

28 November 2025

**Commission of Inquiry
Child Safety System**

By email: info@childsafetyinquiry.qld.gov.au

Dear Commissioner,

RE: Commission of Inquiry – Child Protection Litigation Model and the Office of the Child and Family Official Solicitor

Women's Legal Service Queensland ('WLSQ') provides Queensland-wide, specialist, free legal information, advice and representation to women in matters involving domestic violence, family law, child protection, financial abuse prevention and some criminal law and sexual violence matters including sexual assault counselling privilege.

Our advocacy work is informed by lived experience of our clients and is informed by the expertise of our staff, including lawyers, social workers, and financial advocates. Our submission is focussed on the experiences of the parents we support. WLSQ does not advise or act on behalf of children in child protection proceedings.

Our submission focuses on the questions asked in the call for submissions about the child protection litigation model and dispute resolution processes.

ROLE OF THE COURT AND LEGAL PROCESS FOR APPLYING AND DECIDING CHILD PROTECTION ORDERS

1. The court plays an integral role in ensuring that child protection legislation and regulations are being applied and implemented correctly and fairly. However, it is the experience of the women we support that the process can be lengthy, that there are inconsistencies in how these matters are managed across the state and that parents feel they are not heard or genuinely supported to have their children remain at or return home.

Inconsistent approaches and delays

2. The pathway a child protection matter may take in court can vary significantly between Magistrates and regions. While there are mandatory steps that must be taken in every application that comes before the Children's Court, there are no practice directions or other publicly available guidelines that set out the expectations for how individual registries should manage these applications. This can create significant delays in court proceedings, resulting in matters remaining before the court for determination for longer than the order that is being sought. This is inconsistent with the principle that is in the child's best interests for the application for the order to be decided as soon as possible.
3. Inconsistencies in case management and delays in progressing matters through the court system can also result in:



- a. Additional emotional and psychological harm for both the subject children, and their parents/carers due to ongoing uncertainty and delays outside of their control;
- b. Additional family group meetings to revise case plans that have expired during adjournment periods;
- c. Additional court mentions and consequently, additional public funds being expended; and
- d. Parents disengaging from the court process all together.

Communication between the Director of Child Protection Litigation and the Office of the Child and Family Solicitor

4. It is our observation that there is often a lack of timely communication between the Director of Child Protection Litigation (“DCPL”), the Office of the Child and Family Solicitor (“OCFOS”) and the Department of Families, Seniors, Disability Services and Child Safety (“the Department”). This often results in repeated adjournments and delay in the proceedings.
5. A specific example of this is when the DCPL amends an application during the court proceedings if a parent or family makes meaningful progress towards addressing the child protection concerns. The DCPL is not provided with information regarding a family’s progress at addressing the child protection concerns until the matter is listed for a court ordered conference (“COC”), which is the last step in the court process before the matter is listed for final hearing.
6. We have also experienced the Department and separate representatives contacting parents directly when they are legally represented in proceedings. This has included arranging for clients to sign case plans and arranging social assessment interviews without their legal representatives being aware and being provided with the opportunity to provide advice to their client.

Applications for emergent orders

7. In our experience OCFOS will routinely file applications for Temporary Assessment Orders and/or Temporary Custody Orders outside of business hours.
8. While we appreciate that such applications are made in what the Department considers to be urgent circumstances, it denies the parents or carers procedural fairness as they are only told about the application after the decision has been made. In practice this often means that the children are removed prior to a parent or carer being served with the application and being provided with the opportunity to obtain legal advice.

DISPUTE RESOLUTION PROCESSES

Family Group Meetings

9. Family Group Meetings (“FGM”) are an important part of the child protection process as it provides an opportunity for the family to be told why the Department is concerned about the safety of their children, and what steps need to be taken by the family to address those concerns. In the experience of our lawyers and clients, there are numerous issues with the current FGM process, including:
 - a. FGM’s being arranged without consulting with legal representatives and/or separate representative. This can result in the subsequent case plan being deemed inappropriate, necessitating a further FGM to be convened, further delaying the court proceeding and the family’s ability to be linked in with appropriate service providers to start addressing the child protection concerns.
 - b. FGM’s taking too long to arrange. It is not uncommon for matters to be before the court for several months before a FGM is arranged, and a case plan developed.
 - c. Case plans taking weeks, sometimes months, to be finalised and filed with the court. There is a requirement under s51Q of the *Child Protection Act 1999* for case plans to be endorsed by the Chief Executive within ten (10) business days of the case plan being developed as a ‘case planning meeting’. It is our experience that this rarely occurs.
 - d. Neither OCFOS or DCPL are invited to or participate in FGM’s. Given these Departments are ultimately responsible for deciding what application/s will be filed for a child, it would be reasonable to expect that they would also have some interest and knowledge of the steps the Department are asking the child’s family to take to address the child protection concerns. In addition, it would provide an opportunity for either OCFOS or DCPL to ensure that the Department are fulfilling their obligations to support families to care for their children.
10. It is also our experience that Magistrates rarely use their powers under section 68(1)(d) of the *Child Protection Act 1999* to order that the Chief Executive convene a FGM and that case plans be filed by a specific date. Utilising their already existing powers under the Act could ensure that FGM’s and case plans are being convened and finalised in a timelier manner, resulting in less court mentions and unnecessary and lengthy adjournments and delay.

Court Ordered Conferences

11. Court Ordered Conferences (“COC”) are the last step in the court process before an application is listed for final hearing. This is often the first time that the DCPL are made aware of the progress the family have made towards addressing the child protection concerns.
12. If this information was being shared throughout the court process, and not just at the point of the matter being listed for COC, there could be further opportunities for applications to resolve at an earlier stage.

SUPPORTS FOR CHILDREN AND FAMILIES TO NAVIGATE THE SYSTEM

13. There are significant barriers for families navigating the system and limited supports available. The barriers include:
 - a. Child protection duty lawyers are only available in 19 locations on specific days. This results in many parties appearing before the court with no legal advice or representation.
 - b. There is a lack of easy English and accessible resources available to parents to explain the child protection process and their options.
 - c. The ability to file documents online and attend court events online is limited in the Children's Court. This is a significant barrier for many parents, particularly those living in regional, rural and remote areas.
 - d. The court applications and supporting documents filed by OCFOS and DCPL are often lengthy with multiple annexures. Many parents navigating the child protection system find these documents difficult to read and understand.

Support for children

14. The child's views and wishes are usually provided to the court via the affidavit of the relevant child safety officer ("CSO"). Given the power imbalance that exists between the subject child/ren and their CSO, we do not believe that this is the most appropriate way for the children's views and wishes to be put before the court.
15. Child advocates can be appointed by the Office of the Public Guardian. Child advocates can help children understand the court process and can support the child to have their views and wishes put before the court. Unlike a direct representative, they cannot represent the child in the proceedings. The main way that children are made aware of child advocates is through the allocated CSO. There are several issues with this, including:
 - a. Some children do not have a relationship with their CSO at all, meaning these important services are not raised or discussed with them at all;
 - b. There can be significant distrust between children and their CSO, which can result in children not trusting the recommendations or suggestions of the CSO;
 - c. Even if a child does develop a safe, trusting relationship with their CSO, due to constant staff changes within the Department, the CSO may be allocated elsewhere before these services are discussed or suggested.
16. Legal Aid Queensland have funding available for the direct representation of children in child protection proceedings. If the lawyer assesses that the child is competent to provide instructions, they can provide them with independent legal advice about the court process, their options and likely outcomes and in some cases, represent the child in the proceedings.

17. Consideration should be given to ensuring that information about these two options is provided and explained to all children involved in the court system so that they can make a fully informed decision about whether they wish to be involved in the process and/or receive additional support to do so.

OPPORTUNITIES FOR EARLY ADVICE AND EARLY RESOLUTION OF MATTERS

18. There are limited options available to parents receive free legal advice and assistance to assist with the early resolution of matters. Legal aid funding is not available until an application has been filed in court. Free legal advice from services such as Women's Legal Service Queensland is often limited due to high demands on our service and limited capacity to review lengthy court material to provide fulsome and strategic legal advice. In our experience, parents are often more willing to work with the Department when they understand their rights and the power imbalance is addressed with legal advice and support.

ANY ISSUES TO CONSIDER FOR PARTICULAR PEOPLE SUCH AS ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN AND FAMILIES

19. We acknowledge that Aboriginal and Torres Strait Islander children are overrepresented in the child protection system. There is a lack of easily accessible, culturally safe services and programs to support Aboriginal and Torres Strait Islander families to address their child protection concerns. While this is not directly related to the processes of OCFOS or the DCPL, we consider this to be relevant to the experiences of Aboriginal and Torres Strait Islander children and families involved in child protection litigation.
20. Case planning for Aboriginal and Torres Strait Islander children and their families can be problematic. The Department generally refer ATSI families to the 'Family Participation Program' for case planning, which is independent of the Department. Whilst the purpose of the program is the facilitation of independent Aboriginal and Torres Strait Islander Family Led Decision Making, a process whereby authority is given to parents, families and children to work together to solve problems and lead decision-making in a culturally safe space, the reality is that families are often waiting a number of months to access the service, resulting in there being no case plan or meaningful referrals provided to families for a significant period of time. This creates further disadvantage for these already vulnerable children and families.

WHAT SHOULD BE THE OVERALL PURPOSE OF THE CHILD PROTECTION LITIGATION MODEL AND WHAT SHOULD WE LOOK FOR TO ENSURE THE SYSTEM IS WORKING

21. The overall purpose should be to genuinely support families to safely parent their children at home. The litigation model should be focused on:
 - a. A less formal and adversarial process to support parents' active engagement; and
 - b. Increased information sharing throughout the entire court process to ensure that the least intrusive application is before the court, taking into consideration the progress that many families make during the litigation process.

ANY OTHER ISSUE THAT MIGHT BE RELEVANT TO UNDERSTANDING HOW THE CHILD PROTECTION LITIGATION MODEL DOES OR SHOULD WORK

Separate Representatives

22. Separate representatives are appointed to represent the best interests of the child during court proceedings. In practice, the approach taken by separate representatives varies significantly which can be confusing for parents and makes it difficult for legal representatives to accurately advise parents on the process. The differences in approach can include not meeting with children, not putting the views and wishes of the child before the court and arranging social assessment report interviews without advising the legal representatives.

Social Assessment Reports

23. There is a lack of suitably qualified report writers available, this can result in reports that are of a low quality and delays in proceedings. The wait for a social assessment interview can be six to nine months in many cases. Reports are often outdated by the time a matter reaches trial, and the report writer may not have met the family for several years.
24. There is also a lack of consistency and oversight regarding how social assessment report writers are engaged by the Department and the documents that are shared with them. In our experience, it is common for the Department to provide the report writer with documents from their file without notice to the parties.

Case Management System

25. When the Department records child concern reports and notifications in their case management system, the Department is not required to refer to the source of an allegation of risk or a diagnosis. That risk or diagnosis is then often repeated in records and court documents as a fact without there being a review of the accuracy or veracity of such claim. It can then be difficult for parents to refute such claims as they have been repeated in multiple documents often over a long period of time.

Ongoing consultation

We would welcome the opportunity to continue to consult with the Commission of Inquiry on these issues. If you have any queries regarding the contents of this letter, please do not hesitate to contact us.

Yours faithfully,



Ms Nadia Bromley
CEO
Women's Legal Service Qld