In Queensland, most of the laws about protecting children can be found in the *Child Protection Act 1999* (the Act). The Act contains the overarching principles that guide how decisions should be made. When it is unsafe for a child to live at home, Child Safety Services may place them in out-of-home care. This fact sheet explains the main principles of the Act and the rights of children who live in out-of-home care.

**The paramount principle**

The paramount principle of the Act is the safety, wellbeing and best interests of children must always come first. When making any decision involving a child, the child’s safety, wellbeing and best interests are the most important consideration, and take priority over an adult’s interests or the interests of any organisation. This does not mean the interests of a parent are not important, it just means they should not take priority over a child’s.

No matter who you are or what your role is, the child’s safety, wellbeing and best interests is the most important consideration in any decision.

**Sharing information in the best interests of the child**

The paramount principle supports information sharing when it is in the best interests of the child.

You can always share information with a colleague in your agency to decide whether to report concerns to Child Safety Services. If you provide services to children and families, you can also ask some government agencies, known as particular prescribed entities, for information to help you decide whether to make a report.

If you’re working with a child or parent who has ongoing involvement with Child Safety Services, you can share information with other services to make plans for the child’s health, educational or other care needs.


There are a number of questions you can ask to work out if a decision is in the best interests of the child:

1. Is there a risk the child may be harmed if I don’t do this?
2. Will this help to meet the safety or care needs of the child if I do this?
3. Can I say I am doing this because I honestly and reasonably believe it will help protect the child?
The paramount principle is applied at all stages of the child protection system. Some situations include when:

- a professional is considering whether to refer a family to a support service or report concerns about a child to Child Safety Services
- a child safety officer is assessing how to respond to a notifier’s concerns about a child
- an agency is deciding what information it should share with another agency about a family, in order to plan for a child’s safety
- a child safety officer is assessing if a child is in need of protection
- a Child Safety Services team leader is making a decision about family contact arrangements for a child in out-of-home care
- a foster care agency is considering whether a particular foster carer is a good match for a child who is being placed in out-of-home care
- the Director of Child Protection Litigation (DCPL) is deciding whether to apply for a child protection order. DCPL is an independent agency in the Department of Justice and Attorney-General that conducts child protection legal matters.
- a judge or magistrate is deciding whether to grant a child protection order to keep a child safe.

Child Safety Services applies the paramount principle every time a decision about a child’s care, protection or wellbeing is being made.

You can assess a child’s safety, wellbeing and best interests by considering factors such as:

- the views and wishes of the child, parents and any other significant people in the child’s life including professionals and extended family
- contemporary research and best practice findings about how to support the child and family’s individual needs
- any risks to the child’s safety and any significant harm that has occurred
- legislation and how it applies to the child and his or her particular circumstances
- any protective factors that will help keep the child safe
- the child and the parents’ strengths and needs

The paramount principle is supported by other principles in the Act that say:

- a child has a right to be protected from harm or risk of harm
- the preferred way of ensuring a child’s safety and wellbeing is through supporting the child’s family
- the government should help protect a child if their parents are unable or unwilling to do so
- children should know, explore and maintain their identity and values, including their cultural, ethnic and religious identity and values
- families, professionals, agencies and the community should consult with each other, work together and coordinate quality service delivery.
Other principles that guide decision making about children

The child’s views and wishes
The views of the child affected by the decision should be sought and taken into account as appropriate. If required, children 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.

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 meets their developmental, educational, emotional, health, intellectual and physical needs.

A child should be able to maintain relationships with their family and kin, where safe to do so, and to know, explore and maintain their identity and values including their cultural, ethnic and religious identity and values.

If an Aboriginal or Torres Strait Islander 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.

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 affected by the decision.

Privacy should be respected where possible.

Action that is warranted
The government should only take action that is warranted in the circumstances. This means intervention that is necessary for the child’s protection and wellbeing.

Emotional security and stability
When making decisions about a child, their need for emotional security and stability is taken into account. This is particularly relevant when a court is making a decision about whether to grant an order for a child. Factors that might be relevant to emotional security and stability include the child’s attachment to parents, their views and wishes about where they would like to live and how long they have been in a particular foster or kinship placement.

Aboriginal and Torres Strait Islander children
When making a significant decision about an Aboriginal and Torres Strait Islander child, Child Safety Services and the Director of Child Protection Litigation must give a recognised entity (an independent Aboriginal or Torres Strait Islander agency) 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 traditions or Torres Strait Islander customs relating to the child.

All consultations, negotiations, meetings and proceedings involving Aboriginal and Torres Strait Islander peoples 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 their own community, if possible, and the child should be helped to maintain a connection with their culture to preserve and enhance the child’s sense of Aboriginal or Torres Strait Islander identity.

Kin are relatives who are significant to the child. It can also include anyone else significant to the child. For Aboriginal and Torres Strait Islander children, kinship care may include another Aboriginal person or Torres Strait Islander who is a member of, or is compatible with, the child’s community or language group.

Rights of a child in care

The Charter of Rights for Children in Care can be found 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 the United Nations Convention on 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.

You can help to uphold a child’s rights by offering them information or explaining what’s happening, listening to their views and helping them to speak up if they are concerned about something.

For more information about children’s rights, check out: