is not accurate
- sounds worse than it was
- says the bad things but leaves out the good things.

If you have concerns about the truth of the material in the documents, you can do the following:

- you can present your own statement ('affidavit') to the court that addresses the problems with Child Safety Services' documents
- if you go to trial you will have the opportunity to ask the author questions in front of the Magistrate about what they have written and point out the problems.

For now, it is important to think about what you can agree on with Child Safety Services to help your case to progress. It is important to be able to work calmly with Child Safety Officers to develop an appropriate case plan with clear goals and to monitor the family's achievement of the goals without excessive arguing about the content of the allegations.

Think about and prepare what you need to tell the Magistrate about the immediate decisions that the court needs to make, such as whether there is sufficient contact between the parents and the child.

Usual court process

If you agree that the child protection order should be made in the Childrens Court:

Application filed

by the Director of Child Protection Litigation in the Childrens Court mention at this stage for the application to be served on the other parent, or for one of the parents to seek legal advice.

First mention at the Childrens Court

At this time the court usually finds out whether the application for a child protection order is being contested by you, and whether an interim order needs to be made. The matter may also be adjourned for another mention at this stage for the application to be served on the other parent, or for one of the parents to seek legal advice.

Family group meeting

There may be a few meetings or only one to make a case plan.

The matter returns to court for another mention.

If you agree to the order, the Magistrate will be informed that you agree, and will receive the case plan.

If the Magistrate is satisfied that the case plan is appropriate and that the other requirements of an order have been met, then the Magistrate may make the child protection order without a hearing or a detailed examination of the evidence.

If you or another party disagrees with the child protection order being made, the application becomes a 'contested' application:

Application filed

by the Director of Child Protection Litigation in the Childrens Court

First mention at the Childrens Court

At this time the court usually finds out whether the application for a child protection order is being contested by you, and whether an interim order needs to be made.

Family group meeting

There may be a few meetings or only one to make a case plan.

Court ordered conference

Will occur if you disagree with the application for a child protection order.

Mention date – before hearing

At this date the court usually makes sure everything that is required to be done before the hearing is done. Orders can be made that parents file a document which details the evidence they will be relying on (an affidavit).

Hearing

This is where you, the Director of Child Protection Litigation and the other participants in the proceedings get to test each other's evidence by asking questions of witnesses and each other under oath. The court makes a decision and final orders are given to all parties.

What happens at a trial (also called a hearing)?

At the end of a trial or hearing, after the Magistrate has heard all of the evidence from the parties and he or she will decide:

1. Is there a child in need of protection and no parent able and willing to protect the child? If so, the Magistrate may make an order, if not, the Magistrate may dismiss the case.
2. If an order is to be made, what is the most appropriate order to make? For example, is the least intrusive order that is appropriate a Protective Supervision Order, a short-term custody order or a long-term guardianship order?
3. Is the case plan appropriate? If the case plan that has been developed at the most recent family group meeting is not an appropriate one, the court may direct that another family group meeting be held so that a new case plan can be made.

The hearing will start with the Director of Child Protection Litigation calling their witnesses. This will usually include the Child Safety Officer or Senior Team Leader who has written the evidence.

The main part of a witnesses evidence in a child protection proceeding is given in written form in their affidavit, rather than being given orally in the courtroom.

If a witness gives evidence, the other parties can then ask the witness questions about the evidence given, or any other relevant matter. This is called cross-examination. It might help if you take notes of what witnesses say. This will help you with your cross-examination. Afterwards, the party who calls the witness can ask them questions about anything arising from cross-examination. This is called re-examination.

Witnesses can tell the court what they have actually seen and heard themselves. First-hand accounts from witnesses are more valuable than hearsay (telling the court about things they heard from other people). Witnesses must give truthful answers to all questions.

When you or your lawyer questions your witnesses, they can be asked any questions relevant to your case. If you ask a question that is not relevant to your case or that the witness is not able to answer, the Magistrate can stop you.

When you question your own witness you should avoid asking leading questions. For example, "I'm a good parent to my children, aren't I?" is a leading question, as it suggests the answer. A better question would be, "Can you describe my relationship with my child?" as it lets the witness make accurate comments without influence. However, when you cross-examine another party's witness you should ask leading questions.

It is important to be polite when asking questions. The Magistrate may stop you if you are being rude or offensive. You must also remain quiet while the other party is examining a witness.

At the end, when all of the evidence has been presented to the court, you can give a summary of your case. This is called a closing address.

Court Ordered Conferences (“COCs”)

Court Ordered Conferences are meetings that are held if you contest the application made by Child Safety Services.

An independent chairperson runs the meeting, and the aim is to try to resolve the matters that are in dispute in the proceeding.

Usually, if a party is not consenting to the order then a conference must be held, or reasonable attempts to hold a conference must be made before the court can make a Child Protection Order. However, a court may dispense with the requirement in some cases, including where there are concerns about the safety of a party if a conference were held and the court is satisfied this outweighs the potential benefit of holding the conference.

The court may also order multiple conferences at different stages during the proceedings to address issues as they arise.

The meeting may run in a similar way to the family group meeting, using a structure such as:

- What are we worried about?
- What is working well?
- What needs to happen?

However, unlike a family group meeting, the focus of these questions in a Court Ordered Conference should be on how these matters relate to any disagreement regarding the order the court is being asked to make.

You may consider, if you are not prepared to accept the order that Child Safety Services is asking the court to make, whether you could offer to agree to a different or a shorter order.

You could also consider the length of time you believe is required to achieve case goals and ask Child Safety Services to justify why they are asking for the length of time they have specified.

What is a Recognised entity?

Recognised entities are Aboriginal and Torres Strait Islander organisations, funded by Child Safety Services to provide culturally appropriate and family advice regarding Aboriginal and Torres Strait Islander children.

The law says that Child Safety Services has to ask recognised entities to participate in key decisions made about Aboriginal and Torres Strait Islander children and young people.

Examples include decisions made about:

- investigations and assessments
- case plans
- contact with family members
- placements and carers
- young people's participation in recreational activities.

It is important to remember that, even though they are independent, the recognised entities' main job is to help Child Safety Services and the Childrens Court to make better decisions by taking cultural matters into account. Child Safety Services is their client, not the child or the family, and it is not the main role of the recognised entity to provide support to the child or the family.

You can expect the recognised entity to:

- give you a copy of any material that they are handing up to the Magistrate before court commences
- talk to you and ask you whether you have any concerns, particularly about cultural issues or potential kinship carers
- be transparent and honest about the advice or position that they are taking.

The recognised entity may also be able to recommend organisations that can provide culturally appropriate support for you and your family.

Family Group Meetings (“FGMs”)

A Family Group Meeting (“FGM”) to make a case plan has to be held before a child protection order can be made.

The purpose is to develop a written plan for meeting the child’s protection and care needs with input from parent/s and the child’s family. This is required to be updated regularly.

Who can go to a case planning meeting?

The meeting will have a convenor, who is responsible for ensuring that the meeting takes place fairly. The convenor must give the following people a reasonable opportunity to attend and participate:

- the child, unless it would be inappropriate because of the child’s age or ability to understand
- the child’s parents
- a support person for the child or the parents
- other members of the child’s family the convenor considers likely to make a useful contribution
- other persons with whom the child has a significant relationship, such as a carer
- any legal representative of the child
- the recognised entity
- the Public Guardian
- anyone else the convenor considers likely to make a useful contribution.

The requirement to allow these persons to attend the meeting applies whether or not the parents agree.

If the convenor is satisfied that a person’s attendance or participation would be contrary to the purpose of the meeting or not in the child’s best interest, then the convenor is not required to invite the person.

What things must Child Safety Services do before a meeting?

- Tell invitees that it will be a case-planning meeting.

- Inform the invitees that the child is in need of protection.
- Outline the child's assessed risks and assessed needs.
- Provide details of the proposed meeting including day, time, and venue.
- Provide opportunities for attendees to identify issues.
- Get the views of people who can't come to the meeting.

A written plan comes from a meeting and may include:

- A goal or goals to be achieved.
- Living arrangements.
- Services to be provided.
- Matters for which Child Safety Services will be responsible.
- Matters for which a parent or carer will be responsible.
- Contact with parents/child's family group.
- Health matters, such as the creation of a child health passport.
- Education matters, such as where the child is going to do to school or an 'education support plan'.
- Arrangements for maintaining ethnic and cultural identity.
- A proposed date to review the plan.

What is a child health passport?

The child health passport refers to a process, as well as a document.

The child health passport process commences with the collection of a child's essential health information, when a child is placed in out-of-home care. The child health passport process includes:

- gathering essential health information about the child
- preparing the child's health care file
- deciding whether a health or dental appraisal or assessment is required
- arranging a health or dental appraisal or assessment
- consideration of the involvement of child, parents and carers in the health assessment
- preparing the child health passport folder
- arranging required follow up appointments and assessments, if applicable
- including information about a child's identified health and dental needs when completing the child's strengths and needs assessment and developing or reviewing a case plan
- collecting non-essential health information.

The child health passport is also a folder, containing a copy of relevant documents applicable to the child's health. It is provided to the child's carers to enable them to adequately respond to the child's health needs for the duration of the out-of-home care placement.

What is an Education Support Plan?

In Queensland, every child and young person who is in out-of-home-care and subject to a child protection order that grants guardianship or custody to the Chief Executive (the Director-General of Child Safety Services), and is of compulsory school age or enrolled in a state or non-state school, should have an Education Support Plan.

An Education Support Plan aims to improve the educational experiences and outcomes for a child or young person in out-of-home care. The plan outlines goals, strategies and the accessibility of services and programs that will help children and young people reach their academic potential.

The school principal will finalise an Education Support Plan within one month of a student's enrolment, or after advice that a child or young person is in out-of-home care. The child or young person should be involved in the development of the plan in a way that is appropriate for their age and development.

The Education Support Plan is a working document and is reviewed and updated as the needs of the child or young person change. It must be reviewed at least once a year or when the child or young person changes school.

Your Child Safety Officer may speak with you prior to meeting with the school, or invite you to attend an Education Support Plan development meeting.

Can the case plan be changed?

Yes, the case plan can be changed within seven days of being developed. It will only be amended if it is in the child's best interests and the current plan is clearly impracticable. Written notice of the change/s must be given to all of the people who attended the meeting. After seven days, a case plan can be changed by holding a new meeting to develop a new case plan.

You can also tell the Magistrate about your objections to the case plan at a mention of the matter in court and ask the court to order a new family group meeting be held to develop a new case plan.

What happens next?

Copies of the plan must be given to the child (if appropriate given the child's age and ability to understand), parents, and anyone else who Child Safety Services thinks should get a copy

or is affected by the plan. The case plan must also be explained to the child in a way and to an extent that is reasonable, given the child's age and ability to understand.

Child Safety Services must support the plan, for example by providing or arranging a service to assist the family.

Most case plans must be reviewed at least every six months. From this review, a report and a revised case plan must be completed.

How often should it be reviewed? Things to look at are: the child's age and circumstances; nature of arrangements in place under the plan; any problems or potential problems or ways it might be improved; and the length of the order in place.

When developing a case plan towards reunification, the plan may also include back up plans if reunification is unsuccessful and the processes that will be followed.

If you get back a case plan after the meeting and you do not think it is correct, or what was agreed to, then you can write a letter to Child Safety Services, stating what you think was said and agreed to. This is important as otherwise it is assumed that the plan is correct and it is shown to the court.

Preparation for Family Group Meetings, Court Ordered Conferences and case plan reviews

It is important to prepare for a meeting with Child Safety Services, so that you can help to create a case plan that will work and that is appropriate for your needs and for the child's needs.

Family group meetings often ask the following questions.

- What are we worried about?
- What is going well?
- What needs to happen (and who needs to do it?)
- How will we know when we get there?
- How long will it take to achieve the outcomes? Why?
- What is the next step?
- What contact is occurring? Will that increase if things are going well?
- How often will contact be reviewed?

It is useful to write out each of these questions and write the answers that you would give, and how you think Child Safety Services would answer. Bring your notes to the meeting to help you remember the things that you would like to raise.

Remember, you can take a time out at any time throughout the meeting, especially if you need to think about a Child Safety Services proposal before you agree to it.

What is SCAN?

Suspected Child Abuse and Neglect (SCAN) meetings are held to discuss cases of suspected child abuse and neglect and to make recommendations about how to best assist families keep children safe from harm or risk of harm. Officers from government who have an interest or involvement in the case (such as Child Safety, Health, Education, Queensland Police Service and if relevant, recognised Aboriginal and Torres Strait Islander entities) meet together to make recommendations for a child.

The information discussed in these meetings may assist Child Safety Services and their work with families. Whilst the minutes of these meetings are confidential, you can expect your Child Safety Officer to advise you if your family is to be referred to SCAN and to discuss the outcome of these meetings with you.

If you are making a Right to Information Application for information regarding your matter you should also request copies of hand and electronically recorded material from the SCAN meeting.

The way Child Safety Services works with you – the ‘Framework for Practice’

The report of the Queensland Child Protection Commission of Inquiry by Justice Carmody in 2013 caused big changes to the child protection system in Queensland. This has included changes to the way Child Safety Services works with families.

One of the important changes within Child Safety Services is the introduction of the new ‘Strengthening Families Protecting Children Framework for Practice’. This is a strengths-based, safety oriented practice framework that will be used to help guide Child Safety Services to work with children and families.

Understanding a little about this framework will help you to work with Child Safety Services to get the best plan possible for your case. Using this to prepare for your meetings with Child Safety Services can help you to achieve a better meeting and a fairer case plan.

Why introduce a new Framework for Practice?

Common feedback from parents dealing with Child Safety Services is that:

- the workers constantly ‘shift the goal posts’, fail to define the ‘goals posts’ or everything changes when the workers changes
- they focus on the negatives not the positives
- they are too focussed on whether a parent has ‘insight’ into their past problems rather than whether they can develop the ability to protect their child from harm in the future.

The Framework for Practice is designed to address those concerns by:

1. Making sure that the strengths of the family are recognised and built upon, rather than always focusing on the negatives.
2. Making sure that the case planning goals are clear and focussed on protecting the child from the specific harm that Child Safety Services is concerned about, rather than general lifestyle interventions.
3. Making sure that the actions to achieve the goals are clear, so that the case plan can progress.
4. Having constructive, working relationships with families.

Practice Tools and Processes

A key component of the Framework for Practice is understanding rigorous and balanced assessments to work out how to ensure the ongoing safety, belonging and wellbeing of children.

These following questions set out below guide how Child Safety Services develop their case plans with parents and this is the formula for most meetings.

What are we worried about?

Statements of harm

It is important to be specific about what the harm or risk of harm is that Child Safety Services is concerned about, the impact of the harm on the child and exactly what actions or lack of action by the parents contributes to that harm.

While they can be confronting to hear, having these statements makes it clear what needs to be addressed in a case plan and what doesn't, and prevents the goal posts from moving in the future.

Complicating factors

This section is about other issues that make it more difficult for the parents to protect the children from harm. They should be separated from the issues that have previously caused the harm, so that it is clear what needs to be addressed in the plan for the future.

What's working well?

This section focusses on the things that are happening in the family or have happened in the past that are positive and contribute to the safety, wellbeing and belonging of the child.

These are the building blocks for protection in the future and recognising them creates hope and energy for the family to be able to address the child protection concerns.

Protection and belonging

Protection and belonging identifies specific times when the parents have taken action or made decisions to keep the child safe and well and protect them from the harm. These actions of protection and belonging are exceptions to the problems - times when the child may have been harmed but because of the actions or decisions by the parents, they were safe and well at these times.

Strengths and Resources

The family's strengths and resources considers things that have happened in the family, or resources that the family has, that make things better for children.

What needs to happen?

This is about developing a good plan for the future. A common piece of feedback from parents working with Child Safety Services is that the workers constantly 'shift the goal posts' or fail to define the 'goals posts'. Clear 'worry statements', 'goal statements' and 'action steps' are designed to prevent that.

Worry statements

The worry statements describe what Child Safety Services and others are worried the parents might do (or not do) in the future that could lead to the child being harmed. They should contain:

- who is worried?
- what is the behaviour of the parent that they are worried about and in what circumstances might this behaviour occur?
- what is the possible impact on the child?

These can at times seem accusatory and parents may not agree with them, but remember, it is not necessary that all parties agree on the worry statements. The purpose of these statements are to clearly state the worries so it is clear which behaviour Child Safety Services wants to see change, and to develop actions with parents to address this behaviour.

You may decide that, even if you do not agree with statements around what has occurred in the past or the reasons why Child Safety Services is worried, you can agree with a goal that you can achieve.

Goal statements

Goal statements are clear behavioural statements about what the parents will be doing differently in their care of their children in the future to address the worry statements. The goal statements provide a vision for future safety, belonging and wellbeing.

Action steps

The action steps are what everyone needs to do next in working towards achieving the goal statements.

- Think about what is the smallest next step toward achieving the goal is.
- What support do you need from Child Safety Services or a Family Intervention Service?
- What do you expect Child Safety Services to say the next step is?
- What are the time frames needed to achieve this?

The Safety and Wellbeing Scales

This is where the workers ask you questions such as, 'On a scale from 0-10, where 0 means the situation is so bad that the children are not safe at home, and 10 is where there is sufficient safety, how would you rate the situation right now?'

The purpose of this type of questioning is to seek the views of different people in relation to how the family is going at this point in time. It also opens up discussions and encourages the parents and other significant people to think about what has changed to ensure the future safety, belonging and wellbeing of the children.

Circles of Safety and Support Tool

These identify networks that can be used to make safety plans. Think about who are the people that you can call to help to protect the child if something goes wrong.

Your inner circle are the people who know about the worries and that Child Safety Services is involved and are willing to help when needed.

People or organisations in the middle circle know a little bit about your situation and the outer circle don't know about the concerns but all can be useful to create your safety plan.

Child Safety Services see your networks as very important, so it is important to think about who you can include in yours.

Immediate safety plans

An immediate safety plan contains detailed action steps that the family and their network will undertake immediately to protect the child from harm. They need to be developed collaboratively with the family and their network and respond directly to Child Safety Services' worry statements. The family and network need to be clear about what actions they will undertake to protect the child and who to contact if the plan is not working.

Immediate safety plans are short-term plans that can last for up to seven days. They need to be regularly monitored to ensure that everyone is doing what they agreed to do.

You can discuss with your Child Safety Officer if it is possible to develop an immediate safety plan.

The Three Houses Tool

This is a tool that provides a visual way of helping children and families to identify their strengths, hopes, dreams and worries. It is often used when interviewing children, to gather their views and wishes. They will usually ask the child to draw or put things in three houses.

- What is in the house of worries?
- What is in the house of good things?
- What is in the house of hopes and dreams?

This activity will usually happen without you being present. The law says that Child Safety Services must get the child's views and wishes and this is an effective tool for doing so. You can ask your Child Safety Officer to use this tool to ensure that your child's views are recorded.

If your child wishes to express their views to an independent person or participate further in meetings and in the court processes they can contact the Public Guardian, request a Separate Representative or contact Legal Aid Queensland to apply for a Direct Representative (lawyer for a children).

Transience and high-risk behaviour

Young people living in out of home care may leave their placements to live independently, or to live with someone else without Child Safety Services' approval. This is sometimes called 'self-placing' by Child Safety Services. A young person may also be engaging in high-risk behaviour which causes concern that they are at significant risk of further emotional and physical harm.

If your child is in this situation, you can work with Child Safety Services to develop a plan for the young person to be as safe as possible. In this case:

- the young person should be encouraged to be involved in the decision-making process if they wish to
- as far as possible the same workers should be maintained over time, to avoid the young person being 'shunted' between workers
- 'unconditional commitment' is required by workers, in that they will continue to try to build the relationship despite any aggressive or negative behaviour from the young person
- adults in a young person's life should try to communicate the message: 'I, we won't give up on you, even if you give up on yourself'
- have plans in place to reduce risk as much as possible
- listen carefully to young people, and respond with honesty and respect.

Many of these principles are found in Child Safety Services' practice paper '[A framework for practice with 'high risk' young people](#)'.

Where the child will live

A child must be placed in care that best meets a child's needs and is culturally appropriate. Child Safety Services must consider placing a child with family members or other people who have a significant relationship with the child first. This means that a family member must apply to become a 'Kinship Carer' for the child, and involves criminal history and other checks. This can take time.

The Indigenous Placement Principle

The general principle is that an Aboriginal or Torres Strait Islander child should be cared for within an Aboriginal or Torres Strait Islander community.

The Indigenous Child Placement Principle requires Child Safety Services to place a child, in order of priority, with:

- a member of the child's family
- a member of the child's community or language group
- another Aboriginal person or Torres Strait Islander who is compatible with the child's community or language group, or
- another Aboriginal person or Torres Strait Islander.

If there is no appropriate placement as those mentioned above, then Child Safety Services must give proper consideration to placing the child, in order of priority, with a person who lives:

- near the child's family, or
- near the child's community or language group.

If Child Safety Services places an Aboriginal or Torres Strait Islander child with a carer who is not Aboriginal or Torres Strait Islander, Child Safety Services must first consider matters including whether the carer is committed to helping maintain contact between the child and the child's parents, other family members and the child's community or language group.

They must also help the child to maintain a connection with their culture and help to preserve and enhance the child's sense of Aboriginal or Torres Strait Islander identity.

Foster carer

Foster carers are approved by Child Safety Services to care for a child subject to departmental intervention and an out-of-home care placement.

Residential care facilities / licenced care services

These services are licensed and they usually provide care for a group of children who are in the custody or guardianship of the Chief Executive of Child Safety Services. Some residential care facilities cater for children with specific needs, such as therapeutic and intensive placements.

Supported independent living services

These services provide accommodation with support workers that visit the child but do not usually stay overnight. This placement option is best suited to a young person aged from 15-17 years who is in the process of transitioning from care.

Respite care

A temporary placement with a carer or care service intended to provide time-limited support to enhance a carer's ability to continue in their role as a child's full-time carer and to sustain the caring relationship.

Kinship carer

A kinship carer is a person who is of significance to the child, such as a member of the child's family or a friend, who is approved by Child Safety Services to provide an out-of-home care placement for the child.

How to apply to be a kinship carer

There are a number of steps to becoming a kinship carer.

1. Complete an application for approval form. This includes consideration of criminal and child protection history, and where necessary, domestic violence and traffic history.
2. If you do not have a form you can complete the 'Expression of Interest in becoming a kinship or foster carer' on [Child Safety Services' website](#) or you can ask for one at a Child Safety Service Centre.
3. All adult member of the household must complete a blue card application.
4. A household safety study will be completed by the person assessing your application and this includes mandatory safety requirements that must be met prior to you being approved as a carer.
5. You need to complete a health and wellbeing questionnaire with the person making the assessment. A medical assessment may be required.
6. The assessor does referee checks.

7. The assessor conducts interviews. You, your children (depending on their age), any adult household members and significant others will be interviewed.
8. Complete training about the skills and knowledge you will need as a foster carer.

You will receive a letter with the outcome of the decision and your review options.

If your application is approved by Child Safety Services, you will receive a Certificate of Approval as a kinship carer. This is for an initial 12 months and requires renewal every two years thereafter, upon application and approval. You will also have to work with Child Safety Services and your non-government foster and kinship care service to develop a Placement Agreement detailing the goals of the placement and the support and training you may need to meet them.

If your application is not approved by Child Safety Services, your letter should state the reasons for the decision and your right of review.

Child Safety Services will, in some cases, provide provisional approval for the placement, allowing the child to reside with the carer before the formal processes have been completed.

Rights of a child in care

The Charter of Rights of a Child in Care

The Charter of Rights for Children in Care is in Schedule 1 of the *Child Protection Act 1999*.

It lists the rights that all children and young people in care should enjoy.

These rights are based on those rights articulated in the United Nations *Convention of the Rights of a Child*, which is an international convention that Australia has signed.

The Charter states that all children and young people in care have the right to:

- be provided with a safe and stable living environment
- be placed in care that best meets their needs and is most culturally appropriate
- maintain relationships with their family and community
- be consulted about, and take part in making decisions affecting their lives (having regard to their age or ability to understand), particularly decisions about where they are living, contact with family, health and schooling
- be given information about decisions and plans concerning their future and personal history, having regard to their age or ability to understand
- privacy, including in relation to personal information
- regularly review their care arrangements if they are under the long-term guardianship of the Chief Executive
- have access to dental, medical and therapeutic services, necessary to meet their needs
- have access to education appropriate to their age and development
- have access to job training opportunities and help in finding appropriate employment
- receive appropriate help with the transition from being a child in care to independence, including help with housing, access to income support, training and education.

Support Services

Family and Child Connect

Families who find themselves in need of support can contact Family and Child Connect for assistance. Where professionals (such as teachers, health workers and police) and members of the community have concerns about a child's wellbeing, they can refer the family to Family and Child Connect for information, advice, and engagement. Family and Child Connect leads a local alliance of government and non-government services within the community to ensure that vulnerable families receive the right mix of services at the right time.

Referral for Active Intervention (RAI)

Referral for Active Intervention (RAI) services are funded by DCCSDS and provide intensive family support for children, young people and their families who may be at risk of entering the child protection system.

There are a number of referral pathways into a RAI Service:

- referral from Child Safety Services
- referrals from Department of Education and Training (DET) and Queensland Health
- referrals from other government and non-government agencies and self-referrals, where service capacity allows.

To make a referral to a RAI service the following criteria must be met:

- there is a child unborn to under 18 years of age
- the family has medium (2-3 current concerns) to high (four or more current concerns) complex needs
- the family would benefit from access to intensive and specialist support services
- the child and family have had involvement with, or are at risk of progressing into the statutory child protection system
- the child is not currently in need of protection.

RAI services provide a broad range of intensive support services to children, young people and their families, and can also make referrals to specialist targeted services.

The following are just some of the supports that families might access from a RAI service:

- family counselling, family therapy and mediation
- family household management skills
- parenting skills development.

- individual counselling and child based therapies
- links to specialist services and supports such as mental health services and domestic violence counselling.

Family Intervention Services

The aim of Family Intervention Services (FIS) is to support clients of Child Safety Services where ongoing intervention is required with a family because of safety concerns.

The principal aims of the funding program are to preserve families where a child remains living at home under ongoing intervention and monitoring by the Child Safety Service Centre, and to assist in the reunification of the child with their family from out-of-home care where it is determined by Child Safety Services to be in the best interests of the child.

FIS aims to increase the protective factors for the child by improving the overall attachment between the child and parent. The FIS response also results in the family either exiting the child protection system with improved skills and parenting ability, or the child feeling and experiencing greater security and stability, including a reduction in safety concerns.

FIS also aims to prevent families from re-entering the child protection system by strengthening the caring and parenting skills of the caregiver and their positive participation in family and community life.

Intensive Family Support Services

Intensive Family Support Services are funded services that provide family support delivered under a lead case management model to address multiple and/or complex needs and assist families to build their capacity to care for and protect their children.

Intensive Family Support Services include:

- Intensive Family Support
- Referral for Active Intervention
- Aboriginal and Torres Strait Islander Family Support Services
- Fostering Families

The purpose of intensive family support services is to build resilience and independence in highly vulnerable families. The benefits being sought from this initiative are:

1. Highly vulnerable families receive the support they need to become stronger, more capable and resilient
2. Improved life outcomes for vulnerable children, including a reduction in the number of children in need of protection and in out-of-home care and a reduction in risk factors amongst vulnerable children and their families.

A more sustainable support service system for families, where government investment proportions shift from tertiary to secondary service delivery includes a community shift from reporting to Child Safety Services to referring families to support services.

Evolve

Evolve programs are based on the fundamental principles of early intervention, long-term sustainability, connection to land and voluntary participation. Each program seeks to enhance young people's view of themselves and expectations of future success.

Evolve is an Australian not-for-profit working with at-risk young people who know there's a better path to be on but don't know how to get there.

Evolve assists young people in recognising their value, redefining their sense of self and making positive choices using Narrative and Bush Adventure Therapy all before 'at-risk' becomes a tragic reality.

Contact arrangements

Types of contact

A child who is in out of home care may have contact with their parents, siblings, grandparents, aunts and uncles, cousins, as well as other people important to their family, community or culture, such as elders, family friends and neighbours.

Contact may include:

- visits
- telephone calls
- SMS messages
- letters
- email
- making audiotapes or
- skype / video conferencing.

Supervision

Contact may be:

- supervised by Child Safety Services
- supervised by another particular person, or 'a person approved by Child Safety Services'
- unsupervised.

Contact between the child and family is required to be supervised when:

- there are legitimate safety or abduction concerns for the child
- Child Safety Services need to observe the contact to make assessments about safety and parenting ability
- a qualified professional recommends that contact be supervised because it is in the child's interests
- the Child Safety Officer or another worker is working in a therapeutic capacity with the child and the family, such as training in parenting skills or managing the child's behaviour.

Important matters in determining family contact

Contact arrangements are important to the progress of your case because:

- Contact is important to your relationship with your child
- Often a case may progress towards reunification (the child returning to your care) by regular increases in contact. No increases in contact might mean that your case does not progress.
- Details of contact are often recorded by Child Safety Services. If you are regularly attending and having appropriate contacts with your child, then it will greatly support your case. If your contacts are not going well, or you are missing them, then this information may be given to the Magistrate and used in consideration of your child protection case.

Negotiating for more and better contact

If Child Safety Services is working with you towards reunification with your child, then contact arrangements should be reviewed every 4-6 weeks. This may be an internal review between the staff members, but you can request that you be included in that meeting, or have your lawyer included.

If contact is going well, then it may be changed:

- in quantity, such as for another contact each week
- in length, such as to overnights or weekends, or
- to require less supervision or no supervision.

You can also improve the quality of the contact by changing the location, such as by making it in the home, or at a park rather than in Child Safety Offices, or the activities, such as going to the mall together.

Asking the Childrens Court to change contact arrangements

If you are not satisfied that you are having enough contact and your child protection matter is before the Childrens Court, you can ask the Magistrate to make an order about contact when the matter is adjourned. Be prepared to describe the details of the contact that you have, and the reasons why you believe that it is in the child's best interests to have more contact.

Getting a decision in writing

When Child Safety Services make a decision about contact or placements, it should be provided to you in writing and they should provide reasons for the decision.

If a decision has not been provided to you in writing, then you can request it.

Applying to QCAT to review a contact or placement decision

Asking for the decision in writing

If Child Safety Services has made a decision about

- who a child should live with;
- not telling parents where they are living; or
- the amount and type of contact between a child and their parent/s or other relatives;
- who is approved as a kinship or foster carer

They should provide written reasons for the decision.

If a decision has been made but written reasons have not been provided, you can ask for the reasons to be given to you.

Once a decision has been made in writing you may be able to appeal it to QCAT if you do not believe that it is fair.

In most situations, you have only 28 days after you receive notice of a decision to lodge your application with QCAT for a review.

It is recommended that you seek legal advice as soon as possible after becoming aware of a decision to seek legal advice about the review process.

How to apply to QCAT

If you are unsure whether the decision Child Safety Services has made in your case is a decision that can be reviewed by QCAT, then get legal advice.

You can fill in an application (it's best if you can get it checked over by a lawyer first) and lodge it with QCAT. For further information about QCAT, what to expect and how to prepare, see the information contained on their website.

Once QCAT receives an application, they can review the decision and either agree or disagree with Child Safety Services or change things about Child Safety Services' position or make a new decision.

What if I don't agree with a decision of a Magistrate to make a child protection order?

Appeals

You can appeal the decision but this must be within 28 days of the decision being made. Notice of appeal must be filed in the registry of the District Court of Queensland. If you are considering appealing a decision:

- write a clear statement why you believe the decision is wrong or unfair
- as soon as possible, get legal advice about whether your appeal may be successful
- consult the District Court registry about the process for lodging appeal documents.

Once a child protection order is made, can the order be changed?

Yes. You can apply to vary or revoke (remove) a child protection order in the Childrens Court.

The court can only revoke the order if it is satisfied that the order is no longer appropriate and desirable for the child's protection.

If a parent has applied to vary or revoke an order once before, the parent cannot apply a second time unless they get 'leave of the court' (special permission from the Magistrate). If leave of the court is requested, the court will consider whether there is any fresh evidence before it will allow the application to proceed.

Any application to revoke or vary a child protection order must start with form 11 'Application to vary or revoke a child protection order'. You must also create at least one 'affidavit', which is a sworn statement that supports your application. Once the documents are filed, the application will be listed for a 'mention' in court and will proceed according to the usual procedure for an application for a child protection order.

A child may also apply to have an order revoked or varied.

What if I refuse to do what the order says?

You can be charged with an offence.

A warrant can be issued for an officer to enter and search a premises and remove a child if you prevent the child from being taken into care, or if you take the child from someone else's custody (who has been appointed to take care of your child).

Note: Interstate orders can be enforced here and orders made in Queensland can be enforced in other states. If you are having problems with interstate orders, seek legal advice.

Leaving care

CREATE Foundation

CREATE Foundation is the national peak consumer body representing the voices of children and young people with an out-of-home care experience (including kinship care, foster care and residential care).

The following information is provided by CREATE Foundation to assist teenagers who are leaving out-of-home care. If your child is leaving the out-of-home care system then you may be able to help them to access these resources.

Support for children fifteen years or older who are in care or have a care experience.

Most young people in care move out by the time they are 18. Generally young people in care aged between 15 and 18 stop being involved with Child Safety Services at some stage. What that means is that a young person is no longer on a child protection order and no longer has a child protection worker. Young people may have a leaving care worker, but either way it's time to help young people get ready to leave care and become independent.

Transitioning to independent living

During this time (transition to independence), young people are not obligated to move out of where they are living. If young people do move out, this is called transitioning to independent living! Young people may choose to move out and live in a place that does not have a carer or worker. Some accommodation may be supported and have some support workers available. Young people have the choice of deciding whether they want to move out with friends or family, or whether they want to live by themselves. All young people transitioning need to learn about new things and gain skills to be independent: the learning of new skills is a crucial part of making their transition to independence.

Young people are likely to experience a range of different emotions – from uncertainty to excitement, confusion to confidence. This is a time when their view of the world will change. Let's face it – it can be a challenging time. Young people deserve all the support they can get! Leaving care is a transition – moving from one way of life into a new way of life. Young people move toward the life of their choice and they don't have to do it alone. Young people who leave care are being empowered to take charge of their transition to independence and actively CREATE their future.

The 'Go Your Own Way' kit

The main areas of independence that young people require information, advice, and assistance with are all outlined in the GYOW (Go Your Own Way) kit on the CREATE Your Future website (<http://createyourfuture.org.au/>). These include: identity; education and training; employment and job search; money; health and wellbeing; housing and accommodation; life skills; relationships; and legal rights and responsibilities. The GYOW kit has a checklist to keep young peoples' transition to independence on track – it's really handy.



The 'SORTLI' app

As well as the GYOW kit, many answers to questions about these areas can be found on SORTLI (a contraction of the phrase 'sort out your life'). SORTLI is a free mobile app for young people to help them with their transition to independence.



Understandably, a young person taking charge of these areas in their independent life can feel overwhelmed, which makes their transition a challenge. Thankfully, there are numerous services and resources available to young people who age out of state care.

Next Step After Care Service

An important new service is Next Step After Care. Queensland is proud to have its first aftercare service available to young people transitioning to independence. Significantly, Next Step After Care was designed by young people with an out-of-home care experience who strongly advocated for an aftercare service. Next Step After Care services provide help to young people in Queensland aged 15-21 years, who have been in care, to help with any issues, no matter how big or small. Next Step After Care services have funding for every young person in Queensland who ages out of the custody or guardianship of Child Safety Services. This funding can be



used as assistance through brokerage (monetary aid), or tailored individual support (a little extra help to assist with independence). In addition, there is a 24/7 state-wide phone number that young people can call or text for assistance that costs nothing: 1800 NEXT STEP (1800 639 878).

Success stories that young people have chosen to share about their experience with Next Step After Care are available at: www.nextstepaftercare.com.au/blog. Additionally, you can find Next Step After Care on Facebook to keep up to date with how Next Step are helping out young people – and as a safe way to get in contact with Next Step After Care.

“Approval was done really fast – in days, not weeks.”

Jake, 20

“It’s the first time I’ve been able to call a place my own.”

Matthew, 19

“If I could give any advice to other children transitioning out of foster care, [it would be] don't be afraid to ask Next Step After Care for help.”

Mereoni, 19

“They helped with big things and small things – one time they even bought me groceries.”

Sonia, 18

oneplace Community Services Directory

oneplace is a new community service directory developed by the Queensland Family and Child Commission. This easily accessible directory of community support services to help Queensland families to get to the right service at the right time, including helping young people and their families get ready to leave care.



oneplace is the go-to resource for children, families, community members and professionals looking to find local support in Queensland. There are more than 46,000 records listed in oneplace highlighting information children, young people and their families need to know about leaving care. When you're looking for local support services oneplace provides up-to-date and comprehensive listings. oneplace will help you find the right service to support you at the right time.

While your network of friends and family is a logical first place to seek support and advice, there's also an enormous amount of help available from support services in the community. Professionals whose very job it is to support you in any area you might be struggling. oneplace will help you find the right service to support you at the right time. You can access oneplace here: oneplace.org.au.

Providing feedback and making a complaint about Child Safety

Providing feedback or following a complaints process may assist in resolving issues you have with Child Safety Services.

Before you start, consider: What would you like to see happen? What is the outcome that you are seeking? Would you like change in the way a specific worker acts? Would you like something specific to happen in your case, or would you like to help change the way Child Safety Services does things more generally?

Ways to provide feedback and make a complaint:

Locally

- You may be able to resolve the problem by speaking to the staff member, or their Senior Team Leader or Manager.
- Remember: if you do come to some agreement it is best to put it down in writing (in a letter to the Child Safety Officer or Senior Team Leader that you spoke to) confirming what was agreed to.
- Write a letter to the Child Safety Officer, Senior Team Leader or Manager of the Child Safety Service Centre explaining the problems you have and what you want to happen. Keep copies of the letter.

Tips

- Make sure the agreement is in writing and that you get a copy of it.
- Be aware that Child Safety Services can apply for a child protection order at any time during the Care Agreement.

Internal review

If you are unhappy with the response to your complaint, you can write to, or call the 'Complaints and Review' area of Child Safety Services. They will arrange to investigate the complaint and will keep you informed of the actions that they take.

Complaints and Review

Department of Communities, Child Safety and Disability Services
GPO Box 806
Brisbane Qld 4001

Some tips before you provide feedback or make a complaint:

- Always keep good records of your dealings with Child Safety Services. It is helpful to keep a diary and records of the conversations that you have with Child Safety Services workers. Record the name of every worker you spoke to and the date and time you spoke to them.
- If you are not getting calls returned, record the number of times you attempted to make contact.
- Ask for paperwork. If you get paperwork late and you have a court date, then you can ask the court for more time to look at the paperwork and get legal advice. Remember: keep all paperwork!
- If you receive a letter from Child Safety Services that you do not agree with, then it is important that you reply by letter what your side of the story is.

QLD Ombudsman

If you are unhappy with the outcome of the Internal Review, you can take your complaint to the Queensland Ombudsman. The Queensland Ombudsman has general powers to investigate and make findings about the actions and decisions of Queensland public agencies and their staff that may be unlawful, unreasonable, unfair, improperly discriminatory or otherwise wrong.

They also help state agencies and local councils improve their administrative practice by:

- making recommendations based on their investigations
- conducting training on good decision-making and complaints management
- providing advice and other assistance

The Ombudsman's findings are not binding on Child Safety Services, but they can help to improve systems and address unjust situations.

Ministerial Complaints

If your complaint is taking a long time and/or is not resolved to your satisfaction, you may also complain to the Minister for Communities, Child Safety and Disability Services or to your local State Member of Parliament.

Letter writing and tips

- It is important to write your complaint as simply and clearly as possible.
- Work out what your main problems are (e.g. that you are not getting your calls returned; that you don't feel that your concerns are taken seriously; that you are worried about your children's carer).
- Make sure that you get the right postal address (either by ringing the Child Safety Service Centre or getting the details from Child Safety Services' website).
- Remember to put your child's full name and date of birth at the start of the letter so that it is easy for the person who reads it to know who the matter is about.
- Focus on the child's best interests in the letter. You will be more effective if you say things like:

'I am really concerned about the effect of the arguments between the other children and my child in the carer's home'.



Instead of 'the carer's kids are spoilt brats and are mean to my child'

OR

'I think that only having two hours' contact with my child per week is not enough for my child to have a good continuing relationship with me'.



Instead of 'the Department is robbing me of time with my child' or 'the Department doesn't care'

Example letter

The Manager
Ipswich Child Safety Service C
PO Box 437
Ipswich QLD 4305

Ring and find out the
Manager's name and
address and put it in here

Date: 11 October 2016

Very important to put a date
on the letter!

Dear Manager

RE: JAMES ADAM SMITH DOB 01/01/2008

I am the father / mother of James Adam Smith born 1 January 2008.

James is currently under a short-term custody order expiring 14 September 2011. He lives with Mr and Mrs Jones (foster carers) in Ipswich.

I have a number of concerns I want to raise:

- I have attempted to contact and discuss my concerns with the Child Safety Officer, Ms Katrina Nguyen, 6 times over the last 2 week period. Unfortunately she has not got back to me.
- During my last contact visit with James he told me that his carer hit him and he showed me a bruise on his back. I am very distraught about this. I would like this investigated immediately.
- I want my contact increased with my son. I have had 2 hours contact per week for the last 6 months. I have been consistent in my contact and I believe that this should be increased.

Dot points
are very
helpful to
make each of
your issues
clear.

The last case plan meeting was held about 7 months ago. I understand that a case plan must be held at least every 6 months. I would like this organised as soon as possible.

Please respond to this letter **within 7 days**. If I do not hear from you within this time, I intend to pursue an application in the Queensland Civil and Administrative Tribunal.

Yours faithfully,

Kym Smith

You may be able to appeal a
denial of an increase in
contact to the QCAT.

Useful contacts

Child Safety After Hours

Telephone: 1800 177 135

Web Site: www.communities.qld.gov.au › Community Services

Create Foundation

Telephone: 1800 655 105

Web Site: create.org.au

Crime and Corruption Commission

Telephone: (07) 3360 6060

Web Site: www.ccc.qld.gov.au

Legal Aid Queensland

Telephone: 1300 65 11 88

Web Site: www.legalaid.qld.gov.au

Office of the Public Guardian

Telephone: 1800 661 533

Web Site: www.publicguardian.qld.gov.au/child-advocate

Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP)

Telephone: (07) 3328 8500

Web Site: www.qatsicpp.com.au

Community Legal Centres Queensland

(formerly Queensland Association of Independent Legal Services)

Telephone: (07) 3392 0092

Web Site: www.qails.org.au/default.asp

Queensland Council of Social Services (QCOSS)

Telephone: (07) 3004 6900

Web Site: www.qcoss.org.au

Queensland Family and Child Commission

Telephone: (07) 3900 6000

Web Site: www.qfcc.qld.gov.au/contact-us

Queensland Law Society

Telephone: 1300 367 757

Web Site: www.qls.com.au

Queensland Ombudsman

Telephone: (07) 3005 7000

Web Site: www.ombudsman.qld.gov.au

Queensland Police Service

Telephone: 131 444

Web Site: www.police.qld.gov.au

South West Brisbane Community Legal Centre

Telephone: (07) 3372 7677

Web Site: www.communitylegal.org.au

Townsville Family Inclusion Network

Telephone: 0488 715 964

Web Site: www.fin-qldtsv.org.au

Youth Advocacy Centre

Telephone: (07) 3356 1002

Web Site: www.yac.net.au

Credits

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CREATE Foundation

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