

# **Commission of Inquiry into Queensland's Child Safety System – Complaints System**

Submission by Legal Aid Queensland

1 August 2025

## Introduction

Legal Aid Queensland (LAQ) welcomes the opportunity to make a submission to the Commission of Inquiry into Queensland's Child Safety System regarding the adequacy of existing complaints systems, procedures, and incident reporting guidelines for those wishing to raise serious safety concerns about children under the care of the State.

LAQ provides input into State and Commonwealth policy development and law reform processes to advance its organisational objectives. Under the *Legal Aid Queensland Act 1997*, LAQ is established for the purpose of “*giving legal assistance to financially disadvantaged persons in the most effective, efficient and economical way*” and is required to give this “*legal assistance at a reasonable cost to the community and on an equitable basis throughout the State*”. Consistent with these statutory objects, LAQ contributes to government policy processes about proposals that will impact on the cost-effectiveness of LAQ's services, either directly or consequentially through impacts on the efficient functioning of the justice system.

LAQ always seeks to offer policy input that is constructive and is based on the extensive experience of LAQ's lawyers in the day-to-day application of the law in courts and tribunals. LAQ believes that this experience provides LAQ with valuable knowledge and insights into the operation of the justice system that can contribute to government policy development. LAQ also endeavours to offer policy options that may enable government to pursue policy objectives in the most effective and efficient way.

When considering issues within the child safety system in Queensland, LAQ acknowledges that the over representation of Aboriginal and/or Torres Strait Islander people in the child safety system is a significant issue that results from the disadvantage experienced by Aboriginal and/or Torres Strait Islander peoples across a number of social, cultural and economic indices. Geographical isolation and limited or non-existent services in parts of Queensland increases the vulnerability of Aboriginal and/or Torres Strait Island people. Any review of the child safety system that may see improvement in this situation has LAQ's support.

This submission calls on the expertise and experiences of LAQ lawyers from across the State employed in the Family Law Services Division (including the Child Protection Teams), Criminal Law Services Division (including the Youth Legal Aid Teams) and Regional Offices.

LAQ lawyers in the Family Law Services Division have significant experience in the provision of legal advice and representation services to parents, children, and young people within the child safety system. LAQ's lawyers have experience acting as party representatives, separate representatives and direct representatives for children and young people. As the largest criminal law practice in the State, LAQ lawyers have extensive experience providing legal advice and representation to those involved in the youth justice system, including those who are subject to dual youth justice and child protection orders. LAQ can therefore offer submissions which encompass a range of perspectives in relation to the child safety system.

Section 8 of the *Child Protection Act 1999* (CPA) defines a child as “an individual under 18 years”. As such the term child is used in this submission to refer to any person under the age of 18. It is acknowledged that older children may identify as a young person rather than a child, however the terms child or children is used consistently for readability and to remove confusion.

The Department of Families, Seniors, Disability Services and Child Safety is referred to throughout this submission as “Child Safety”.

## Submission

### Need for information to be proactively provided about options for making complaints

The child safety system is complex. There are many different agencies and people (“players”) who interact in relation to a child for whom there are child protection concerns. **Attached** is a diagram at **Annexure A**, which visually represents the “players” who are involved in the child safety system when child protection litigation is before the Childrens Court. Decisions made by these agencies and people impact on all aspects of a child’s life, from where they live and with whom; what time they spend with their parents, siblings, and other family members; their day-to-day routine; where they go to school; their access to medical treatment; and so on.

As the child safety system is complex, it follows that the system for managing, investigating, and reaching decisions about complaints is also complex. There are different types of complaints that may involve more than one of the different “players” that can be made by a family member, care provider, child, legal professional or member of the public, with different bodies responsible for managing these. For example, complaints about professional standards, human rights violations and disputed reviewable decisions each have different policies, procedures, and responsible authorities.

The person or body responsible for making decisions, and the process followed differs depending on the nature of the complaint. Child Safety are responsible for dealing with most complaints in the first instance. There are also other different bodies who can potentially deal with complaints or review Child Safety’s decisions including the Queensland Ombudsman, Queensland Human Rights Commission and Queensland Civil and Administrative Tribunal (QCAT). Complaints about the professional behaviour of lawyers employed by the Office of the Child and Family Solicitor (OCFOS) and the Director of Child Protection Litigation (DCPL) are dealt with by the Legal Services Commission, noting that such complaints can be made by lawyers or Child Safety. The Queensland Family and Child Commission also plays a role in reviewing child deaths and serious injuries, aiming to improve systems and practices.

Depending on the issue/s being raised the pathway to navigating a complaint is not necessarily linear and a complainant may be required to move between different parts of the child safety system and liaise with a number of responsible authorities depending on the issue/s at hand. For example, it is LAQ’s experience that a client may wish to seek a review of a reviewable decision made by Child Safety, but their ability to do so is restricted by Child Safety failing to provide them with a reviewable decision letter in a timely manner. In this circumstance, the client would be required to navigate not only the review process through QCAT, but also a complaint to Child Safety about their failure to provide written notice of the reviewable decision. It is noted that many complainants in this position are also involved in child protection litigation proceedings that are before the Childrens Court.

For a non-professional person engaged with the child safety system in any capacity navigating these different systems and ascertaining the correct process for making a complaint can be extremely confusing. This confusion can be amplified for any person with additional vulnerabilities (such as adults who lack capacity and children). It is the experience of LAQ lawyers that parents and children are often not proactively provided with information about the process for making a complaint. If they are provided with this information, it is often not communicated in a way that is accessible to that person. In LAQ’s experience, clients are usually advised via a standard “form”

letter from Child Safety that they have a right to request a review of a decision, regardless of whether they have difficulties with comprehension or communication. LAQ has assisted clients who are unable to read and write or who have other vulnerabilities (such as intellectual disability) and who have received this lengthy “form” letter from Child Safety. Similarly, LAQ has represented children who have received standard letters where no attempt has been made to deformatise the language. This is inconsistent with the complaints management principle of “*providing a people-focused and proactive approach to seeking and receiving feedback and complaints*” as articulated in the department’s complaints management policy.<sup>1</sup>

It is also the experience of LAQ lawyers that when there are a number of different players involved in issues that are the subject of the complaint, it is particularly difficult to obtain resolution and accountability. For example, when there are court proceedings, complaints raised can be taken to be issues that can be tested at trial. However, many matters do not proceed to trial and whilst the court can make findings about the conduct of Child Safety staff and others, the court’s primary function is not to deal with complaints but to determine whether all of the legislative criteria have been met to make a child protection order. Further, if adverse comments are made in a judgment by the court about Child Safety staff it is unclear whether Child Safety records this as a complaint and what follow up action is taken.

**Attached** is a case study as **Annexure B** which demonstrates some of the challenges raised.

LAQ acknowledges the important role played by the Office of the Public Guardian (OPG) through their Adult Guardian, Child Advocate and Community Visitor programs in supporting vulnerable people engaged with the child protection system to navigate complaints processes. However, these supports are not universally available to all people engaged in the child safety system. LAQ calls for a positive obligation to be placed on Child Safety to ensure that all parents and children engaged with Child Safety are proactively provided with user orientated information about how to make a complaint and where to receive assistance and support.

It has been the view of LAQ for some time that a specific Parent Advocacy Service should be established to provide specialist legal advice and social support assistance to parents in the child safety system. This would be a street front service accessible to parents. Parents would be able to self-refer in and obtain access to legal assistance and social supports.

A Parent Advocacy Service could also assist parents with navigating the various complaints systems. LAQ has previously made submissions proposing a Parent Advocacy Service when responding to a review of the Queensland Child Protection Litigation Model in June 2024. A copy of this submission can be produced upon request.

### **Management of complaints by Child Safety and potential conflicts of interest**

Child Safety’s complaints management policy provides that:

*“In most instances, expressions of dissatisfaction should initially be referred to the point of service that has caused the dissatisfaction. The matter will be considered, and a response provided to resolve the dissatisfaction. This is considered the first attempt at resolution, and the expression of*

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<sup>1</sup> Department of Families, Seniors, Disability Services and Child Safety, *Whole of Department Policy: Complaints Management*. <https://www.families.qld.gov.au/media/documents/contact-us/complaints/complaints-management-policy.pdf> at 3.1.1

*dissatisfaction may be resolved at this point. If, after the first attempt at resolution, the person remains dissatisfied and they again express their dissatisfaction to the department, then the subsequent expression of dissatisfaction becomes a complaint for the purposes of this policy.*<sup>2</sup>

It is the experience of LAQ lawyers that clients engaged with the child safety system often do not feel able to raise dissatisfaction and make complaints directly with Child Safety staff with direct responsibility for case management in relation to their family. This is for several reasons:

- Clients often experience that when they raise concerns, it is treated as a “vent” or being difficult or antagonistic rather than as a legitimate complaint.
- Clients fear the consequences of being labelled “difficult” or “uncooperative” by Child Safety staff who are often responsible for making decisions about their children or giving evidence in related court proceedings.
- In regional and remote areas where limited placement options are available, if complaints are substantiated against a care provider, this could lead to children being placed a significant distance away from their family and community.

The “first attempt at resolution” policy relies on Child Safety staff whose actions may be the subject of the complaint to determine whether the dissatisfaction raised by the client is to be treated as a formal complaint and managed accordingly. This raises significant concerns about conflicts of interests and the role of Child Safety staff in managing/escalating complaints of which their conduct or decisions are the subject.

LAQ also queries the appropriateness of frontline Child Safety staff holding responsibility for complaints management, in addition to their already staggeringly broad range of responsibilities and obligations.

It is the experience of LAQ Lawyers that Child Safety staff are often unaware of the extent of their obligations under existing internal policies and procedures, as well as under the *Child Protection Act 1999* (Qld). LAQ lawyers report that under cross-examination Child Safety staff have been unable to articulate their obligations in managing complaints being made about a child’s care under a Permanent Care Order.<sup>3</sup>

Further, it is noted that the relationship between Child Safety staff and a family that they have case management responsibility for may be undermined if those staff are responsible for managing any complaints made by the family about Child Safety.

### **Communication regarding complaints processes**

The Australian/New Zealand Standard, ‘Guidelines for complaint management in organisations’<sup>4</sup> provides that following the consideration of a complaint, a complainant should be advised of the

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<sup>2</sup> Department of Families, Seniors, Disability Services and Child Safety, *Whole of Department Policy: Complaints Management*. <https://www.families.qld.gov.au/media/documents/contact-us/complaints/complaints-management-policy.pdf> at 4.4

<sup>3</sup> [CPA ss 80B – 80E](#)

<sup>4</sup> Australian/New Zealand Standard ‘Guidelines for complaint management in organizations’ AS/NZS 10002:2014

actions taken, the outcome of the complaint, the reasons for any decision and any remedy or resolution offered and information about other remedies that may be available to the complainant. The *Public Sector Act 2022* (Qld) requires government departments to establish and implement a system that complies with this standard.<sup>5</sup>

LAQ clients frequently report that in practice, they receive little to no communication from Child Safety as to the management of their complaints. In LAQ's view this may be due to complaints not being treated as such by Child Safety staff, and therefore not being managed in accordance with the policy.

The experience of LAQ lawyers in relation to complaints is reflected in the Queensland Ombudsman 2020 report "*Management of Child Safety Complaints – Second Report*". In this report the Queensland Ombudsman concluded that there was a significant disconnect between Child Safety's complaints management policy, and the actual procedures being followed by Child Safety staff.<sup>6</sup> Notably:

- Child Safety is failing to identify and record all complaints received at Child Safety Service Centres consistent with its complaints management policy and procedure.
- Child Safety is failing to properly categorise complaints consistent with its complaints management policy and therefore does not adequately respond to, or accurately record and report on, the complaints it receives.

Ensuring that Child Safety maintains clear records, independently evaluates all complaints, and communicates outcomes in an accessible manner, considering each individual's specific circumstances and vulnerabilities, should be a top priority. Outcomes need to be conveyed to complainants using appropriate language taking into account the capacity of the complainant to understand the information being provided (for example, deformed child friendly language where the complainant is a child). Ongoing training and resources for Child Safety staff should be available to ensure that policies and procedures are complied with.

LAQ queries whether, in dealing with complaints, Child Safety can hold itself to the same standards as parents in investigating complaints about the care being provided to a child, noting Child Safety's role as a corporate parent. In the experience of LAQ lawyers, even where complaints regarding the care of children are substantiated, limited information is fed back to the complainant and there is often limited accountability from Child Safety, or solutions offered to rectify issues identified. It is noted that, unfortunately, in some cases, there is simply no solution available to rectify issues identified due to a lack of resources and/or services in some areas or other complicated practical realities.

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<sup>5</sup> [Public Sector Act 2022 \(Qld\) s.264](#)

<sup>6</sup> [Queensland Ombudsman, Management of child safety complaints – second report, March 2020](#)

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# Annexure "A"

## THE PLAYERS...







