

ANNUAL REPORT

2017–2018



Queensland
Government

Purpose

This annual report presents information about the performance of the Director of Child Protection Litigation for the period 1 July 2017 to 30 June 2018. It contains a record of the activities and achievements for the financial year.

Availability and access:

Electronic copies of this annual report can be obtained at:
www.dcpl.qld.gov.au/resources/directors-guidelines-annual-reports-delegations

For a printed copy of the annual report, or for more information, contact:

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Interpreter service

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31 October 2018

Director of
Child Protection Litigation

The Honourable Yvette D'Ath MP
Attorney-General and Minister for Justice
Leader of the House
1 William Street
BRISBANE QLD 4000

Dear Attorney-General

I am pleased to submit for presentation to the Parliament the Annual Report 2017-18 for the Director of Child Protection Litigation.

The Director of Child Protection Litigation has now been operating for two years. It was created on 1 July 2016, implementing recommendation 13.17 made by the *Queensland Child Protection Commission of Inquiry*.

I certify that this Annual Report complies with:

- section 40 of the *Director of Child Protection Litigation Act 2016*, and
- the detailed requirements set out in the *Annual report requirements for Queensland Government agencies*.

The Director of Child Protection Litigation is not considered a statutory body for the purposes of the *Statutory Bodies Financial Arrangements Act 1982* or the *Financial Accountability Act 2009*.

A checklist outlining the annual reporting requirements can be found in Appendix 4 (page 47).

Yours sincerely



Nigel A. Miller
Director of Child Protection Litigation
Office of the Director of Child Protection Litigation

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Director of Child Protection Litigation's overview

It is with pleasure that I present the second Annual Report of the Director of Child Protection Litigation (DCPL) for the financial year 2017-18.

The DCPL delivers on Queensland Government's commitment to keep communities safe and assists in the State's child protection activities.

On 1 July 2016, Queensland became the first jurisdiction in Australia to create a professional separation between the decision to apply for a child protection order and the related frontline child safety casework. The responsibility of deciding whether an application should be made for a child protection order, what type of order should be sought and the conduct of the resulting litigation was transferred from the chief executive of the Department of Child Safety, Youth and Women (referred to throughout this report as 'Child Safety Services') to the independent statutory officer, the DCPL. The establishment of the DCPL along with the Office of the Director of Child Protection Litigation (ODCPL) to support the DCPL, implemented an innovative recommendation of the 2013 Queensland Child Protection Commission of Inquiry (Commission of Inquiry).

The aim of the DCPL is to improve outcomes for children and their families by providing greater accountability and oversight for child protection order applications proposed by Child Safety Services, by ensuring that the applications filed in the Childrens Court of Queensland (the court) are supported by good quality evidence, promoting efficiency and evidence-based decision-making.

This report provides information about our performance and records the achievements in ensuring the safety of vulnerable children across Queensland.

One of the many benefits of the DCPL, is the ability to gather data across the child protection litigation system.

Having now operated for two financial years, it is of note that the DCPL received a marginal increase in work from Child Safety Services in the second year of operation, made more applications, and had more orders made by the court for long-term guardianship of children, supporting stability in the lives of those children.

Improvement to child protection service delivery by the DCPL

The establishment of the DCPL has contributed to the improvement of outcomes for children and families by:

Independent decision-making

- As an independent, arms-length decision maker, the DCPL ensures greater accountability and oversight in commencing litigation and managing subsequent proceedings for child protection orders. For the first time in Queensland, administrative decisions about whether or not applications for child protection orders should be made, and if so, the type of orders that should be sought, is, made by specialised lawyers with child protection expertise who practice solely within this area of law.
- In separating litigation from day to day casework, great accountability is achieved through the independent scrutiny of Child Safety Services' assessments, prior to litigation being commenced.

- This provides an assurance that the State is only taking action that is warranted in the circumstances, which safeguards that children are not unnecessarily removed from their parents or family, and do not enter statutory care without a robust and independent assessment of the evidence.
- As outlined in the performance part of this report, in 2017-18, 4.6% (115) of all referred *child protection matters (matter)* dealt by the DCPL were referred back to Child Safety Services. This equates to almost 1 in 22 children referred to the DCPL. *Matters* are referred back due to a need for further investigation to collect and prepare evidence in respect of why the child is a child in need of protection, and/or, for further assessment of what Child Safety Services considered was an appropriate and desirable type of child protection order. This safeguards against child protection applications being made, in the absence of sufficient evidence.

Promoting child focused decision-making

- Fundamental to of the administration of the Child Protection Act 1999 (the CP Act) is the principle that the safety, wellbeing and best interests of a child are paramount. An effective child protection system places children at its centre, and focuses on their care and protection needs. Where there is a conflict between the needs of a child and the parents, decisions should be made in the child's best interests. The DCPL's independence, provides continued oversight and an assurance, in addition to the collaboration with Child Safety Services, helps to ensure that the needs and views of children are placed at the centre of any decision with respect to whether a child protection order is appropriate and desirable. Further, this early oversight means that proceedings are not commenced without a clear and compelling evidence base, that a child's care and protection needs cannot be met through less intrusive intervention.

Collaboration and partnership

- The DCPL is committed to working with Child Safety Services to achieve fair, timely and consistent outcomes for the protection of children, and managing litigation in a way that is fair to all parties, and allows the court to decide a proceeding as soon as possible, with the minimum cost and the minimum legal technicality. Ultimately, this provides Child Safety Services with child protection orders, where such orders are necessary, to ensure children's safety and, where appropriate, empowers Child Safety Services to work with a child's family to meet the child's protection and care needs. As the applicant, the DCPL represents the State, and when an application for a child protection order is made, the DCPL drafts the application and ensures that it is supported by good quality evidence, promoting efficiency and evidence-based decision-making.
- In 2017-18, the DCPL made 2,403 applications, with 17.5% of the applications, for a different order to that initially assessed as necessary by Child Safety Services. Further, over 91% of these applications were made with the agreement of Child Safety Services, evidencing the benefit of the DCPL's oversight function and the effectiveness of collaboration between the DCPL and Child Safety Services. Through this collaboration and partnership between specialised child protection lawyers and child safety frontline staff, the DCPL also fulfils an educative function, particularly with respect to more complex matters, including those involving the interpretation of contested legislative provisions.

Upholding model litigant principles

- As noted above, any resulting litigation following the DCPL's decision to make an application for a child protection order, is now conducted exclusively by specialised lawyers, appearing at each court event throughout the proceeding, and proactively managing matters in collaboration and partnership with Child Safety Services. The DCPL's

centralised model of service delivery ensures continuity in the expertise applied to *matters*, and DCPL lawyers have gained a comprehensive understanding of their ethical obligations and the model litigant principles through DCPL's CPD program. Further, by having the same lawyers allocated to a *matter* from commencement of a proceeding to resolution, has significantly enhanced procedural fairness and natural justice to the children and families involved.

Proactive management of litigation

- Child protection proceedings are fluid in nature and the DCPL are informed through the expertise and experience of frontline Child Safety Services staff, recognising that child safety investigations and assessments are holistic in their approach and are a continuing process and not an event. Against this backdrop, the DCPL constantly reviews the evidence and Child Safety Services' ongoing assessments with respect to the child's ongoing needs, the parents' capacity to respond to those needs, and the impact of wider family and community and environmental circumstances. Proactive management of proceedings means the DCPL continually reviews whether a child subject to proceedings is suffering, or is at an unacceptable risk of suffering significant harm. Where the evidence no longer supports that a child is a child in need of protection, or that an order is no longer appropriate and desirable, the DCPL takes active steps in making an application to withdraw the proceedings. In 2017-18, 3.2% of the total applications determined were withdrawn with the court's leave. Further, where the type of child protection order sought is no longer considered appropriate and desirable based on the current evidence, the DCPL takes active steps to file amend applications, seeking less of more intrusive orders where that is supported by the current evidence and assessment.

Better Outcomes for Children

- Securing timely legal permanency for children who do not have a parent willing and able in the foreseeable future, or whose emotional security and stability requires the making of a long-term order, promotes children's wellbeing and best interests. In 2017-18, 2,350 applications were determined by the court, which included the court making 644 orders that granted long-term guardianship of children, thus providing legal permanency. This is a 29.8% increase on 2016-17, and evidences the benefits of independent decision-making when considering legal issues in respect of children.
- The DCPL has taken decisive action to appeal interim and final decisions by the court at first instance when appropriate, with significant success in terms of ensuring the ongoing protection and care needs of the child are met, and that a body of case law is being developed that serves to promote consistency and legal rigour in decision-making.

Separation of Casework and Litigation

- The CP Act provides that the child's family have primary responsibility for the child's upbringing, protection and development, and the preferred way of supporting a child's protection and wellbeing is through supporting the family, with the State being responsible for protecting a child only when there is no parent able and willing. Reunification of children back to their family's care is highly desirable, where it is safe to do so, however, the success of reunification often depends on the relationship between a parent and their Child Safety Services' caseworker. If parents do not perceive and experience the casework relationship as empathetic, empowering and engaging, they may lose the incentive to persist with reunification efforts.
- The creation of the DCPL establishes a separation in casework with a child and their family and the decision to apply for a child protection order. Removing the decision as to whether to invoke court proceedings from caseworkers, who may be emotionally invested,

mitigates the ‘moral dilemma’¹ frontline staff experience between supporting a family and taking protective action for a child, allowing frontline caseworkers to develop supportive relationships and reunify children, where it is safe to do so.

Acknowledgements

I would like to acknowledge the continued tireless efforts of the Child Safety Services’ staff who deliver frontline child protection services, and who provide the expert evidence that is utilised by DCPL Lawyers in child protection applications. There is ongoing collaboration with Child Safety Services and ODCPL staff as required under the DCPL Act and the CP Act. I have had many examples given to me demonstrating the commitment of frontline staff assisting the DCPL to achieve its purpose of applying for child protection orders and conducting child protection proceedings.

I would also like to acknowledge the work of the lawyers employed in Child Safety Services’ Office of the Child and Family Official Solicitor (OCFOS), who have assisted the DCPL throughout the year in the ongoing development and embedding of the child protection litigation model. OCFOS lawyers provide critical legal services and advice to Child Safety Services’ frontline staff in respect of statutory functions relating to the protection of children, and it is through the partnership of the DCPL and OCFOS that best achieves fair, timely, and consistent outcomes for the protection of children.

I thank Crown Law and the Department of Justice and Attorney-General (DJAG) for the continued ongoing support provided throughout the year.

I acknowledge and thank the other key stakeholders in the child protection system who have contributed to the evolution of the child protection system in Queensland by providing support, guidance and feedback, including the members of the Judiciary, child protection practitioners, separate representatives, Legal Aid Queensland (LAQ), Office of the Public Guardian (OPG) and recognised entities.

I am again impressed by the determination and commitment of the staff of the ODCPL, with all staff, from Litigation Support to Lawyers and the Executive Management Team working tirelessly to achieve the functions of the DCPL. The number of *matters* that the DCPL has dealt with differently with the agreement of Child Safety Services show the expertise that DCPL is developing. Our almost exclusively Brisbane-based lawyers travel to the court sitting at 66 locations throughout Queensland, many on a weekly or fortnightly basis. The centralised model is important to achieve the outcome of streamlining quality service-delivery and consistency of decision-making throughout the State. The impact on our workforce of the consistent travel must be acknowledged and recognised. It is an honour to lead this skilled, knowledgeable and professional team.

While I am not subject to ministerial direction in relation to the performance of my statutory functions, I extend my thanks to the Attorney-General and the Director-General of DJAG for their time and support in my second year as DCPL, and for the respect shown to the independence of my position.

In the next reporting period, there are known changes to the operating environment in future years with the commencement of the reforms introduced under the *Child Protection Reform Amendment Act 2017*. These important changes include:

- the introduction of a new permanency framework, which introduces and defines the concept of ‘permanency’ as the experience of a child as having stable relationships, living arrangements and legal arrangements. This includes the amending of the paramount principle to refer to the safety, wellbeing and best interests of children both through

¹ Working Together for Children: A Critical Introduction to Multi-Agency Working, Gary Walker (Bloomsbury Publishing) (2008), 31.

childhood and for the rest of a child's life, placing limitations on the making or extending of short-term child protection orders where the combined total duration of an order or consecutive orders would be more than two years unless it is in the best interests of a child to do so, and introducing a permanent care order as a new type of child protection order, which grants guardianship of a child to a suitable person until the child turns 18 years of age, and is more secure than the existing long-term guardianship order

- the Safe Care and Connection of Aboriginal and Torres Strait Islander children with family, community and culture including the right to self-determination and embedding of the Aboriginal and Torres Strait Islander Child Placement Principles in legislation, removal of reference to the Recognised Entity, introduction of the new concept of an independent person for a child or young person, and the ability of Child Safety Services to delegate functions and powers to an Aboriginal and Torres Strait Islander organisation, and
- the provision of a contemporary information sharing regime for the child protection and family support system, simplifying and consolidate who can share information and the purposes for which they can share it.

These changes, along with the continued embedding of the new child protection litigation model, present strategic risks, opportunities and challenges for the DCPL.

About Us

Establishment of the Director of Child Protection Litigation

The DCPL was established pursuant to the *Director of Child Protection Litigation Act 2016* (the DCPL Act) on 1 July 2016 as an independent statutory officer, within the DJAG portfolio, reporting directly to the Attorney-General and Minister for Justice and Leader of the House. The Office of the Director of Child Protection Litigation (ODCPL) was also established on 1 July 2016, to help the DCPL perform the DCPL's functions.

The establishment of the DCPL implemented recommendation 13.17 of the Queensland Child Protection Commission of Inquiry's (the Inquiry) final report 'Taking Responsibility: A Roadmap for Queensland Child Protection'. Recommendation 13.17 was that:

The Queensland Government establish an independent statutory agency — the Director of Child Protection — within the Justice portfolio to make decisions as to which matters will be the subject of a child protection application and what type of child protection order will be sought, as well as litigate the applications.

Staff from the Director of Child Protection will bring applications for child protection orders before the Childrens Court and higher courts, except in respect of certain interim or emergent orders where it is not practicable to do so. In the latter case, some officers within the Department of Communities, Child Safety and Disability Services will retain authority to make applications.

In December 2013, the Queensland Government responded to the Inquiry's final report, which included an acceptance of recommendation 13.17.

The DCPL Act was assented to on 25 May 2016 and commenced on 1 July 2016.

The key objectives of the DCPL as detailed in the Inquiry's final report and resulting policy objectives of the DCPL Act, are:

- to improve outcomes for children and families, and
- provide greater accountability and oversight for child protection order applications that are proposed by Child Safety Services, by ensuring that applications filed in court are supported by good quality evidence, promoting efficiency and evidence-based decision-making.

The DCPL's functions and powers

The main purpose of the DCPL Act is to establish the DCPL to apply for child protection orders and conduct child protection proceedings.

Under the DCPL Act, the DCPL is referred *child protection matters (matters)* by Child Safety Services and the DCPL is responsible for independently deciding whether or not an application for a child protection order should be made for a child in the Childrens Court (the court), and what type of child protection order should be sought, as well as litigating the applications.

In respect of the establishment of the DCPL, the DCPL Act provides the following in respect of the DCPL's functions and powers:

- prepare for and apply for child protection orders, and conduct child protection proceedings
- prepare and apply for transfers of child protection orders and proceedings to a participating state

- prepare, institute and conduct appeals against decisions about applications for child protection orders and decisions about the transfer of child protection orders and proceedings to a participating state, and
- in addition to the above, the DCPL also has functions to provide legal advice to, or appear for Child Safety Services on its instructions for the following matters:
 - adoption
 - family law
 - Queensland Civil and Administrative Tribunal (QCAT) reviews
 - Hague Child Abduction Convention, or
 - Other matters relating to the safety, wellbeing or protection of a child.

Principles for the administration of the DCPL Act

The main principle for the administration of the DCPL Act is that the safety, wellbeing and best interests of a child are paramount.

The DCPL Act is to be administered having regard to the following other principles:

- collaboration between the DCPL and Child Safety Services best achieves fair, timely and consistent outcomes for the protection of children
- in protecting a child, the DCPL should only take the action that is warranted in the circumstances, including, for example, by applying for the least intrusive child protection order
- the DCPL should consider whether sufficient, relevant and appropriate evidence is available in deciding whether to make an application for a child protection order
- each principle stated in section 5B of the CP Act for ensuring safety, wellbeing and best interests of a child, to the extent the principle is capable of being applied to a person performing a function or exercising a power under the DCPL Act, including for example –
 - a child has a right to be protected from harm or risk of harm; and
 - a delay in making a decision in relation to a child should be avoided, unless appropriate for the child, and
- each additional principle applying in relation to an Aboriginal or Torres Strait Islander child stated in section 5C of the CP Act.

Also, each principle relevant to exercising powers and making decisions under section 5D(1) of the CP Act applies to the extent the principle is capable of being applied to a person exercising a power or making a decision under the DCPL Act.

In addition, the principles relating to obtaining a child's views set out in section 5E of the CP Act apply in relation to giving a child an opportunity to express their views appropriately.

Other major child protection litigation reforms

In addition to the establishment of the DCPL, the other major child protection litigation reforms that commenced on 1 July 2016 were the establishment of a court case management framework for child protection proceedings and the introduction of a duty of disclosure.

The objective of the court case management framework is to provide a structure to the court to actively manage child protection proceedings, minimise delay, and improve the quality of evidence and decision-making. This has included the establishment of a court case management committee and the commencement of revised *Childrens Court Rules* (the Rules). The Rules had not been significantly reviewed since they were made in 1997, and play a key part of the implementation of a court case management framework.

The DCPL has a duty to disclose, to each other party in a child protection proceeding, all documents in the DCPL's possession or control that are relevant to the proceeding. This duty

continues until the proceeding is decided. The duty of disclosure is subject to the provisions of section 191 of the CP Act, providing that the DCPL may refuse to disclose particular documents on certain grounds. Where the DCPL refuses disclosure, a party to the proceeding may make an application to the Court, and the Court may order the disclosure on the conditions it considers appropriate. Disclosure occurs between the DCPL and parties to a proceeding and will not involve the court, apart from its consideration of applications made under the CP Act or the making of directions with respect to disclosure under the Rules.

DCPL's Guidelines

Under section 39 of the DCPL Act, the DCPL reissued written guidelines on 1 July 2017 and a copy of these are in Appendix 5. The Guidelines were issued to:

- all staff employed in the ODCPL
- Child Safety Services and all staff working in the following areas undertaking work relevant to the functions of the DCPL:
 - OCFOS
 - Child Safety Service Centres
 - Child Safety's Legal Services, and
- lawyers engaged by the DCPL to carry out the DCPL's functions under the DCPL Act.

Structure of the ODCPL

The ODCPL is based in Brisbane, with one (1) lawyer in Atherton.

The Queensland Government determined that the ODCPL would be established as a Brisbane based model. The Brisbane based model has continued to be essential to ensure appropriate professional supervision, continuing professional development and support for staff and to promote consistency of approach.

The Brisbane based model has also continued to support the ODCPL's culture and drive the practice improvements in line with the reforms, and it has also allowed the ODCPL to share support services from across DJAG including Crown Law.

The ODCPL operates three chamber groups of lawyers, with each Chambers allocated specific regions across the State to ensure the ODCPL is responsive to local service delivery needs, and resulting in a consistent group of lawyers appearing in the court in a particular region and working with the local Child Safety Service Centre staff, OCFOS officers, partner agencies and local lawyers.

DCPL Lawyers have appeared in the court sitting at 68 locations throughout the State, collaboratively working with officers employed within OCFOS and Child Safety Services staff employed in 55 Child Safety Service Centres throughout the State.

How a referred *matter* is dealt with

Each referred *matter* that the DCPL receives from Child Safety Services is allocated to an experienced DCPL lawyer, referred to as an Applicant Lawyer, to be dealt with under the DCPL Act. If the Applicant Lawyer decides an application for a child protection order should be made, they draft the application and settle the initial supporting affidavits.

Once the application is filed, a dedicated DCPL File Lawyer then takes responsibility for managing the resulting *child protection proceedings* in the court at the particular location that the application has been filed. This arrangement ensures consistency in file management, with File Lawyers managing the *proceeding* from the point it is filed until the application has been

determined. The Applicant Lawyer that drafted the child protection application will be briefed to appear at any complex interim hearing, court ordered conference and final hearing.

Personal appearances at mentions, court ordered conferences and hearings have been the preferred mode of attendance for DCPL. However, in the event that a personal appearance was not required, DCPL lawyers have used audio visual and telephone options to appear, for example where at the mention of a proceeding, procedural issues have been dealt with and the proceeding has been adjourned on an uncontested basis.

Enabling legislation & responsible Minister

The DCPL was established under the DCPL Act, which commenced on 1 July 2016.

The DCPL Act is administered by the Attorney-General of Queensland.

The DCPL Act was passed by the Legislative Assembly on 11 May 2016 in cognate with the *Child Protection Reform Amendment Bill 2016*.

Consultation and contributions toward legislation

The DCPL was consulted as a stakeholder on the following legislation:

- *Child Protection Reform Act 2017*

Governance and human resources

Our people

The lawyers and litigation support staff employed within the ODCPL have come from a variety of backgrounds, both from Government agencies and private practice, bringing with them a wide breadth of experience and skill.

In addition to ongoing recruitment of new lawyers and litigation support staff, the ODCPL has seen great stability in its staffing compliment as a result of high staff retention levels. This has resulted in the ODCPL being able to retain and develop a highly skilled and competent workforce who have been able to continue to develop their expertise in the area of child protection service delivery and child protection litigation.

Workforce profile

The ODCPL has a permanent establishment of 35 FTE positions, which is made up of 29 lawyers (including the DCPL) and 6 litigation support staff.

Since commencement, and on an as needed basis, the DCPL created temporary positions to ensure adequate resources were available to manage workloads.

As at 30 June 2018, the ODCPL had 73 staff (including the DCPL), which included 60 lawyers and 13 litigation support staff. As at 30 June 2018, the ODCPL's paid FTE was 76.11, which reflects that some ODCPL staff were on extended leave.

The ODCPL organisational chart is located at Appendix 1.

The DCPL gratefully acknowledges the additional funding allocated to support the functions of the DCPL.

In 2017-18, no private lawyers were engaged by the DCPL under section 11 of the DCPL Act to carry out the DCPL's functions.

Staff Profile

As at 30 June 2018, the profile of staff employed in the ODCPL comprised:

- 28.8% male and 71.2% female staff (including the DCPL)
- 10% from a non-English speaking background
- 3% identifying as Aboriginal and/or Torres Strait Islander, and
- 8% identified as having a disability.

The ODCPL permanent employee separation rate was 2% which represents one permanent employee left during the period.

ODCPL Working for Queensland employee opinion survey response rate was 100%.

No redundancy, early retirement or retrenchment packages were paid during the period.

Executive Management Team

ODCPL's executive management team comprises the DCPL, the three Assistant Directors and the Practice Manager. The executive management team meets fortnightly and is responsible for formulating the ODCPL's strategic direction and policies, supporting the professional

development of staff, and monitoring and managing the ODCPL's performance. It also addresses stakeholder engagement and high level risk.

Code of Conduct for the Queensland Public Service

Staff of the ODCPL are bound by the *Code of Conduct for the Queensland Public Service* (Code of Conduct). All new employees, including contractors and work experience students, undertake mandatory face-to-face and on-line ethics training as part of their induction and the on-line training is repeated annually. All new employees are provided with the Code of Conduct and the DJAG Workplace Policy.

Risk Management and Accountability

The ODCPL's risk management framework ensures risk is actively managed as an integral part of decision-making, planning and service delivery of achieving the DCPL's purpose of applying for child protection orders and conducting child protection proceedings of the decisions.

Information systems and record keeping

The ODCPL operates under the requirements of the *Public Records Act 2002*. The ODCPL has an obligation to create, maintain, preserve and dispose of records in compliance with legislation, policies and standards. The ODCPL also complies with the Queensland State Archives General Retention and Disposal Schedule.

To assist the ODCPL manage records and record keeping, the services of the Crown Law's records team are engaged.

Strategic Workforce Planning framework

The ODCPL places a strong focus on attracting and retaining a skilled and diverse workforce. ODCPL workforce policy and procedure is governed by policies of DJAG.

The ODCPL supports flexible working arrangements with a number of staff utilising flexible working hours, flexible working arrangements, leave arrangements, working from home and telecommuting, and part-time to promote a healthy work-life blend.

Employee performance management framework

The ODCPL's employee performance management framework includes induction, staff development, performance management and recognition.

Leadership and management development framework

The ODCPL has a leadership and management framework, which includes:

- maintaining our commitment to support staff, promoting excellence in service delivery, through the provision of regular and effective legal supervision and by ensuring accessibility to operational management
- ensuring that the management structure is fit for purpose and promotes continual improvement in service delivery, reflecting our priorities and the shape of the organisation to equip the DCPL to meet future demands, opportunities and challenges at operational and strategic levels

- promoting increased opportunities, succession planning and career and professional development for staff, whilst ultimately maintaining staff retention rates through increased support, accessible line management and strategic planning and priority setting
- facilitating an innovative approach to service delivery, through generating increased scope for greater partnership working and collaboration, better stakeholder engagement and improved strategic communication and corporate messaging, and
- strengthening strategic planning, including business planning, and reinforcing our ability to deliver DCPL's statutory functions effectively and efficiently is committed to supporting the leadership and management framework.

ODCPL's Executive Management Team

Nigel A. Miller – Director of Child Protection Litigation

Nigel A. Miller is Queensland's first Director of Child Protection Litigation. Nigel has experience across a range of fields dealing with the complex area of child protection and public family law. Nigel was called to the Queensland Bar in 2004 and admitted as a Barrister of the High Court in 2005. His legal practice has specialised in child protection and related areas of law, involving best interests and direct instructions advocacy for children and young people. Nigel has also specialised in acting for parents in the child protection jurisdiction.

Nigel has practised public family law in the United Kingdom with a London-based local authority and as an Independent Children's Lawyer in the family law jurisdiction. Nigel also has experience in criminal law services, including representing young people in the youth justice jurisdiction.

Prior to his current appointment, Nigel held the position of Assistant Director of LAQ's Family Law Services, and before that, the position of Principal Lawyer of LAQ's Children and Young People team for five years.

Nigel was a founding board member of the Child Protection Practitioners Association of Queensland and in 2014 was awarded a Churchill Fellowship to explore the establishment of a child protection law specialist accreditation program in Queensland.

His other memberships have included the Queensland Law Society's (QLS) Children's Law Committee, representing the QLS on the Children's Court of Queensland Case Management Committee. Nigel has also been a Member of the Forde Foundation Board of Advice.

Qualifications

Bachelor of Laws (Honours) 2002

Bachelor of International Business 2002

Admitted as a Barrister of the Supreme Court of Queensland 2004

Entered on the High Court of Australia Register of Practitioners 2005

Churchill Fellow 2014

Graham Murray – Assistant Director, Blue Chambers

Graham Murray is an Assistant Director with the ODCPL, responsible for the management and operation of the Blue Chambers. Graham also managed the allocation of new referred *matters* received from Child Safety Services to DCPL Applicant Lawyers across the ODCPL, providing early high level legal advice and guidance with respect to these *matters*.

Graham has over ten years' experience as a child protection lawyer, during which time he represented state welfare authorities in a variety of litigation and mediation. Graham was called to the Bar (England and Wales) in 2004 and more recently has been admitted as a lawyer in the Supreme Court of Queensland.

Originally from the United Kingdom, Graham worked as part of an in-house legal team for a large London Borough, advising in relation to child protection matters and family law, bringing applications for Care Orders, Placement Orders and Adoptions in the Magistrates, County and High Courts in England. He has authored numerous publications with respect to family law and child protection, including several chapters of the Magistrates' Court Manual (England and Wales) and was part of the editorial board of 'Family Matters', a specialist journal for specialist family magistrates. As a trustee Graham also managed the legal portfolio of a charity which provided accommodation to offenders following release from custody.

Within Queensland, Graham has provided advice to Child Safety Service Centres in respect of child protection litigation and the interplay with the *Family Law Act 1975* (Cth). Prior to

commencing with the ODCPL, Graham undertook a brief period at the OPG where he managed a state-wide team of child advocates providing legal services to children in care. Within both England and Queensland, Graham has facilitated training in family law and child protection to a variety of audiences, including the judiciary, social workers, child safety officers and mental health practitioners.

Qualifications

LLB (European Legal Studies) (Dunelm) 2002

Called to the Bar (England and Wales) 2004

Admitted as a Solicitor (England and Wales) 2011

Admitted as a Lawyer of the Supreme Court of Queensland 2016

Georgina Thomas – Assistant Director, Green Chambers

Georgina Thomas is an Assistant Director with the ODPCL responsible for the management and operation of the Green Chambers. Georgina also managed the ODCPL's continuing professional development (CPD) program.

Georgina was admitted to practice in 1997. Since then Georgina has worked in litigation roles in Australia, New Zealand and Scotland. For the last 12 years Georgina has specialised in child protection law, developing a passion and commitment for promoting the safety and wellbeing of vulnerable children.

During almost a decade spent living in the United Kingdom, Georgina worked for Scotland's pre-eminent child protection and youth justice litigation agency. During this time, Georgina worked in a national practice leadership role and managed complex litigation, including appeals to the Scottish Court of Session and The Supreme Court of the United Kingdom involving alleged breaches of the European Convention for Human Rights. In this role, Georgina also developed and facilitated national practice training and provided training to partner agencies including Police Scotland.

After returning to Australia, Georgina worked at Blue Card Services as an Advocacy Officer appearing at QCAT on review applications. Following that, Georgina joined Crown Law where she represented Child Safety Services in contested child protection proceedings, including appeals, and in proceedings in the Family Court of Australia, including applications under the Hague (Child Abduction) Convention. Prior to joining the ODPCL, Georgina was seconded to Strategic Policy and Legal Services, DJAG, to assist with the implementation of the child protection reforms, including the establishment of the DPCL.

Georgina is a member of the Child Protection Practitioners Association of Queensland.

Qualifications

Bachelor of Arts (Psychology and Criminology) 1991

Bachelor of Laws (Honours) 1997

Advanced Diploma in Children's Reporter Practice (Scotland) 2007

Admitted as a Barrister and Solicitor of the High Court of New Zealand 1997

Admitted as a Lawyer to the Supreme Court of Queensland 2012

Entered on the High Court of Australia Register of Practitioners 2013

Philip Scott – Assistant Director, Red Chambers

Philip Scott is an Assistant Director with the ODPCL, responsible for the management and operation of the Red Chambers. Philip also managed the ODCPL's recruitment needs.

Philip was part of the Implementation Team responsible for establishing the ODCPL in readiness for commencement on 1 July 2016. Philip played an integral part in the recruitment of staff in the establishment of the ODCPL.

Philip prides himself in providing high quality representation on behalf of the State in a variety of matters. Philip has experience in a number of areas of law including Native Title and Resources, child protection, family law, coronial matters, cy-pres matters, Hague Convention matters, special medical procedures and mental health.

Prior to taking up his current role, Philip was the Senior Principal Lawyer in the MacKenzie Parslow Chambers at Crown Law, primarily undertaking complex legal matters which included representing the Chief Executive of the then Department of Communities, Child Safety and Disability Services in proceedings pursuant to the CP Act and *Family Law Act 1975 (Cth)*. During his time at Crown Law, Philip gained almost ten years' experience as one of only a small group of lawyers representing the State in child protection proceedings.

Philip was a serving member of the Queensland Police Service and prosecutor for approximately 8 years.

Qualifications

Bachelor of Business/Laws 2007

Admitted as a Lawyer of the Supreme Court of Queensland 2007

Entered on the High Court of Australia Register of Practitioners 2008

Yvette McDonald – Practice Manager, ODCPL

Yvette has over 20 years' experience in the Queensland Public Sector. Prior to assisting with the establishment of the DPCL in early 2016, Yvette worked at Crown Law in a number of roles for 20 years in the areas of Commercial, Property, Insurance and Risk, the Crown Solicitor's office and the Public Law branch. Yvette worked in positions, including as a legal secretary to a Practice Manager (Administration), and as the Executive Officer in the Crown Solicitor's office, where she worked with three Crown Solicitors.

In the role of Practice Manager, Yvette is responsible for providing strategic and business support to the ODCPL. This includes financial management, human resource management, information technology and business systems support, and corporate administration.

Acknowledgement

It is noted that Danielle Brown, Principal Lawyer, acted as the Assistant Director of the Red Chambers for a period of 12 months, which ended in February 2018 whilst Assistant Director Philip Scott was on a period of extended leave. Danielle's exceptional effort, drive and determination, and leadership of the Red Chambers are acknowledged.

Learning and development

The ODCPL has continued its strong commitment to the continuing professional development of its lawyers in its second year of operation. As well as the mentoring of junior lawyers by more experienced practitioners, the commitment to building the knowledge and skills of staff is reflected in our continuing professional development (CPD) program.

The ODCPL's internal CPD program forms part of a wider supervision and practice management framework. The CPD program reflects the ODCPL's ongoing focus on building the proficiency of its lawyers across all aspects of their role and responsibilities. Through the CPD program, lawyers are encouraged to maintain a high standard of practice through a commitment to continued learning in their discipline. Further, the CPD program empowers lawyers at all levels through the provision of targeted practice resources. This facilitates the sharing of good practice across the office and fosters a growing understanding of what works well in the delivery of child protection litigation.

The CPD program requires lawyers to continually develop their skills and competence through attendance at a range of learning and development sessions, which are 1 to 1½ hours in length, and are generally delivered on a fortnightly basis. Many sessions are repeated to optimise the opportunity for staff to attend.

The program has included CPD sessions presented by a variety of presenters, both in-house and from external agencies, with a focus on skills and/or knowledge relevant to the work of the DCPL. In developing the CPD program, input was sought from staff employed in the ODCPL about suggested topic areas and has involved lawyers employed in the ODPCL with a particular interest and expertise in a relevant area presenting CPD sessions for their colleagues.

CPD sessions are recorded and are made available for staff who are unable to attend the live session to watch at a later date via the ODCPL's Learning and Development site. Training resources, including PowerPoint presentations and research articles, for each session are also made available to all staff through the site.

The CPD program requires lawyers employed in the ODCPL to complete at least 10 CPD units per year (1 point is 1 hour), which mirrors the rules of the QLS and the Bar Association of Queensland relating to CPD.

Sessions in the 2017-2018 year included several aimed at strengthening practice in the important area of domestic violence. Topics included the impact of exposure to domestic violence on children and making or varying domestic violence orders in child protection proceedings. Other CPD subject areas included consideration of issues arising in child protection proceedings specific to fathers and the interface between child protection proceedings and proceedings under Part VII of the *Family Law Act 1975* (Cth). In addition, the CPD Program included a double session on the work of Child Safety Services. This reflects the importance of DCPL lawyers developing a good understanding Child Safety Service's investigation, assessment and casework responsibilities with a particular focus on the Framework for Practice.

The ODPCL also has a strong commitment to building the cultural capability of its staff, particularly with respect to decision-making and the conduct of child protection proceedings for Aboriginal and Torres Strait Islander children and families. In the 2017-2018 year, DCPL lawyers had the opportunity to participate in a CPD session by ATSILS on the application of the CP Act to Aboriginal and Torres Strait Islander children and cultural awareness training delivered by the Kalwun recognised entity.

A full list of CPD sessions can be found in Appendix 2.

Stakeholder engagement

Stakeholder engagement has remained a key focus for the ODCPL in its second year of operation. The effective performance of the DCPL's statutory functions requires the development of strong and constructive working relationships with Child Safety Services, including OCFOS officers and Child Safety Service Centre staff, along with other key partner agencies. This is central to achieving the collaboration as envisaged in the DCPL Act, and to the promotion of fair, timely and consistent outcomes for the protection of children that are the subject of referred *matters* dealt with by the DCPL.

ODCPL staff are encouraged to engage with local stakeholders across Queensland, including Child Safety Services staff, court staff, Magistrates, recognised entities, legal representatives and other relevant agencies. The purpose of this engagement is to build relationships, promote an awareness and understanding of the DCPL's role and responsibilities, and develop a culture of continuous improvement in service delivery. Such engagement also allows the DCPL to better understand the priorities and service delivery models of our key stakeholders and equips the ODCPL to be more responsive to their needs.

Stakeholder engagement in the ODCPL's second year has included:

- Regular meetings with Child Safety Services' OCFOS leadership team
- Meeting with OCFOS officers and Child Safety Service Centre staff
- Meeting with Magistrates, recognised entities, legal representatives and other relevant agencies
- Participation in regular strategic meetings with child protection legal stakeholders and participation in local court legal stakeholder meetings, and
- Presenting at relevant training events, symposiums and workshops.

Performance

Statistical information used in this part of the report has been collected and prepared by the DCPL, from operational data collected in DCPL's Visualfiles case management system.

The Visualfiles case management system is a 'live' operational system in which records are constantly updated as the status of a *matter* changes in the system. This constant updating and data verification may result in a slight variance of figures over time. Percentage totals in this report may not add to 100% due to rounding to one decimal place.

Received referred child protection matters

The DCPL receive referred *matters* from Child Safety Services. Each referred *matter* relates to an individual child, however, it should be noted that the same child may be subject to two or more referred *matters* within the reporting period.

Child Safety Services under the DCPL Act, must refer a *matter* to the DCPL when:

- they are satisfied a child is a child in need of protection and that a child protection order is appropriate and desirable for the child's protection, or
- if a child protection order is in force for a child, and they are satisfied that the order is no longer appropriate and desirable for the child's protection.

Each referred *matter* must comply with the DCPL Act and the DCPL's Guidelines, which require Child Safety Services to provide to the DCPL a completed 'Form A – Referral of Child Protection Matter Summary Form' (Form A) and a brief of evidence that includes:

- the reasons why the child is a child in need of protection, and the reasons why an order is appropriate and desirable for the child's protection along with the type of order Child Safety Services considers is appropriate and desirable for the child's protection, or
- the reasons why a child protection order is no longer appropriate and desirable for the child's protection.

Child Safety Services must also provide available supporting documents and all other available documents and evidence that are relevant to the referred *matter*.

In the year 2017-18, the DCPL received 2,507 referred *matters* by way of completed Form As, which, in a year on year comparison, was an increase of 13 *matters* (0.52%) from the year 2016-17 (2,494). The following table sets out the referred *matters* received by the DCPL on a monthly basis across 2016-17 and 2017-18.

Table 1 – Referred child protection matters received by DCPL based on receipt of Form A													
Year	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2016-17	187	244	200	203	230	157	192	210	236	205	236	194	2,494
2017-18	164	215	197	234	256	229	172	219	215	200	209	197	2,507

Type of intervention in place at the time a *matter* is referred to the DCPL

The DCPL has classified the existing types of intervention in respect of a child that can be in place at the time a referred *matter* is received by the DCPL into the following 7 categories:

- No order or no statutory agreement in place, which means the child is not subject to either an agreement between Child Safety Services and the child's parents, or an order made by either a Magistrate or the Childrens Court under the CP Act.
- Assessment care agreement (ACA) between Child Safety Services and a child's parents under section 51ZD of the CP Act, which includes the child being temporarily placed in the care of someone other than the child's parents, and must not be more than 30 days in duration. An ACA is entered into by Child Safety Services when satisfied that the child's parents are able and willing to work with Child Safety Services to meet the child's interim protection needs while an investigation is carried out.
- Temporary assessment order (TAO) obtained by Child Safety Services from a Magistrate under section 27 of the CP Act, which can be up to 3 business days in length, and can be extended by 1 business day. A TAO is made to authorise actions necessary as part of an investigation to assess whether a child is a child in need of protection, if the consent of a parent of the child to the actions has not been able to be obtained or it is not practicable to take steps to obtain the parent's consent.
- Court assessment order (CAO) obtained by Child Safety Services from the court under section 44 of the CP Act, which can be up to 28 days in length, and can be extended for a further 28 days. A CAO is made to authorise actions necessary as part of an investigation to assess whether a child is a child in need of protection, if the consent of a parent of the child to the actions has not been able to be obtained or it is not practicable to take steps to obtain the parent's consent, and more than 3 business days is necessary to complete the investigation and assessment.
- Child protection care agreement (CPCA) between Child Safety Services and a child's parents under section 51ZD of the CP Act, which includes the child being temporarily placed in the care of someone other than the child's parents. The initial agreement must not be more than 30 days, but can be extended by agreement to not more than 6 months within a 12 month period. A CPCA is entered into by Child Safety Services when satisfied that the child's parents are able and willing to work with Child Safety Services to meet the child's protection and needs, and it is likely by the end of the intervention, the child's parents will be able to meet the child's protection and care needs.
- Temporary custody order (TCO) obtained by Child Safety Services from a Magistrate under section 51AE of the CP Act, which can be up to 3 business days in length, and can be extended by 1 business day. The purpose of a TCO is to authorise the action necessary to ensure the immediate safety of a child while Child Safety Services decides the most appropriate action to meet the child's ongoing protection and care needs.
- Child protection orders (CPO) now obtained by the DCPL from the court, which can be any of the orders provided by section 61 of the CP Act, including long term orders. A CPO is made to ensure the protection of a child the court decides is a child in need of protection.

The DCPL must deal with a referred *matter* under section 17 of the DCPL Act by either applying for a child protection order or referring the *matter* back to Child Safety Services.

The timeframe for when a *matter* is dealt with by the DCPL, is dependent on the type of existing intervention that is in place at the time the referred *matter* is received, and then the particular circumstances that relate to that *matter*. In effect, the DCPL must ensure that any application for a child protection order is made as quickly as possible, prior to the expiry of any existing intervention for the child. Where no intervention is in place (no order or no statutory agreement) at the time the *matter* is referred and DCPL assess that there is no immediate risk to the child's safety, the *matter* is dealt with as soon as practicable and in any event within 14 days, unless further evidence or information is requested from Child Safety Services. This ensures compliance with the statutory presumption that delay is contrary to the child's best interests².

The following tables set out the types of existing interventions at the time referred *matters* were received by the DCPL with a year on year comparison across 2016-17 and 2017-18.

Table 2 – Types of existing interventions at time DCPL received Form A					
Type of existing intervention	2016-17		2017-18		Var.*
No order or agreement	226	9.1%	239	9.5%	5.8%
Assessment care agreement (ACA)	98	3.9%	45	1.8%	-54.1%
Temporary assessment order (TAO)	19	0.8%	4	0.2%	-78.9%
Court assessment order (CAO)	549	22.0%	608	24.3%	10.7%
Child protection care agreement (CPCA)	131	5.3%	89	3.6%	-32.1%
Temporary custody order (TCO)	449	18.0%	596	23.8%	32.7%
Child protection order (CPO)	974	39.1%	906	36.1%	-7.0%
Multiple**	48	1.9%	20	0.8%	-58.3%
Total	2,494		2,507		0.5%

*Calculated as a year on year increase or decrease with respect to the number of children subject to each type of intervention

**The reference to multiple as a type of intervention in the above table relates to *matters* that were referred to the DCPL as family groups that concerned more than one child, each of whom was the subject of a different type of existing intervention at the time the completed Form A's were received.

At Appendix 3, the type of existing intervention in relation to referred *matters* received by the DCPL across 2016-17 and 2017-18 are set out by reference to what were Child Safety Services' seven regions – it is noted that as a result of the creation and transition to the Department of Child Safety, Youth and Women under machinery-of-government changes, Child Safety Services seven regions were transformed into 5 regions on 30 April 2018. At a regional level, there are significant differences between the existing types of intervention in respect of children that are in place at the time a referred *matter* is received by the DCPL, and that there has not been consistent variations at a regional level across 2016-17 and 2017-18.

² Section 5B(n) of the CP Act

At a whole of State level, the following significant variations in the year on year comparison are noted in respect of the referred *matters* received by the DCPL:

- a decrease in the number of *matters* that concerned children the subject of an ACA (-53)
- an increase in the number of *matters* that concerned children the subject of a CAO (+59)
- a decrease in the number of *matters* that concerned children the subject of a CPCA (-42)
- a noticeable increase in the number of *matters* that concerned children the subject of a TCO (+147), and
- a decrease in the number of *matters* that concerned children the subject of a CPO (-68).

However, with only two years of statistics, the reasons for these changes and whether there is any resulting trends are unclear.

Timeliness of specific referred *matters*

Under the DCPL's Guidelines reissued on 1 July 2017, Child Safety Services must refer the following types of *matters* to the DCPL within prescribed timeframes:

- if a *matter* concerns a child that is subject to an emergency order, defined to include children the subject of either a TAO, CAO or TCO, the *matter* should be referred as soon as practicable and where possible, no later than 24 hours before the emergency order ends, and
- if a *matter* concerns a child that is subject to a CPO, the *matter* should be referred as soon as practicable and where possible, not less than 28 calendar days before the child protection order ends (note that in 2016-17, it was not less than two months before the order ended).

The prescribed timeframes are predominantly about ensuring that there is sufficient time for Child Safety Services and the DCPL to take action to ensure the child's ongoing protection. They ensure that Child Safety Services have sufficient time pre-referral of a *matter* to complete investigations and assessments to a high standard, or where a further child protection order is assessed as appropriate and desirable, to provide a comprehensive brief of evidence that contains the supporting documents that details the case work undertaken during the previous order. The timeframes also assist the DCPL and Child Safety Services to collaborate in a manner that ensures there is sufficient time for DCPL to deal with a referred *matter*, by either applying for a child protection order or by referring the *matter* back to Child Safety Services. Further, it provides sufficient time for DCPL to properly consider all relevant information and evidence, and ensures that the decision-making by the DCPL is fully informed and consistent with the principles in the DCPL Act and the CP Act. That is, timeliness and avoiding unnecessary delay in decision-making reflects the principle that it is in a child's best interests for a decision to be made as soon as possible, and that delay in making a decision for a child should be avoided, and that the State takes the least intrusive action warranted in the circumstances.

Referred *matters* that needed to be dealt with by the DCPL on the same day they were received

In 2017-18, the DCPL had to deal with 284 *matters* (11.2% of all *matters* received) on the day that they were received. In 2016-17, it was 181 *matters*, which equates to a 57% increase year on year.

Referred *matters* concerning children subject to an emergency order

In 2017-18, the DCPL received a total of 1,208 referred *matters* concerning children on emergency orders, with 953 *matters* (78.9%) meeting the prescribed timeframe of being referred no later than 24 hours before the emergency order ends.

In a year on year comparison with 2016-17 (total of 1,017 referred *matters* received), there was an increase of 191 *matters* (18.8%) received concerning children subject to an emergency order in 2017-18. In respect of these *matters*, there was an increase of 135 *matters* (112.5%) that were received less than 24 hours before the emergency order ended.

The following table sets out the timeliness of referred *matters* received in 2016-17 and 2017-18 for children subject to an emergency order at time the DCPL received a completed Form A.

Table 3 – Timeliness of referred <i>matters</i> for children subject to an emergency order										
Type of order	2016-17 less than 24 hours		2016-17 more than 24 hours		2017-18 less than 24 hours		2017-18 more than 24 hours		Var. less than 24 hours*	
	Number of matters	%	Number of matters	%	Number of matters	%	Number of matters	%	Number of matters	%
TAO	5	26.3%	14	73.7%	1	25%	3	75%	-4	-80%
CAO	20	3.6%	529	96.4%	43	7.1%	565	92.9%	+23	+115%
TCO	95	21.2%	354	78.8%	211	35.4%	385	64.6%	+116	+122.1%
Total	120		897		255		953		+135	+112.5%

*Calculated as a year on year increase or decrease with respect to the number of children subject to each type of emergency order

Referred *matters* concerning children subject to a CPO

In 2017-18, the DCPL received a total of 906 referred *matters* concerning children on CPOs, with 65 *matters* (7.17%) meeting the prescribed timeframe of being referred no later than 28 calendar days before the CPO ended. It is noted that this timeframe was changed on 1 July 2017, with the previous timeframe being not less than 2 months.

In a year on year comparison with 2016-17, there was a decrease of 68 *matters* (-6.98%) received concerning children subject to a CPO in 2017-18, and in respect of referred *matters* received with less than 28 days before the CPO ended, there was a decrease of 44 *matters* (-5.4%).

The following table sets out the timeliness of referred *matters* received in 2016-17 and 2017-18 for children subject to a child protection order at time the DCPL received a completed Form A.

Table 4 – Timeliness of referred <i>matters</i> for children subject to a CPO				
Time	Number of matters 2016-17	%	Number of matters 2017-18	%
On the day existing order ended	20	2.0%	17	1.9%
Day before existing order ended	95	9.8%	76	8.4%
1 clear business day before existing order ended	87	8.9%	104	11.5%
Between 2 and 3 clear business days before existing order ended	198	20.3%	186	20.5%
Between 4 and 8 clear business days before existing order ended	270	27.7%	181	20.0%
Between 9 and 13 clear business days before existing order ended	99	10.2%	130	14.4%
Between 14 and 18 clear business days before existing order ended	46	4.7%	77	8.5%
19 clear business days and more before existing order ended (28 clear days)	91	9.3%	65	7.2%
Not applicable*	68	7.0%	70	7.7%
Total	974	100%	906	100%

*A *matter* is defined as not applicable where Child Safety Services refer a *matter* that concerns a child subject to a CPO that they are satisfied that needs to be extended, varied or revoked, or revoked and another order made in its place pursuant to the CP Act, sections 64 and 65. The applications where the DCPL was a respondent are not included.

Whilst 78.9% of referred *matters* concerning children the subject of an emergency order met the prescribed timeframe of no later than 24 hours before the emergency order ends, only 7.17% of *matters* that concerned children the subject of existing CPOs met the prescribed timeframe. Further it is noted that there was an overall decrease of 26 *matters* (-28.6%) that met the not less than 28 days timeframe.

With children the subject of an existing CPO at the time a *matter* is referred comprising 36.1% of the total *matters* received by the DCPL, which are also the *matters* where there has been lengthy involvement between Child Safety Services and the child and their family, the management of these *matters* within a compressed timeframe has continued to be a significant challenge. When these *matters* do not meet the timeframe, it results in critical decisions about whether to apply for a further CPO being made with reduced time being available for the DCPL and Child Safety Services to collaborate and for the requesting and providing of further evidence or information. Despite the challenges presented in dealing with these *matters*, as set out below, the DCPL remains committed to working collaboratively with Child Safety Services to ensure that the *matters* have been dealt with in a manner that has ensured the safety, wellbeing and best interests of the children.

The DCPL will continue to work with Child Safety Services to ensure greater compliance with the prescribed timeframes, which in turn will lead to better outcomes for children and their families. Such outcomes are likely to include earlier communication of the DCPL's decision as to whether to commence proceedings, timely service of applications and supporting evidence ahead of court events to enable legal representation to be accessed and reduced delay in decision-making in respect of a child.

Accepted child protection matters

Within the year 2017-18, the DCPL accepted 2,515 referred *matters* under the DCPL Act, and a further 8 *matters* were determined by the DCPL to not comply with the requirements of the DCPL Act, for example because no brief of evidence was received following the receipt of a Form A due to Child Safety Services' assessment of the child's protective needs changing.

These 8 *matters* have been included within the number of Form A's received on the basis that staff employed in the ODCPL performed work in the year when considering each of these matters in the context of the requirements of the DCPL Act.

In a year on year comparison with 2016-17 (2,456 *matters* accepted), there was an increase of 54 *matters* (2.2%) accepted in 2017-18, which reflects the 0.5% increase in the overall Form As received within the year, and that there were Form As in respect of 24 *matters* received in 2016-17 that were accepted by the DCPL in 2017-18.

In respect of referred *matters* accepted by the DCPL in 2017-18, the following table sets out the age of children the subject of the referred *matters*.

Table 5 – Age of children at time <i>matters</i> accepted		
Age	Number	%
Under 1 year of age	347	13.80%
1 year of age	183	7.28%
2 years of age	223	8.87%
3 years of age	192	7.63%
4 years of age	179	7.12%
5 years of age	164	6.52%
6 years of age	140	5.57%
7 years of age	135	5.37%
8 years of age	146	5.81%
9 years of age	136	5.41%
10 years of age	131	5.21%
11 years of age	108	4.29%
12 years of age	94	3.74%
13 years of age	102	4.06%
14 years of age	83	3.30%
15 years of age	87	3.46%
16 years of age	50	1.99%
17 years of age	15	0.60%
Total	2,515	100%

In respect of accepted referred *matters*, the following table sets out the number and percentage of children referred to the DCPL who were identified as Aboriginal and Torres Strait Islander.

Table 6 – Children identified as Aboriginal and Torres Strait Islander		
Cultural identity	Number	%
Aboriginal	874	34.75%
Aboriginal and Torres Strait Islander	100	3.98%
Torres Strait Islander	34	1.35%
Non-Aboriginal and Torres Strait Islander	1,426	56.70%
Not stated	81	3.22%
Total	2,515	100%

Child Protection matters dealt with by the DCPL in 2017-18

Under the DCPL Act, in respect of each accepted referred *matter*, the DCPL must deal with it by deciding to either:

- apply for a child protection order for the child; or
- refer the *matter* back to Child Safety Services.

In 2017-18, the DCPL dealt with 2,518 referred *matters*. In 2016-17, the DCPL dealt with 2,414 matters, which on a year on year comparison, is an increase of 104 *matters* (4.3%). This increase reflects that the DCPL dealt with more referred *matters* within the year than what were received, which included 66 *matters* received in 2016-17 being dealt with in 2017-18.

Of the 2,518 *matters* that DCPL dealt with, the DCPL consulted generally with Child Safety Services in the course of dealing with 2,053 of the *matters* (81.5% of the total *matters*). In 2016-17, the DCPL consulted generally when dealing with 1946 *matters*, which was 80.6% of the total *matters*.

Before deciding how to deal with a *matter*, the DCPL may ask Child Safety Services to provide further evidence or information about the *matter*. Of the 2,518 *matters* that were dealt in 2017-18, the DCPL asked for further evidence or information in respect of 1,542 *matters* (61.2% of total matters) before deciding how to deal with them. In 2016-17, further evidence or information was requested in 1,262 *matters* (52.3% of the total *matters*).

In deciding whether to apply for a CPO, the DCPL may apply for an order of a different type, or an order that is otherwise different, from the order that Child Safety Services considered appropriate and desirable for a child's protection.

Before the DCPL decides to either refer a *matter* back to Child Safety Services or to apply for an order of a different type, or an order that is otherwise different from, the order that Child Safety Services considered appropriate and desirable for a child's protection, the DCPL must consult with Child Safety Services to try and reach an agreement in respect of how the *matter* should be dealt with.

If after this consultation an agreement is not reached, the DCPL must provide Child Safety Services with written reasons for the DCPL's decision. Child Safety Services may then request that the DCPL conduct an internal review of the decision under the DCPL's Guidelines. An internal review is then conducted by a different lawyer of the same or higher level employed in the ODCPL. The review is conducted on the same information that was considered in reaching

the initial decision. If Child Safety Services have new information that they would like the DCPL to consider, Child Safety Services will refer a new *matter* to the DCPL.

In addition to general consultation regarding a referred *matter*, the DCPL as required under the DCPL Act, consulted with Child Safety Services in respect of 750 *matters* (29.8% of total matters) in circumstances when the DCPL was considering either referring a *matter* back to Child Safety Services or applying for an order of a different type, or an order that is otherwise different, from the order that Child Safety Services considered appropriate and desirable for a child's protection. In 2016-17, the DCPL consulted with Child Safety Services in respect of 512 *matters* (21.2% of total matters).

Matters referred back to Child Safety

In 2017-18, the DCPL referred back 115 matters to Child Safety Services, 108 of which were with agreement, and 7 were without agreement. This represents 4.6% of all *matters* (2,518) the DCPL dealt with. In 2016-17, the DCPL referred back 41 *matters* (1.7%) to Child Safety Services, all were with agreement. In a year on year comparison, there was an increase of 74 *matters* referred back in 2017-18 (180.5% increase). The year on year increase in *matters* referred back to Child Safety Services evidences the ongoing need for independent decision-making as to whether an application for a CPO should be made, and highlights the ongoing need for separation of case work and litigation, providing greater accountability and transparency.

The following table is of the *matters* referred back in 2016-17 and 2017-18 by month.

Table 7 – matters referred back to Child Safety Services by the DCPL													
Year	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2016-17	0	3	1	0	0	2	7	6	0	5	3	14	41
2017-18	12	8	2	10	12	6	20	11	19	4	6	5	115

Applications for child protection orders

In 2017-18, the DCPL dealt with 2,403 *matters* by making applications for CPOs. In 2016-17, the DCPL made 2,373 applications, which on a year on year comparison, was an increase of 30 applications made in 2017-18 (1.3% increase). However, it is noted that within the overall referred *matters* dealt with by the DCPL in 2017-18 (2,518), the DCPL dealt with 66 *matters* that were received in 2016-17.

The following table is the *matters* dealt with in 2017-18 by an application being made by month.

Table 8 – Child protection applications made by the DCPL 2017-18													
Year	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2016-17	120	222	195	203	198	196	155	222	251	194	214	203	2,373
2017-18	162	194	192	207	278	230	132	201	224	191	198	194	2,403

How the DCPL has dealt with referred matters when making an application for an order

The DCPL dealt with the 2,403 referred *matters* in 2017-18 by making applications for child protection orders as follows:

- 1,982 *matters* (78.71% of the total 2,518 *matters*) were dealt with by the DCPL by applying for the order that Child Safety Services considered appropriate and desirable for a child's protection. In 2016-17, it was 1991 *matters* (82.48% of the total *matters*)
- 387 *matters* (15.36% of the total 2,518 *matters*) were dealt with by the DCPL by applying for an order of a different type, or an order that is otherwise different, from the order that Child Safety considered appropriate and desirable for a child's protection with the agreement of Child Safety Services. In 2016-17, it was 363 *matters* (15.04% of the total *matters*)
- These 387 *matters* can be divided into the following:
 - 219 *matters* (8.70% of the total 2,518 *matters*) were dealt with by the DCPL applying for orders of a different type to the orders Child Safety Services considered appropriate and desirable for the children's protection. In 2016-17, it was 203 *matters* (8.41% of the total *matters*)
 - 116 *matters* (4.61% of the total 2,518 *matters*) were dealt with by the DCPL applying for orders of a different duration from the orders Child Safety Services considered appropriate and desirable for the children's protection. In 2016-17, it was 127 *matters* (5.26% of the total *matters*), and
 - 52 *matters* (2.07% of the total 2,518 *matters*) were dealt with by the DCPL applying for orders that were otherwise different from the orders Child Safety Services considered appropriate and desirable for the children's protection. In 2016-17, it was 33 *matters* (1.37% of the total *matters*).
- 34 *matters* (1.35% of the total 2,518 *matters*) were dealt with by the DCPL by applying for an order of a different type, or an order that is otherwise different, from the order that Child Safety Services considered appropriate and desirable for a child's protection without the agreement of Child Safety Services. In 2016-17, it was 19 *matters* (0.79% of the total *matters*).
- These 34 *matters* can be divided into the following:
 - 27 *matters* (1.07% of the total 2,518 *matters*) were dealt with by the DCPL applying for orders of a different type to the orders Child Safety Services considered appropriate and desirable for the child's protection. In 2016-17, it was 14 *matters* (0.58% of the total *matters*), and
 - 7 *matters* (0.28% of the total 2,518 *matters*) were dealt with by the DCPL applying for orders of a different duration from the orders Child Safety Services considered appropriate and desirable for the child's protection. In 2016-17, it was 5 *matters* (0.21% of the total *matters*)

In 2017-18, Child Safety Services requested that the DCPL undertake one (1) internal review of a decision made by the DCPL in dealing with a referred *matter*.

The DCPL applied for an order of a different type, or an order that was otherwise different, from the order that Child Safety considered appropriate and desirable for a child's protection which evidences the ongoing need for oversight of child protection litigation in 17.5% of all applications made, with over 91% ultimately commenced with the agreement of Child Safety Services. This

evidences the benefit of the DCPL in providing independent legal advice and opinion to Child Safety Services to better inform their assessment.

The following table sets out how the DCPL dealt with the 2,403 referred matters in 2017-18 by types of child protection orders sought in reference to the orders set out in the CP Act, section 61, noting that where the application filed by the DCPL sought more than one type of order, the order that appears last by reference to section 61 is reflected in the table. The table also includes Child Safety Services' assessment by type of order.

Table 9 – Child Safety Services’ assessment and DCPL’s applications made by type of order 2017-18					
Type of order		Child Safety’s assessment	% of total assessments	Number of applications made	% of total applications made
Revoke a child protection order		23	1.0%	22	0.9%
Directive Order – other		1	0.04%	0	0%
Directive order – no contact with child		2	0.1%	5	0.2%
Directive order – supervised contact		56	2.3%	49	2.0%
Chief executive to supervise child’s protection		113	4.7%	113	4.7%
Custody	to suitable person	11	0.5%	6	0.3%
	to chief executive	1,357	56.5%	1,392	57.9%
Short-term guardianship to CE		113	4.7%	67	2.8%
Long-term guardianship	to suitable family member	45	1.9%	46	1.9%
	to another suitable person	43	1.8%	37	1.5%
	to chief executive	634	26.4%	661	27.5%
Transfer		5	0.2%	5	0.2%
Total		2,403	100%	2,403	100.00%

DCPL as a respondent

The DCPL was also a respondent to 33 applications made by children's parents to either vary or revoke child protection orders for children. In 2016-17, the DCPL was a respondent to 26 applications.

Applications for child protection orders determined by the court

In 2017-18, the Childrens Court determined 2,350 applications for child protection orders. The following table sets out how the applications were determined by reference to the orders set out in the CP Act, section 61, noting that where the Court made more than one type of order, the order that appears last by reference to section 61 is reflected in the table.

Table 10 – Types of final orders made and applications withdrawn in 2017-18			
Type of order		Number of applications determined	% of total applications determined
No orders made ³		15	0.6%
Withdrawn		77	3.3%
Revoke a child protection order		23	1.0%
Directive order – other		9	0.4%
Directive order – no contact with child		6	0.3%
Directive order supervised contact		36	1.5%
Chief executive to supervise child's protection		162	6.9%
Custody	to suitable person	5	0.2%
	to chief executive	1,283	54.6%
Short-term guardianship to CE		90	3.8%
Long-term guardianship	to suitable family member	54	2.3%
	to another suitable person	49	2.1%
	to chief executive	541	23.0%
Total		2,350	100.00%

In 2017-18, the difference between applications for CPOs made (2,436), which includes applications where the DCPL was a respondent, and applications determined (2,350) was 86 applications (96.5%).

The number of applications withdrawn reflects the dynamic nature of the lives of children and families. Applications require ongoing reviews during litigation, and if it is determined that an order is no longer required, the DCPL will with the Court's leave, withdraw applications. This is in accordance with the model litigant principles, and affording procedural fairness and natural justice to the children and families involved, with the litigation only progressing when the evidence supports an application.

Children's need for emotional security and stability – orders granting long-term guardianship

In the context of permanency for children in Queensland, the Commission of Inquiry's final report noted that:

The Commission is concerned at the high number of children and young people subject to multiple short-term orders because this could indicate that many children are 'drifting' in care without achieving either reunification with the family or long-term out-of-home care.⁴

³ DCPL was a respondent to 13 applications that were dismissed

⁴ Queensland Child Protection Commission of Inquiry's final report 'Taking Responsibility: A Roadmap for Queensland Child Protection, June 2013, page 222.

In 2017-18, the court made 644 orders granting long-term guardianship, which was an increase from the 496 orders made in 2016-17 (29.8% increase). This increase achieves greater stability, legal permanency and better long-term outcomes for children, significantly mitigating against children 'drifting' in the statutory care system where they do not have a parent able and willing to care for them in the foreseeable future.

The following table sets the number of applications that were determined by the making of orders granting long-term guardianship in each year.

Table 11 – Admissions to CPOs granting long-term guardianship in 2016-17 and 2017-18					
Type order		2016-17 number of LTG CPOs	% of total applications determined	2017-18 number of LTG CPOs	% of total applications determined
Long-term guardianship	to suitable family member	44	2.4%	54	2.3%
	to another suitable person	43	2.3%	49	2.1%
	to chief executive	409	21.9%	541	23.0%
Total		496		644	

Appeals

In 2017-18, the DCPL took decisive action to appeal interim and final decisions by the court at first instance when appropriate, being heard and determined by either a Childrens Court judge, or if not available, a District Court judge. This included urgent stays of decisions at first instance.

On appeal, the DCPL has achieved positive outcomes in terms of ensuring the ongoing protection and care needs of the child are met. The instigation and determination of appeals has contributed to the development of a body of jurisprudence in child protection law, which serves to establish legal precedents and consistency in the application of legal principles and decision-making in the child protection jurisdiction.

In addition to appeals initiated by the DCPL, the DCPL was also the respondent in a number of appeals initiated by other participants during the second year of operation.

Child death and serious physical injury reporting

The DCPL's Child Death and Serious Physical Injury Case Review Policy implements Chapter 7A 'child deaths and other matters' of the CP Act.

Under this Chapter, the DCPL must carry out a review of the involvement of the ODCPL in a matter relating to a child if:

- the child dies or suffers serious physical injury; and
- Child Safety Services gives notice to the DCPL; and
- at the time of the child's death or serious physical injury, the DCPL Director is involved in performing a litigation function; or
- within 1 year before the child's death or serious physical injury, the DCPL has performed a litigation function in relation to the child; or
- Child Safety Services requests a review in writing.

The purposes of requiring child death and serious physical injury case reviews are:

- to facilitate the ongoing learning and improvement in the provision of services by the DCPL; and
- to promote the accountability of the DCPL.

The DCPL is responsible for determining the extent of the review and whether it will be carried out internally, engage an external consultant to conduct and finalise the review or a specialist for advice.

Where the review concerns an Aboriginal child or Torres Strait Islander child, the DCPL may engage a cultural consultant to provide advice regarding culturally appropriate practice throughout the review process.

Under section 40(2)(b) of the DCPL Act, any actions taken during the financial year in response to a report given by a review panel under section 246DD of the CP Act must be included in the annual report.

During the period of the 2017-18 annual report, the DCPL was given notice of three (3) matters that required the DCPL to carry out a review.

The DCPL completed one (1) review relating to a child's death and one (1) review relating to a serious physical injury and submitted the resulting reports to the Child Death Case Review Panel (Review Panel) and, where necessary, the Office of the State Coroner.

The DCPL is committed to facilitating ongoing learning and improvement in the provision of services, as a key agency with responsibility for safeguarding and promoting the safety, wellbeing and best interests of children who are subject to proceedings for child protection orders. In exercising its statutory functions, the DCPL takes all necessary action to enable all children subject to proceedings to have the best outcomes.

As a statutory agency, the DCPL must ensure adherence to legislative requirements and expectations in order to safeguard and promote the welfare of children, ensuring compliance with model litigant principles in representing the State in preparing and applying for child protection orders. Child death and other case reviews promote accountability and monitor the effectiveness of service delivery.

In respect of DCPL's litigation functions, these reviews provide an evidence based independent and objective analysis of how the *matter* was dealt with and why decisions were made, enabling important lessons to be learnt and services improved, ultimately reducing the risk of future harm to children within the statutory system.

In the 2017-2018 financial year, the DCPL received three (3) reports from the Review Panel for two (2) children who died and one (1) child who suffered a serious physical injury, making a total of five (5) recommendations relating to ongoing learning and improvement in the provision of child protection service delivery and child protection litigation services by the DCPL.

The recommendations included that Child Safety Services and the DCPL explore new opportunities to develop and maintain strong local working relationships between Child Safety Services and the DCPL, to promote inter-agency communication, collaboration and a belief in and understanding of mutual roles and responsibilities, decision-making criteria, evidentiary requirements and court-work processes.

In response, the DCPL has continued to have a strong commitment and focus on continuing professional development of ODCPL staff in respect of child protection service delivery and litigation as detailed above in the 'Learning and development' part of this report.

Further, as detailed above within the 'Stakeholder engagement' part of this report, the DCPL has continued to invest significant effort in developing relationships with OCFOS and Child Safety Service Centre staff, ranging from regular meetings between the senior leaders within the ODCPL and OCFOS, joint development of resources, participation in joint training, and visits by DCPL Lawyers to Child Safety Service Centres.

Financial summary

The DCPL is not a statutory body for the purposes of the *Statutory Bodies Financial Arrangements Act 1982* or the *Financial Accountability Act 2009*.

Funding for the ODCPL is appropriated from the Queensland Government as part of the appropriation for DJAG, with the Director-General of the Department being the accountable officer pursuant to the *Financial Accountability Act*. Comprehensive financial details relating to the operations of the Department are reported in the annual report for DJAG.

A summary of the revenue and expenditure for the ODCPL for the financial year 2017-18 is contained in the table below.

Table 12	
\$'000	
Revenue	
Appropriation	9,677
Other revenue (from providing fee for service)	24
Total Revenue	9,701
Expenditure	
Employee Expenses	8,206
Supplies and Services	1,484
Depreciation and amortisation	11
Total Expenses	9,701
Net Surplus (Deficit)	0

Other revenue is obtained from the fee for service work performed and billed to Child Safety Services.

Overseas Travel Expenditure

There was no overseas travel undertaken by the DCPL or staff employed in the ODCPL during the year.

Consultancies

The ODCPL did not engage any consultants during the year.

Service delivery statements (SDS)

The DCPL has developed an effectiveness measure for the 2018-19 SDS and is currently developing an efficiency measure and will ensure the new measure will align with the Performance Management Framework definitions, and represent how it supports the Government's objectives and its responsibilities under the DCPL Act.

Glossary

Acronyms

• ACA	Assessment Care Agreement
• CP Act	<i>Child Protection Act 1999</i>
• CPCA	Child Protection Care Agreement
• CPO	Child Protection Order
• CPD	Continuing Professional Development
• CAO	Court Assessment Order
• DCPL	Director of Child Protection Litigation
• DCPL Act	<i>Director of Child Protection Litigation Act 2016</i>
• DCSYW	Department of Child Safety, Youth and Women
• DJAG	Department of Justice and Attorney-General
• Form A	Referral of Child Protection Matter Summary Form
• FTE	Full Time Equivalent
• LAQ	Legal Aid Queensland
• OCFOS	Office of the Child and Family Official Solicitor
• ODCPL	Office of the Director of Child Protection Litigation
• OPG	Office of the Public Guardian
• Commission of Inquiry	Queensland Child Protection Commission of Inquiry in 2013
• QCAT	Queensland Civil and Administrative Tribunal
• QLS	Queensland Law Society
• Rules	<i>Childrens Court Rules 2016</i>
• TAO	Temporary Assessment Order
• TCO	Temporary Custody Order

Terms

- *child in need of protection* – see section 10 of the CP Act
- *child protection application* – see rule 4 (Schedule 1 Dictionary) of the Rules
- *child protection matter* – see section 15(1) of the DCPL Act
- *child protection proceedings* – means a proceeding under the CP Act for the making, extension, amendment or revocation of a child protection order – see section 3 (Schedule 1 Dictionary) of the DCPL Act
- Court – means the Childrens Court of Queensland
- Department of Child Safety, Youth and Women – Child Safety Services *formerly* Department of Communities, Child Safety and Disability Services - Child Safety Services
- emergency order – temporary assessment order, court assessment order and temporary custody order
- *harm* - has the meaning given to it in section 9 of the CP Act
- *suitable person* - has the meaning given to it in Schedule 3 of the CP Act

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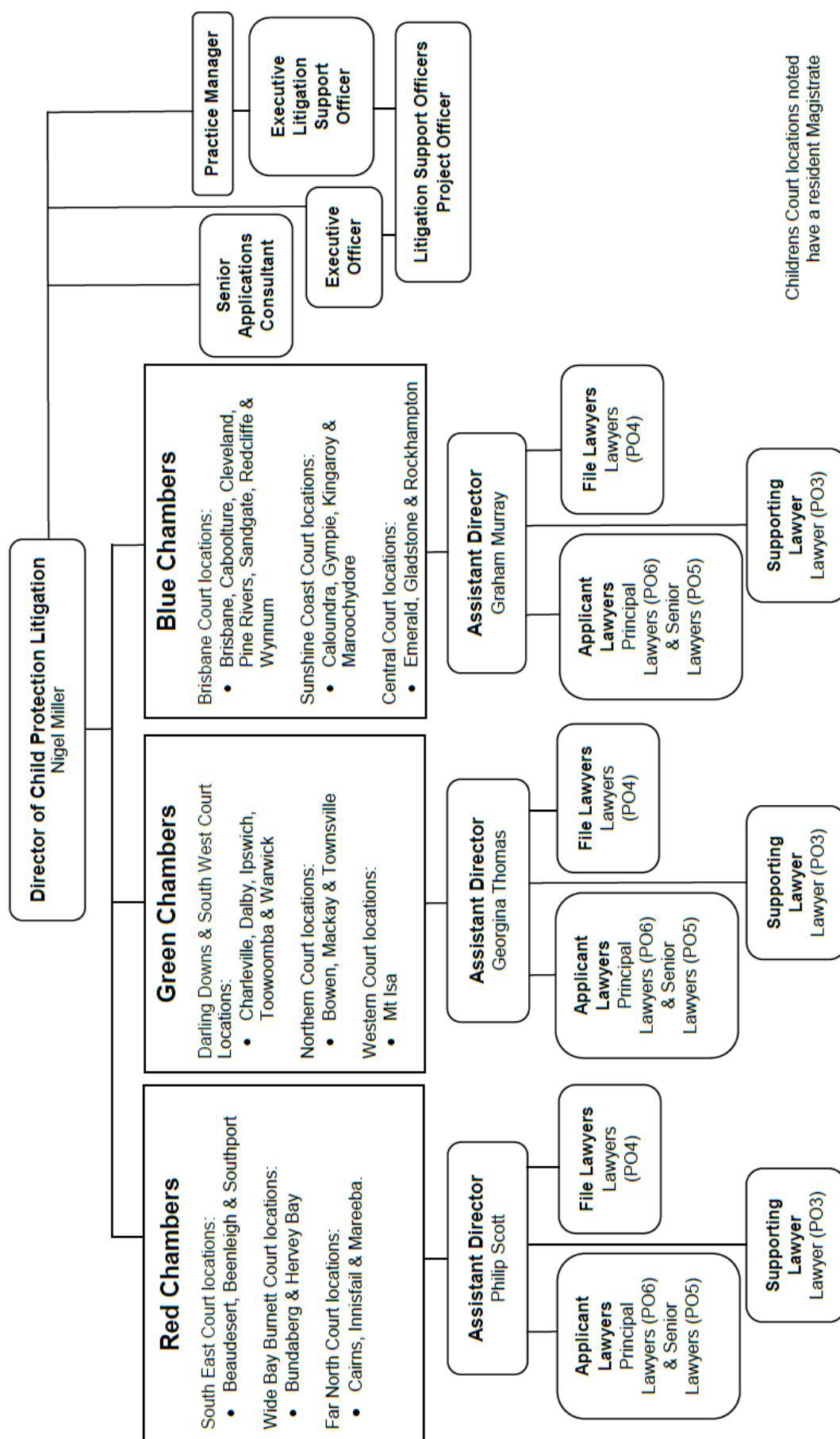
Director of Child Protection Litigation

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Appendices

Appendix 1 - Organisational Chart

Office of the Director of Child Protection Litigation (ODCPL) – Organisational Structure – Brisbane based office – as at 30 June 2018



Appendix 2 – 2017-18 CPD Program topics

NO	DATE	TITLE	PRESENTER
1.	21 July 2017	QCAT Reviews: the chief executive's role	Rachael Smith, Court Services, DCSYW
2.	4 August 2017	Aboriginal and Torres Strait Islander Children and Families and the CP Act	Kate Grant, ATSILS
3.	1 September 2017	Safe & Together: reflections on recent domestic and family violence training	A/Principal Lawyer Sunny Munasinghe and A/Senior Lawyer Leanne Scoines
4.	14 September 2017	An overview of QCAT and Guardianship Proceedings	Darren Clark, Assistant Registrar, Human Rights, QCAT
5.	29 September 2017	Cultural Awareness Training (Kalwun)	Alf Summer, Aunty Joyce and Kalwun Recognised Entity
6.	13 October 2017	Understanding the impact of exposure to domestic violence on children	Rachel Smith, Clinical Psychologist and Professional Development Coordinator, Evolve Interagency Services
7.	10 November 2017	The role of the CE in proceedings under Part VII of the Family Law Act 1975	Tina Foti, Senior Team Leader, Court Services, Legal Services, DCSYW
8.	8 December 2017	No parent able and willing - Fathers and Child Protection Proceedings	A/Assistant Director Danielle Brown
9.	19 January 2018	An introduction to the Framework for Practice	Adele Tennant, Practice Leader (OCFOS)
10.	2 February 2018	A closer look at the Framework for Practice	Adele Tennant, Practice Leader (OCFOS)
11.	11 April 2018	The application of sections 67 and 99 of the CP Act to child protection proceedings	DCPL, Nigel Miller
12.	20 April 2018	The application of sections 67 and 99 of the CP Act to child protection proceedings (Repeat Session)	DCPL, Nigel Miller
13.	16 May 2018	Neuroplasticity and implications for mental health	Hanne Paust, Psychologist
14.	12 June 2018	CourtShare Training CourtShare is a SharePoint Online system that allows sharing of information between DCSYW and the DCPL.	Inter-Agency Court Work Project Team, DCSYW
15.	13 June 2018	Who gets to participate? - applying s113 of the CP Act to child protection proceedings	Assistant Director, Georgina Thomas
16.	22 June 2018	Who gets to participate? - applying s113 of the CP Act to child protection proceedings (Repeat Session)	Assistant Director, Georgina Thomas
17.	27 June 2018	Domestic Violence Orders and Child Protection Proceedings (<i>Domestic and Family Violence Protection Act 2012</i>)	Lynne Bricknell, Senior Lawyer, Violence Prevention and Women's Advocacy and Jessica Deane, Principal Lawyer, Children and Young People Team – LAQ

Appendix 3 - Existing intervention on receipt of Form A for referred matters by Child Safety Services' regions

Brisbane Region	2016-17		2017-18		Var.
No Order or Agreement	12	4.0%	41	15.1%	241.7%
TAO	2	0.7%	0	0.0%	0%
CAO	48	16.1%	50	18.4%	4.2%
TCO	59	19.7%	49	18.0%	-16.9%
ACA	15	5.0%	2	0.7%	-86.7%
CPCA	26	8.7%	19	7.0%	-26.9%
CPO	132	44.1%	109	40.1%	-17.4%
Multiple	5	1.7%	2	0.7%	-60.0%
Total	299		272		-9.0%

Central Queensland Region	2016-17		2017-18		Var.
No Order or Agreement	31	9.1%	34	8.5%	9.7%
TAO	0	0.0%	1	0.3%	0%
CAO	57	16.7%	102	25.6%	78.9%
TCO	103	30.1%	139	34.8%	35.0%
ACA	8	2.3%	3	0.8%	-62.5%
CPCA	18	5.3%	8	2.0%	-55.6%
CPO	122	35.7%	112	28.1%	-8.2%
Multiple	3	0.9%	0	0.0%	0%
Total	342		399		16.7%

Appendix 3 - Existing intervention on receipt of Form A for referred *matters* by Child Safety Services' regions (cont.)

Far North Queensland Region	2016-17		2017-18		Var.
No Order or Agreement	46	16.4%	33	8.3%	-28.3%
TAO	4	1.4%	1	0.3%	-75.0%
CAO	38	13.5%	46	11.5%	21.1%
TCO	13	4.6%	36	9.0%	176.9%
ACA	46	16.4%	23	5.8%	-50.0%
CPCA	18	6.4%	19	4.8%	5.6%
CPO	114	40.6%	79	19.8%	-30.7%
Multiple	2	0.7%	2	0.5%	0.0%
Total	281		239		-14.9%

North Coast Region	2016-17		2017-18		Var.
No Order or Agreement	23	6.8%	22	6.7%	-4.3%
TAO	8	2.4%	0	0.0%	0%
CAO	50	14.9%	68	20.8%	36.0%
TCO	54	16.1%	71	21.7%	31.5%
ACA	5	1.5%	4	1.2%	-20.0%
CPCA	21	6.3%	17	5.2%	-19.0%
CPO	172	51.2%	140	42.8%	-18.6%
Multiple	3	0.9%	5	1.5%	66.7%
Total	336		327		-2.7%

Appendix 3 - Existing intervention on receipt of Form A for referred *matters* by Child Safety Services' regions (cont.)

North Queensland Region	2016-17		2017-18		Var.
No Order or Agreement	20	7.7%	10	4.5%	-50.0%
TAO	1	0.4%	1	0.4%	0.0%
CAO	84	32.4%	69	30.8%	-17.9%
TCO	34	13.1%	62	27.7%	82.4%
ACA	7	2.7%	8	3.6%	14.3%
CPCA	16	6.2%	10	4.5%	-37.5%
CPO	92	35.5%	64	28.6%	-30.4%
Multiple	5	1.9%	0	0.0%	0%
Total	259		224		-13.5%

South East Queensland Region	2016-17		2017-18		Var.
No Order or Agreement	40	7.7%	51	9.9%	27.5%
TAO	0	0.0%	0	0.0%	0%
CAO	147	28.2%	145	28.2%	-1.4%
TCO	78	14.9%	95	18.4%	21.8%
ACA	10	1.9%	3	0.6%	-70.0%
CPCA	18	3.4%	11	2.1%	-38.9%
CPO	204	39.1%	203	39.4%	-0.5%
Multiple	25	4.8%	7	1.4%	-72.0%
Total	522		515		-1.3%

Appendix 3 - Existing intervention on receipt of Form A for referred *matters* by Child Safety Services' regions (cont.)

South West Queensland Region	2016-17		2017-18		Var.
No Order or Agreement	54	11.9%	48	9.0%	-11.1%
TAO	4	0.9%	1	0.2%	-75.0%
CAO	125	27.5%	128	24.1%	2.4%
TCO	108	23.7%	144	27.1%	33.3%
ACA	7	1.5%	2	0.4%	-71.4%
CPCA	14	3.1%	5	0.9%	-64.3%
CPO	138	30.3%	199	37.5%	44.2%
Multiple	5	1.1%	4	0.8%	-20.0%
Total	455		531		16.7%

State-wide Total	2016-17		2017-18		Var.
No Order or Agreement	226	9.1%	239	9.5%	5.8%
TAO	19	0.8%	4	0.2%	-78.9%
CAO	549	22.0%	608	24.3%	10.7%
TCO	449	18.0%	596	23.8%	32.7%
ACA	98	3.9%	45	1.8%	-54.1%
CPCA	131	5.3%	89	3.6%	-32.1%
CPO	974	39.1%	906	36.1%	-7.0%
Multiple	48	1.9%	20	0.8%	-58.3%
Total	2494		2507		0.5%

Appendix 4 – Compliance Checklist

Summary of requirement		Basis for requirement	Annual report reference
Letter of compliance	<ul style="list-style-type: none"> A letter of compliance from the accountable officer or statutory body to the relevant Minister/s 	ARRs – section 7	Page 2
Accessibility	<ul style="list-style-type: none"> Table of contents Glossary 	ARRs – section 9.1	Page 4 Page 39
	<ul style="list-style-type: none"> Public availability 	ARRs – section 9.2	Page 2
	<ul style="list-style-type: none"> Interpreter service statement 	<i>Queensland Government Language Services Policy</i> ARRs – section 9.3	Page 2
	<ul style="list-style-type: none"> Copyright notice 	<i>Copyright Act 1968</i> ARRs – section 9.4	Page 2
	<ul style="list-style-type: none"> Information Licensing 	<i>QGEA – Information Licensing</i> ARRs – section 9.5	Page 2
General information	<ul style="list-style-type: none"> Introductory Information 	ARRs – section 10.1	Page 6
	<ul style="list-style-type: none"> Agency role and main functions 	ARRs – section 10.2	Page 11
	<ul style="list-style-type: none"> Machinery of Government changes 	ARRs – section 31 and 32	N/A
	<ul style="list-style-type: none"> Operating environment 	ARRs – section 10.3	Page 12
Non-financial performance	<ul style="list-style-type: none"> Government's objectives for the community 	ARRs – section 11.1	Page 6
	<ul style="list-style-type: none"> Other whole-of-government plans / specific initiatives 	ARRs – section 11.2	Page 6
	<ul style="list-style-type: none"> Agency objectives and performance indicators 	ARRs – section 11.3	Page 23
	<ul style="list-style-type: none"> Agency service areas and service standards 	ARRs – section 11.4	Page 38
Financial performance	<ul style="list-style-type: none"> Summary of financial performance 	ARRs – section 12.1	Page 38
Governance – management and structure	<ul style="list-style-type: none"> Organisational structure 	ARRs – section 13.1	Page 41
	<ul style="list-style-type: none"> Executive management 	ARRs – section 13.2	Page 15
	<ul style="list-style-type: none"> Government bodies (statutory bodies and other entities) 	ARRs – section 13.3	N/A
	<ul style="list-style-type: none"> <i>Public Sector Ethics Act 1994</i> 	<i>Public Sector Ethics Act 1994</i> ARRs – section 13.4	Page 16
	<ul style="list-style-type: none"> Queensland public service values 	ARRs – section 13.5	Page 16
Governance – risk management and accountability	<ul style="list-style-type: none"> Risk management 	ARRs – section 14.1	Page 16
	<ul style="list-style-type: none"> Audit committee 	ARRs – section 14.2	N/A
	<ul style="list-style-type: none"> Internal audit 	ARRs – section 14.3	N/A
	<ul style="list-style-type: none"> External scrutiny 	ARRs – section 14.4	N/A

Summary of requirement		Basis for requirement	Annual report reference
	<ul style="list-style-type: none"> Information systems and recordkeeping 	ARRs – section 14.5	Page 16
Governance – human resources	<ul style="list-style-type: none"> Strategic workforce planning and performance 	ARRs – section 15.1	Page 16
	<ul style="list-style-type: none"> Early retirement, redundancy and retrenchment 	Directive No.11/12 <i>Early Retirement, Redundancy and Retrenchment</i> Directive No.16/16 <i>Early Retirement, Redundancy and Retrenchment</i> (from 20 May 2016) ARRs – section 15.2	Page 15
Open Data	<ul style="list-style-type: none"> Statement advising publication of information 	ARRs – section 16	N/A
	<ul style="list-style-type: none"> Consultancies 	ARRs – section 33.1	Page 38
	<ul style="list-style-type: none"> Overseas travel 	ARRs – section 33.2	Page 38
	<ul style="list-style-type: none"> Queensland Language Services Policy 	ARRs – section 33.3	N/A
Financial statements	<ul style="list-style-type: none"> Certification of financial statements 	FAA – section 62 FPMS – sections 42, 43 and 50 ARRs – section 17.1	N/A
	<ul style="list-style-type: none"> Independent Auditor's Report 	FAA – section 62 FPMS – section 50 ARRs – section 17.2	N/A

FAA *Financial Accountability Act 2009*

FPMS *Financial and Performance Management Standard 2009*

ARRs *Annual report requirements for Queensland Government agencies*

Appendix 5 - Director's Guidelines issued as at 1 July 2017

Director of Child Protection Litigation

Director's Guidelines

Current as at 1 July 2017



Office of the Director of Child Protection Litigation

Director's Guidelines – current as at 1 July 2017 – to replace previous Guidelines

Issued by the Director of Child Protection Litigation under section 39 of the *Director of Child Protection Litigation Act 2016*.

These Guidelines are issued to:

- all staff of the Office of the Director of Child Protection Litigation (ODCPL);
- the chief executive of the Department of Communities, Child Safety and Disability Services (Child Safety) and all staff working in the following areas undertaking work relevant to the functions of the Director of Child Protection Litigation (DCPL):
 - the Office of the Child and Family Official Solicitor (OCFOS);
 - Child Safety Service Centres; and
 - Child Safety's Legal Services;
- lawyers engaged by the DCPL to carry out the Director's functions under the *Director of Child Protection Litigation Act 2016*.

These Guidelines are not issued as mandatory directions. The purpose of the Guidelines is to promote best practice for the collaboration between the DCPL and Child Safety to achieve fair, timely and consistent outcomes for the protection of children in respect of matters including:

- referrals of *child protection matters* to the DCPL by Child Safety, including the form and content of a brief of evidence;
- procedures for dealing with *child protection matters*, including factors the DCPL must have regard to in deciding whether to apply for child protection orders;
- principles and procedures for the conduct of child protection proceedings, including procedures about the roles of the DCPL and Child Safety during the proceedings; and
- procedures about how Child Safety may seek an internal review of a decision of the DCPL for which written reasons are required to be given.

Where terms used in the Guidelines are defined in legislation such as *child in need of protection* that definition is adopted and the term is italicised. The relevant legislative reference is included in the definitions section at the end of the Guidelines (Appendix 1).

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Chapter 1 - Introduction

Part 1 Role of the Director of Child Protection Litigation

1. The Director of Child Protection Litigation (DCPL) is established by the *Director of Child Protection Litigation Act 2016* (the Act). The DCPL is an independent statutory officer located within the justice portfolio representing the State. The main functions of the DCPL are to:
 - a. prepare and apply for child protection orders (including applications to extend, vary or revoke child protection orders) and conduct child protection proceedings in the Childrens Court of Queensland;
 - b. prepare and apply for transfers of child protection orders or proceedings between Queensland and other participating States; and

- c. prepare, institute and conduct appeals against decisions of the Childrens Court of Queensland on applications for child protection orders, and decisions to transfer a child protection order or child protection proceeding to a participating State.
-
- 2. The DCPL also has the following functions on request:
 - a. to provide legal advice to Child Safety in relation to the functions of Child Safety under the *Adoption Act 2009* and the *Child Protection Act 1999* (CP Act) and other matters relating to the safety, wellbeing or protection of a child;
 - b. to represent the State in legal proceedings under the *Adoption Act 2009* and the *Child Protection Act 1999*; and
 - c. to provide advice to the State about a matter to which that Convention of the Civil Aspects of International Child Abduction applications under the *Family Law Act 1975* (Cwlth), section 111B, and to represent the State in proceedings relating to the matter.

Part 2 Role of the Office of the Child and Family Official Solicitor

- 3. The Office of the Child and Family Official Solicitor (OCFOS) is a legal unit within Child Safety and is the principal point of contact for the DCPL. Key responsibilities of OCFOS include:
 - a. providing legal services and advice to Child Safety Service Centres (CSSC) about Child Safety's statutory functions relating to the protection of children;
 - b. applying for temporary assessment orders, court assessment orders and temporary custody orders (emergency orders);
 - c. working with CSSCs to prepare briefs of evidence for *child protection matters* that are being referred to the DCPL;
 - d. working in partnership with the DCPL to prepare matters for filing in the Childrens Court and providing ongoing consultation in the review and management of those matters; and
 - e. liaising with CSSCs and the DCPL as necessary to progress *child protection matters* in a timely manner consistent with the safety, wellbeing and best interests of the children.

Part 3 Principles of the Director of Child Protection Litigation Act 2016

- 4. The principles for administering the Act are contained in sections 5 and 6. A decision by the DCPL to apply for a child protection order or to refer a matter back to Child Safety may have profound implications for a child and their family. The principles apply to all actions taken and decisions made by the DCPL in the exercise of its statutory functions.

Part 4 Model litigant principles

- 5. As well as applying the principles of the Act, the DCPL, as a representative of the State, has a duty to exercise its statutory functions in accordance with model litigant principles.
- 6. Model litigant principles reflect the court's and the community's expectation that the State will conduct litigation in a way that is firm and fair. Model litigant principles state

that fairness will be achieved when litigation is conducted promptly, efficiently, consistently and proportionately and in a manner that does not take advantage of another party's limited financial or other means. The model litigant principles are published on the Department of Justice and Attorney General's website and are available here: www.justice.qld.gov.au/justice-services/legal-services-coordination-unit/legal-service-directions-and-guidelines/model-litigant-principles

7. Child protection proceedings are unique and should not be conducted in a manner that is overly adversarial. Similarly, court outcomes should not be thought of in terms of 'winning' or 'losing' the case. Instead, the DCPL's overarching obligation is to assist the court to make a fully informed decision in accordance with the provisions of the CP Act and the safety, wellbeing and best interests of the child.
8. Whilst not an exhaustive list, in complying with its obligation to act as a model litigant the DCPL should:
 - a. ensure applications give fair and proper notice of the DCPL's case to parents, children (where appropriate) and other participants in proceedings;
 - b. ensure sufficient, relevant and appropriate evidence is filed in support of applications, including evidence that does not support the applications;
 - c. ensure all relevant information is disclosed to other parties;
 - d. progress application as quickly as possible avoiding any unnecessary delay;
 - e. explore opportunities for early resolution of applications;
 - f. conduct child protection proceedings in a way that assists the court to make a fully informed decision about the safety, wellbeing and best interests children;
 - g. conduct child protection proceedings in a way that is fair to other parties paying particular care not to take advantage of parties who are unrepresented; and
 - h. institute appeals that are consistent with the safety, wellbeing and best interests of the children and have a reasonable prospect of success.
9. Child Safety should assist the DCPL to comply with its model litigant obligations by:
 - a. providing the DCPL with all relevant information commencing with the referral of a *child protection matter* until the matter is finalised either by the Childrens Court of Queensland or by a referral back to Child Safety;
 - b. preparing affidavits that are balanced and fair including information that does not support the application, as well as information that supports the application;
 - c. taking reasonable steps to obtain further evidence or information requested by the DCPL;
 - d. ensuring the DCPL has up to date information about the child prior to court events; and
 - e. ensuring an officer with relevant case knowledge and authority attends all court events or is otherwise available by telephone.

Part 5 Collaboration between the DCPL and Child Safety

10. The DCPL and Child Safety can promote good outcomes for children by working together collaboratively. Strong collaboration between the DCPL and Child Safety is

fundamental to the exercise of the DCPL's statutory functions in a way that promotes the safety, wellbeing and best interests of children.⁵

11. A strong and effective partnership between the DCPL and Child Safety is promoted by a mutual understanding and respect for each other's role in protecting Queensland's children who have been harmed or are at risk of being harmed from abuse and neglect. Child Safety has expertise and powers for the investigation and assessment of reported child abuse and neglect and statutory responsibility for providing and coordinating support services for the protection of children. The DCPL has expertise in preparing and applying for child protection orders, and conducting child protection proceedings. There is a clear separation between the Child Safety's investigation, assessment and casework responsibilities, and the DCPL's litigation responsibilities. Both agencies have a critical role to play in protecting and promoting the safety, wellbeing and best interests of children in Queensland.
12. In addition to the importance of collaboration between the DCPL and Child Safety generally, the relationship between the DCPL and OCFOS is particularly important. OCFOS has expertise in the assessment of the sufficiency of evidence to support an application for a child protection order and in the preparation of the brief of evidence accompanying a referral to the DCPL. The DCPL should work in partnership with OCFOS to finalise court material in preparation for filing in court and in the ongoing review and conduct of proceedings.
13. Strong collaboration between the DCPL and Child Safety will also be facilitated by the free flow of relevant information between both agencies so that decision making is underpinned by a comprehensive understanding of all of the circumstances of the case.

Part 6 Timeliness

14. The DCPL and Child Safety should work together in a manner that is quick and efficient. Timeliness and avoiding unnecessary delay in decision making and the progress of child protection proceedings promotes the safety, wellbeing and best interests of children who are referred to the DCPL.

Chapter 2 – Referring a *child protection matter* to the DCPL

Part 1 Terminology

15. In this Chapter references to an application for a child protection order should be taken as also referring to an application to extend a child protection order and, where applicable, to an application to vary or revoke a child protection order. Chapter 8 of these Guidelines provides further guidance about an application to vary or revoke a child protection order.

⁵ This is reflected in the general principles of the Act at section 6(1)(a).

Part 2 Who can refer a child protection matter?

16. Only Child Safety, through OCFOS, or as otherwise directed by the Official Solicitor of OCFOS, can refer a *child protection matter* to the DCPL. If an agency or a person other than Child Safety attempts to refer a *child protection matter* to the DCPL, they should be advised to contact Child Safety who is responsible for conducting investigations and assessments, and providing and coordinating support services to children and families where a child is assessed to be a *child in need of protection*.

Part 3 When Child Safety must refer a child protection matter

17. Child Safety must refer a *child protection matter* to the DCPL when satisfied:
- a child is a *child in need of protection*; and
 - a child protection order is appropriate and desirable for the child's protection; or
 - for a child that is subject to a child protection order (other than an interim order under section 67 of the CP Act)—that the order is no longer appropriate and desirable for the child's protection.⁶

Part 4 How a child protection matter can be referred

18. The preferred way for OCFOS to refer a *child protection matter* to the DCPL is electronically.
19. Where the referral cannot be made electronically for any reason, a referred *child protection matter* can be hand delivered, faxed or posted to the DCPL.

Part 5 Telling the child's family about the referral

20. Where Child Safety refer a *child protection matter* to the DCPL, they should tell the child's parents about the referral, explain why they have made the referral and what this means. Child Safety should also tell the child about the referral where Child Safety consider that is appropriate having regard to the child's age or ability to understand.

Part 6 Acknowledgment of receipt

21. The DCPL will provide a written acknowledgement of receipt of every referral, irrespective of how it was received. The written acknowledgement of receipt should be

⁶ See section 15 of the Act.

provided electronically within 24 hours of receiving the referral. If Child Safety do not receive this, they should contact the DCPL to confirm the referral has been received.

Part 7 A Referral of Child Protection Matter Summary

22. When Child Safety refer a *child protection matter* to the DCPL, a completed 'Form A – Referral of Child Protection Matter/s Summary form' should clearly and succinctly address the matters set out in section 16(1)(a) or (b) of the Act as appropriate stating the material facts underpinning the assessment and that are evidenced in the supporting documents. The 'Form A – Referral of Child Protection Matter Summary form' should not re-produce passages contained in draft supporting affidavits, but may refer to relevant paragraphs of the supporting affidavits or to other relevant documents provided with the referral.
23. The 'Form A – Referral of Child Protection Matter/s Summary form' should also:
- a. provide contact details for the relevant OCFOs and CSSC staff including afterhours contact details;
 - b. state whether Child Safety has applied for an emergency order for the child and the outcome of the application, including:
 - i. the type of emergency order;
 - ii. the date the emergency order ends; and
 - iii. if an emergency order was not made—what were the reasons;
 - c. state whether there is an existing child protection order for the child;
 - d. list all previous child protection orders that have been made for the child;
 - e. state whether there is a care agreement for the child;
 - ea. state whether there is no emergency order, existing order or care agreement for the child;
 - f. state whether there are other related proceedings⁷ or orders, such as:
 - i. a proceeding in which a court is exercising jurisdiction conferred on the court under the *Family Law Act 1975* (Cwlth) for the child, or a family law order for the child;⁸
 - ii. a proceeding under the *Domestic and Family Violence Protection Act 2012* if each party to the proceeding would be a party to any child protection proceeding, or a domestic violence order already in force if each party to the proceeding would be a party to any child protection proceeding;⁹ and
 - iii. a proceeding before the Queensland Civil and Administrative Tribunal (QCAT) for an application for a review of a reviewable decision under the CP Act, including the decision that is the subject of the review application, and or any QCAT decision on an application for a review of a reviewable decision;¹⁰
 - iv. related criminal law proceedings;¹¹
 - g. list any interim child protection order or orders under section 67 of the CP Act that Child Safety has assessed are necessary for the child's protection pending determination of any application made to court. The 'Form A – Referral of Child Protection Matter/s Summary form' should state the key reasons why the interim

⁷ See rule 70 of the *Childrens Court Rules 2016*.

⁸ See section 52(b) of the CP Act.

⁹ See section 43 of the *Domestic and Family Violence Protection Act 2012*.

¹⁰ See section 247 and Schedule 2 of the CP Act.

¹¹ See section 103 of the CP Act.

order is necessary and the draft supporting affidavits should contain sufficient evidence to support the making of an interim child protection order or orders.

24. A 'Form A – Referral of Child Protection Matter/s Summary form' is attached to these Guidelines.

Part 8 Brief of evidence

25. When Child Safety refers a *child protection matter* to the DCPL, the referral should also include a brief of evidence that includes:
- a. the reasons why the child is a *child in need of protection*; and
 - b. the reasons why a child protection order is appropriate and desirable for the child's protection; and
 - c. the type and length of child protection order or orders Child Safety considers appropriate and desirable for the child's protection; or
 - d. for a child subject to a child protection order (other than an interim order under section 67 of the CP Act)—reasons why the order is no longer appropriate and desirable for the child's protection.¹²
26. Child Safety's brief of evidence should also provide:
- a. draft affidavits with attached exhibits evidencing the matters set out in section 16(1)(a) or (b) of the Act as appropriate;
 - b. any other supporting documents that are available to Child Safety; and
 - c. all other documents relevant to the referral that are available to Child Safety at the time of the referral.
27. Affidavits are a critical component of the referral to the DCPL. Further guidance about preparing draft affidavits, including originating affidavits, is set out in Chapter 5 of these Guidelines.

Part 9 Confidential and sensitive information

28. When Child Safety refers a *child protection matter* to the DCPL that involves sensitive information that should not be disclosed to a parent, Child Safety is to make this clear on the 'Form A – Referral of Child Protection Matter/s Summary form'. This includes circumstances where:
- a. Child Safety has made an administrative decision to withhold details of a carer's address from a parent; and
 - b. a parent's address is not known to the other parent and disclosure of the parent's address may endanger the parent's physical or psychological health.
29. Confidential information should be redacted from documents provided to the DCPL by Child Safety that are intended to be filed in a proceeding, such as exhibits to draft affidavits. This includes notifier details, carer's addresses (where Child Safety has made a decision to withhold this information) and third party details or information that could reasonably lead to the identification of these things.

¹² See section 16(1)(a) and (b) of the Act.

Part 10 Referrals for a child subject to a child protection order

30. Where Child Safety decide to refer a child to the DCPL that is subject to a final child protection order, the referral should be made as soon as practicable and where possible not less 28 calendar days before the child protection order ends.

Part 11 Referrals for a child subject to an emergency order

31. Where Child Safety decide to refer a child to the DCPL that is subject to an emergency order the referral should be made as soon as practicable and where possible no later than 24 hours prior to the emergency order ending.
32. If the brief of evidence is not complete by 24 hours before the order ends, the referral should still be made to the DCPL and the brief provided in its current form. The 24 hour period prior to the order ending allows the DCPL time to consider the referral, prepare the application and settle any affidavits. The DCPL and Child Safety also need time to liaise about the need for an extension of an emergency order to be sought by Child Safety. During this 24 hour period Child Safety can continue with the preparation of documents with further information being provided to the DCPL as it becomes available.
33. Where the emergency order is longer, for example a 28 day court assessment order, Child Safety should take reasonable steps to make the referral to the DCPL earlier than 24 hours before the order ends.
34. The DCPL and Child Safety should liaise closely to determine whether an extension of a temporary assessment order (not being followed by a court assessment order) or a temporary custody order should be sought by Child Safety. Where the DCPL has advised that the DCPL intends to apply for a child protection order and further time is needed, Child Safety should seek an extension from the court.¹³
35. Reasons why an extension may be necessary include:
- a. so Child Safety can provide further information requested by the DCPL;
 - b. to finalise the application for a child protection order;
 - c. to finalise, compile and swear or affirm the supporting affidavit; or
 - d. to obtain a further affidavit.
36. If the extension is not granted by the court, the DCPL should proceed to deal with the *child protection matter* before the emergency order ends.
37. Child Safety should ensure that relevant staff are available for urgent consultation when a child subject to an emergency order is referred to the DCPL.

¹³ In granting an extension of a temporary assessment order or a temporary custody order, as well as being satisfied the DCPL intends to apply for a child protection order, under section 34(2) and 51AH(2) of the CP Act, the court needs to be satisfied the original grounds for making the order still exist.

38. The DCPL and Child Safety should work together in a way that ensures that a child subject to an emergency order has their ongoing protection and care needs meet.
39. A *child protection matter* referred to the DCPL that concerns a child that is subject to an emergency order must be dealt with by the DCPL deciding to either make an application for a child protection order, or refer the matter back to Child Safety before the emergency order ends.
40. The DCPL and Child Safety should liaise closely to ensure that any consultation takes place prior to the emergency order ending, and with sufficient time for the DCPL to deal with the *child protection matter*.
41. Close collaboration is particularly important for temporary assessment orders (that are not followed by a court assessment order) and temporary custody orders, both of which last for three business days with the possibility of extension for one business day. These orders may be extended for one business day only if the court is satisfied the DCPL has received a referred *child protection matter* and intends to apply for a child protection order.¹⁴ It is, therefore, important that Child Safety refers the *child protection matter* to the DCPL at the earliest possible opportunity.

Part 12 Referrals for a child subject to a care agreement

- 41A. Where Child Safety decide to refer a child to the DCPL that is subject to a care agreement, the *child protection matter* should be referred as soon as practicable to provide the DCPL with sufficient time to have any application filed and mentioned in court prior to the agreement ending. This timetabling will depend on the court location that any application may be filed.
- 41B. The DCPL and Child Safety should work together in a way that ensures that a child subject to an agreement has their ongoing protection and care needs met, which may include Child Safety making an application for a temporary custody order.

Part 13 Referrals for a child subject to no order or care agreement

- 41C. Where Child Safety decide to refer a child to the DCPL that is subject to no order or care agreement, the *child protection matter* should be referred as soon as practicable with Child Safety providing the DPCL with a specific date by when any application the DCPL makes should be filed and mentioned in court. This timetabling will depend on the court location that any application may be filed.
- 41D. The DCPL and Child Safety should work together in a way that ensures that the child has their ongoing protection and care needs met, which may include Child Safety making an application for a temporary custody order.

¹⁴ Sections 34 and 51AH of the CP Act.

Chapter 3 –Dealing with a *child protection matter*

Part 1 Initial review following referral of a child protection matter

42. The DCPL should conduct an initial review of the referral and supporting material as soon as practicable after receipt (unless the child is subject to an emergency order, which is dealt with in Chapter 2, Part 11 above). The DCPL's paramount consideration when conducting the review is the safety, wellbeing and best interests of the child.
43. The purpose of the initial review is to:
 - a. assess the referral and the sufficiency of evidence to support the type of child protection order Child Safety considers appropriate and desirable for the child's protection;
 - b. identify whether further information or evidence is required under section 17(2) of the Act prior to making a decision; and
 - c. identify whether consultation between the DCPL and Child Safety prior to the DCPL making a decision is necessary.
44. Where the DCPL agrees with the type of order Child Safety considers appropriate and desirable for the child's protection and do not intend to request further evidence or information prior to making a decision, the DCPL should proceed to make a decision on the referred *child protection matter*.
45. Where the DCPL identifies an issue about the sufficiency of evidence to support the type of order Child Safety considers appropriate and desirable for the child's protection or any other matter, the DCPL should contact Child Safety to initiate consultation.

Part 2 Consultation with Child Safety

46. The DCPL should consult with Child Safety as necessary to clarify any issues arising from the DCPL's initial review of the *child protection matter* before reaching a final decision about how to deal with the matter. Consultation should occur in a timely manner.
47. The DCPL must consult with Child Safety about relevant matters, including perceived gaps or weaknesses in the evidence, before deciding to:
 - a. apply for a child protection order of a different type, or an order that is otherwise different from, the order Child Safety considers appropriate and desirable for the child's protection. This includes applying for a child protection order of a different duration to that which Child Safety considers appropriate and desirable for the child's protection; or
 - b. refer the *child protection matter* back to Child Safety.¹⁵

¹⁵ See section 18(1) of the Act.

48. If after consultation, Child Safety change the type of child protection order and/or duration of child protection order considered appropriate and desirable for the child's protection, Child Safety should provide written confirmation of this to the DCPL.

Part 3 Requests for further evidence or information to assist in decision making

49. The DCPL can request further evidence or information from Child Safety before making a decision about a referral.¹⁶ For example, information about the impact of a parent's drug use on their capacity to meet the protection and care needs of the child.
50. Requests for further evidence or information prior to the DCPL making a decision should be made following the initial review of the referral or as soon as possible after that to ensure there is sufficient time for the request to be considered and actioned by Child Safety.
51. When the DCPL seek further evidence or information from Child Safety about a *child protection matter* before making a decision, the *child protection matter* should not be taken to have been referred back to Child Safety. A *child protection matter* is only referred back to Child Safety when the DCPL makes a final decision to refer the *child protection matter* back to Child Safety under section 17(1) of the Act instead of filing an application for a child protection order.
52. Section 23(2) of the Act requires Child Safety to take reasonable steps to provide the information requested by the DCPL. This applies to information requested under sections 17(2) and 23(1) of the Act. Child Safety should also take reasonable steps to provide further information requested by the DCPL as soon as possible.

Part 4 Making a decision about a child protection matter

53. The DCPL can deal with a *child protection matter* by:
- a. applying for a child protection order; or
 - b. referring the matter back to Child Safety.¹⁷
54. Once a matter has been referred to the DCPL, Child Safety cannot withdraw the referral. The referral can only be dealt with by the DCPL.
55. If a child's circumstances change after a matter has been referred, and Child Safety is satisfied the child is no longer a *child in need of protection* and/or a child protection order is no longer appropriate and desirable, this information should be provided to the

¹⁶ See sections 17(2) and 23(1) of the Act.

¹⁷ See section 17(1) of the Act.

DCPL and this will be taken into account by the DCPL when making a decision about the matter.

Part 5 Factors the DCPL should have regard to

56. In deciding how to deal with a referred *child protection matter*, the DCPL should have regard to all of the information provided by Child Safety in the brief of evidence.
57. The DCPL should apply for a child protection order if the DCPL is satisfied there is sufficient, relevant and appropriate evidence to establish on a *prima facie* basis that:
- a. the child is a *child in need of protection*; and
 - b. a child protection order is appropriate and desirable for the child's protection.
58. The safety, wellbeing and best interests of the child must be the DCPL's paramount consideration in deciding how to deal with a *child protection matter*. Other factors the DCPL should have regard to include:
- a. the sufficiency of evidence to establish that the child:
 - i. has suffered significant *harm*, is suffering significant *harm*, or is at unacceptable risk of suffering significant *harm*; and
 - ii. does not have a parent able and willing to protect the child from *harm*;
 - b. the child's views and wishes;
 - c. whether the child's protection and care needs could be met by an order on less intrusive terms than the order Child Safety considers appropriate and desirable for the child's protection. Relevant factors may include:
 - i. cultural considerations about how the proposed order may impact on the child's identity and future links to their family and community;
 - ii. the nature and impact of any support previously provided to the child and the child's parents by Child Safety or other agencies;
 - iii. progress made by the parents toward building their capacity to meet the child's protection and care needs;
 - iv. information available about a member of the child's family or community who may be a suitable person to be granted custody or guardianship of the child, and Child Safety's assessment about the suitability of that person including consultation with the person;
 - d. whether there is a case plan for the child that is appropriate for meeting the child's assessed protection and care needs;
 - e. the principles contained in sections 5B to 5E of the CP Act to the extent they are relevant.
59. The DCPL should also identify and consider what other evidence not included in the brief of evidence may be available to support an application for a child protection order, and proceed with the application immediately with the further supporting evidence to be filed at a later time. This will be particularly relevant where the child is subject to an emergency order at the time of the referral of the *child protection matter* to the DCPL and a decision must be made urgently. For example, when the concerns relate to physical injuries to a child there may be detailed medical evidence that has not been obtained at the time the *child protection matter* is referred to the DCPL. This medical evidence may be necessary to support an allegation that the child has suffered physical *harm*, or to explain the likely cause of the injury. However, the DCPL should consider whether it is appropriate to apply for a child protection order, relying on preliminary

medical information obtained by Child Safety from a doctor or the police, on the basis that when a detailed medical report has been prepared it will be obtained and filed in support of the application.

Part 6 Aboriginal children and Torres Strait Islander children

60. The additional principles in section 5C of the CP Act apply to all decision making by the DCPL for Aboriginal children or Torres Strait Islander children. These principles underscore the importance of protecting and promoting an Aboriginal child or Torres Strait Islander child's connection to their family, culture and community. The section 5C principles state:
- a. the child should be allowed to develop and maintain a connection with the child's family, culture, traditions, language and community; and
 - b. the long-term effect of a decision on the child's identity and connection with their family and community should be taken into account.
61. When the DCPL is making a decision about an Aboriginal child or Torres Strait Islander child, the DCPL must provide the recognised entity for the child with an opportunity to participate in the decision making process. However, the DCPL is not required to consult with the recognised entity directly where the DCPL is satisfied Child Safety has given the recognised entity an opportunity to participate in the decision making process.¹⁸ This should include consultation between Child Safety and the recognised entity about the decision to:
- a. refer a *child protection matter* to the DCPL; and
 - b. the type and duration of child protection order Child Safety considers is appropriate and desirable for the child's protection.
62. Child Safety should include information in the brief of evidence provided with the referred *child protection matter* to assist the DCPL to be satisfied there has been consultation with the recognised entity. If the DCPL require further information about the child's Aboriginal tradition or Island custom, the DCPL may request Child Safety to consult further with the recognised entity on a specified matter. For example, the DCPL may consider that additional information about the child's connection to their family, culture, traditions, language and community is required.
63. Where Child Safety has been unable to consult with the recognised entity because the recognised entity is not available or urgent action is required to protect the child, Child Safety should advise the DCPL. In these circumstances Child Safety or the DCPL should consult with the recognised entity as soon as practicable after the referral of the *child protection matter* has been made.¹⁹ If the DCPL undertakes this consultation with the recognised entity in the absence of Child Safety, DCPL should provide Child Safety with the outcome of the consultation for consideration by Child Safety.
64. If the DCPL propose to make a decision on a referred *child protection matter* that is different from the type of child protection order Child Safety considers appropriate and desirable for the child's protection, there should be further consultation between Child Safety, the DCPL and the recognised entity about the DCPL's proposed decision. If

¹⁸ See sections 6(1) and 6(6) of the CP Act.

¹⁹ See section 6(3) of the CP Act.

Child Safety undertakes this consultation with the recognised entity in the absence of the DCPL, Child Safety should provide the DCPL with the outcome of the consultation for consideration by the DCPL in decision making about the referred *child protection matter*.

65. The views of the recognised entity about the child and about Aboriginal tradition or Island custom is also a mandatory consideration for the court. Section 6(4) of the CP Act provides that before exercising a power under the Act, the court must consider:
- a. the views of the recognised entity about the child and the child's Aboriginal tradition or Island custom; and
 - b. the general principle that an Aboriginal child or Torres Strait Islander child should be cared for within an Aboriginal or Torres Strait Islander community.
66. The recognised entity is a participant in a child protection proceeding and can also provide the views of the recognised entity to the court orally or in writing.²⁰

Part 7 Referring a matter back

67. When the DCPL refers a *child protection matter* back to Child Safety, the DCPL's involvement is at an end. The DCPL cannot give directions to Child Safety about how to deal with the child's case when referring a *child protection matter* back to Child Safety.
68. When referring a *child protection matter* back to Child Safety, the DCPL should provide written feedback to Child Safety about the reasons why the DCPL decided not to apply for a child protection order, including any issues with the sufficiency, relevance and appropriateness of evidence and how this may be addressed. In circumstances where Child Safety do not agree that the matter should be referred back, this information should be included in the written reasons provided to Child Safety under section 18 of the Act (see Chapter 3, Part 10 of the Guidelines). Where Child Safety agree that the matter should be referred back, the DCPL should include this information in the decision notification referred to in guideline 75. Child Safety may request that the DCPL conduct an internal review of the decision to refer a matter back using Form I – Child Safety Internal Review Request Form attached to these Guidelines.
69. A *child protection matter* that is referred back to Child Safety, can be referred by Child Safety to the DCPL again at any time if:
- a. further information is obtained by Child Safety that is material to determining whether the child is a *child in need of protection* and/or whether a child protection order is appropriate and desirable for the child's protection; or
 - b. for a child that is subject to a child protection order (other than an interim order under section 67 of the CP Act)—further information is obtained by Child Safety that is material to determining whether the order is no longer appropriate and desirable for the child's protection; or
 - c. there is a material change in the child's circumstances; or
 - d. other relevant information or circumstances indicate the DCPL should consider the matter again.

²⁰ See rule 36(d) and 47(2) of the Rules.

Part 8 Notification of decision

70. When the DCPL makes a decision about a *child protection matter*, prompt written notice of the decision should be provided electronically to Child Safety as soon as practicable, and at the latest by the next business day. If the DCPL has been required to consult with Child Safety about applying for a child protection order of a different type, or an order that is otherwise different from the order Child Safety considered appropriate and desirable, or referring the matter back, Child Safety should provide written confirmation to the DCPL of whether the decision has been with the agreement of Child Safety.

Part 9 Telling the child's family and the recognised entity about the DCPL's decision

71. Child Safety should tell the child's parents about the DCPL's decision and explain what the decision means. Child Safety should also tell the child about the DCPL's decision where Child Safety consider that is appropriate having regard to the child's age or ability to understand.
72. Where the DCPL's decision relates to an Aboriginal child or Torres Strait Islander child, Child Safety should advise the recognised entity of the DCPL's decision.

Part 10 Written reasons for decision

73. In addition to notifying Child Safety about the outcome of a referral, under section 18(2) of the Act, the DCPL must also provide written reasons to Child Safety when the DCPL decide without the agreement of Child Safety to:
- a. apply for a child protection order of a different type, or that is otherwise different, from the order that Child Safety considered appropriate and desirable for the child's protection; or
 - b. refer a matter back to Child Safety.
74. For example, written reasons are required if without Child Safety's agreement the:
- a. DCPL decide not to apply for a child protection order and refer the matter back to Child Safety;
 - b. DCPL decide to apply for a child protection order granting long-term guardianship of the child to the chief executive, but Child Safety considered that an application for a short-term guardianship order was appropriate and desirable; or
 - c. DCPL decide to apply for a child protection order of the same type but for a different duration to what Child Safety considered appropriate and desirable.
75. The DCPL lawyer that made the decision must complete the 'Form C – Director's Written Reasons for Decision form' attached to these Guidelines, which should include in clear and unambiguous language the reasons why and the evidence relied upon by the DCPL when deciding to:
- a. apply for a child protection order of a different type, or that is otherwise different, to that considered appropriate and desirable by Child Safety; or
 - b. refer the *child protection matter* back to Child Safety.

76. The DCPL is to provide the 'Form C – Director's Written Reasons for Decision form' to Child Safety within five business days of the date of decision unless the decision relates to a child that is subject to:
- a. a child protection order (other than an interim order under section 67 of the CP Act) that is ending within one week of the date of decision; or
 - b. an emergency order.
77. Where the child is subject to a final child protection order that is ending within 14 days of the date of decision, or an emergency order, the written reasons must be provided at the same time as the notification of the decision.
78. If after consultation Child Safety agree with the DCPL's decision about the *child protection matter*, written reasons are not required. If there is no agreement to the DCPL applying for a child protection order of a different type, or an order that is otherwise different from the order Child Safety considered appropriate and desirable, Child Safety may request that the DCPL conduct an internal review of the decision to refer a matter back using Form I – Child Safety Internal Review Request Form' attached to these Guidelines.

Chapter 4 – Ongoing collaboration following a decision to apply for a child protection order

Part 1 Preparing the case for filing

79. Where the DCPL decide to apply for a child protection order, the DCPL and Child Safety should work together closely and efficiently to ensure the application and supporting affidavit are finalised and filed as quickly as possible, prior to the expiry of any current order for the child.
80. In particular, the DCPL and Child Safety should liaise closely to progress the following tasks:
- a. any requests for further information, including requests for further affidavits, under section 23(1) of the Act;
 - b. the settling of an affidavit in support by the DCPL;
 - c. any consultation necessary to progress the case;
 - d. swearing or affirming an affidavit in support; and
 - e. providing a copy of the sworn or affirmed affidavit to the DCPL electronically.
81. Affidavits prepared by Child Safety should comply with Part 8, Division 2 of the *Childrens Court Rules 2016* (the Rules). In particular
- a. all pages of the affidavit, including exhibits, should be paginated;
 - b. as far as practicable, where there is more than one documentary exhibit, the exhibits should:
 - i. be bound in one or more paginated books;
 - ii. have a certificate in the approved form on or attached to the front of the book; and
 - iii. have an index to the book immediately after the certificate.
82. Child Safety should ensure that a copy of sworn or affirmed affidavits are provided to the DCPL electronically as soon as practicable, so as to provide sufficient time for filing in

court prior to the expiry of any current emergency or final child protection order. Child Safety should keep the original on file and if required, provide it to the DCPL to provide it to the court, unless there is an agreement between the DCPL and Child Safety at a particular location.

Part 2 Requests for further information

83. After receipt of a referred *child protection matter*, the DCPL can request Child Safety provide further information from any time until the application for a child protection order has been decided or otherwise determined by the court.²¹ This includes requests for further affidavits after an application has been filed in preparation for a court event, including a final hearing. It also includes information that may not be in Child Safety's possession at the time of the request. Section 23(2) of the Act requires Child Safety to take reasonable steps to provide the information requested by the DCPL. Child Safety should also take reasonable steps to provide further information requested by the DCPL as quickly as possible.

Part 3 Requests for independent expert assessments

84. When the DCPL decide that an independent expert assessment is necessary to support an application for a child protection order, they should notify Child Safety promptly.
85. Section 23(2) of the Act requires Child Safety to provide information to the DCPL, including an independent expert assessment, where it is reasonable to expect Child Safety to take that step in all of the circumstances of the case.
86. Where Child Safety agree the independent expert assessment is necessary, Child Safety and the DCPL should work together to identify the expert and develop the terms of reference, although Child Safety are ultimately responsible for deciding the content of the terms of reference.
87. Where Child Safety do not agree that an independent expert assessment (or other information requested by the DCPL) is necessary, there should be consultation between DCPL and Child Safety to explore whether there may be other ways to obtain relevant information, such as through a request by Child Safety under section 159N of the CP Act or by way of subpoena.
88. If after consultation Child Safety decide not to engage an independent expert assessment or provide the information requested, this may have implications for the DCPL's assessment of the sufficiency of evidence to support an application for a child protection order.
89. To avoid any doubt, where an independent expert assessment of a person is requested and organised by Child Safety, but the assessment cannot be completed because the person does not consent to participate, Child Safety will have taken reasonable steps to provide the information requested by the DCPL. This assumes the person has refused

²¹ See section 23(1) of the Act.

consent after being fully informed about the nature and purpose of the assessment in a way that is appropriate to support their informed consent.

Chapter 5 – Affidavit evidence

Part 1 Affidavits generally

90. Affidavits should be prepared in a manner that is balanced and fair. As well as including evidence that supports the application, affidavits should also include evidence that does not support the application. It should be apparent that this positive or contrary information has been taken into account in the assessment of the child.
91. Affidavits should contain only relevant information and should be well-structured. They should not be repetitive, and should not contain legal argument.
92. As far as possible, affidavits should not contain hearsay evidence. If an affidavit is to contain a statement based on information and belief, it must include the sources of the information and the grounds for the belief.

Part 2 Originating affidavits

93. The originating affidavit should:
 - a. include sufficient evidence to establish that the child is a *child in need of protection*. For example, in risk of *harm* cases there should be sufficient evidence to establish each concern giving rise to an unacceptable risk of significant *harm* to a child. Where it is alleged that a parent's drug use is causing an unacceptable risk of harm to a child, the affidavit should contain sufficient evidence to prove that allegation to the requisite standard (the balance of probabilities). Evidence may include results of drug screen testing, criminal histories, information from police such as police occurrence summaries, observations of Child Safety staff or of other agencies, information from health care providers or drug treatment services or statements made by the parent;
 - b. include sufficient evidence to establish that there is no parent able and willing to protect the child from *harm*. This includes evidence of how the concerns impact on the parent's ability to meet the child's protection and care needs. There should be an assessment in respect of each parent, or where the identity or whereabouts of a parent is not known, the affidavit should evidence the reasonable steps taken by Child Safety to ascertain the identity and whereabouts of a parent; and
 - c. focus on current concerns. Evidence of a previous or resolved child protection concern should only be included if it is relevant to the current assessment in some way. The affidavit should make it clear that the concern is resolved, or there is no evidence that the concern is current, however, the relevance must be explained.
94. The originating affidavit should also contain information including but not limited to:
 - a. the needs of the child and how these are being met;
 - b. the views and wishes of the child, and how they have been taken into account in the circumstances and having regard to the child's age or ability to understand;

- c. the nature and impact of any support previously provided to the child and the child's parents by Child Safety or other agencies where relevant;
- d. the parents' compliance with case plan actions and progress made including attendance at contact visits where relevant;
- e. the living and contact arrangements for the child, including contact with siblings and extended family, and how they meet the child's needs (this is an express requirement for long-term guardianship orders under section 59(1)(b)(iii) of the CP Act);
- f. why the order sought is necessary, including an assessment of why the child's care and protection could not be achieved by less intrusive means;
- g. for a long-term guardianship order in favour of the chief executive, why guardianship could not properly be granted to another suitable person in preference to the chief executive; and
- h. for an Aboriginal child or Torres Strait Islander child, information about:
 - i. Child Safety's engagement and consultation with the recognised entity in decision making for the child; and
 - ii. the views of the recognised entity about the child and about Aboriginal tradition or Island custom for the child.

Part 3 Complying with rule 13

95. If the documents listed in rule 13 of the Rules are in the possession of Child Safety and are relevant to the referral, these documents should be exhibited to a draft affidavit accompanying the referral. The documents required by rule 13 are:
- a. the assessment of the alleged *harm*, or alleged risk of *harm*, to the child carried out by Child Safety that formed the basis of the referral of the *child protection matter* to the DCPL, including the outcome of that assessment;
 - b. the most recent strengths and needs assessment for the child and the child's parents;
 - c. documents relating to the most recently completed family group meeting for the child including a case plan if a plan was developed at the meeting;
 - d. previous applications or orders made for the child under the CP Act, including temporary assessment orders or court assessment orders;
 - e. referrals to an external agency that provides support to the child or a member of the child's family, such as Queensland Health or a domestic and family violence service;
 - f. any independent assessment or report about the child or the child's parent, such as a psychological or psychiatric assessment or a social assessment report;
 - g. the child's birth certificate;
 - h. any child protection history report of a person relevant to the proceeding; and
 - i. any criminal history, domestic violence history or traffic history of a person relevant to the proceeding.
96. If it is not practicable for Child Safety to provide a draft affidavit exhibiting the documents listed in rule 13 with the referral, this must be provided to the DCPL as soon as practicable afterward, as unless otherwise provided for, they must be filed within 10 business days after the first appearance for an application. In addition, the 'Form A – Referral of Child Protection Matter/s Summary form' should include a brief explanation for this and indicate when the draft affidavit is likely to be provided to the DCPL. This

information will be used to determine whether an extension of time must be sought from the court and the length of time required.

Part 4 Affidavits prepared after the application is filed

97. Affidavits prepared after the application is filed have the principal purpose of updating the court about matters relevant to the application. Unless otherwise agreed, all affidavits, including updating and hearing affidavits should be reviewed and settled by the DCPL before being sworn or affirmed. These affidavits should not exhibit documents that have been exhibited to earlier affidavits filed in the proceeding. These should be comprised of direct rather than hearsay evidence wherever possible. If an affidavit is to contain a statement based on information and belief, it must include the sources of the information and the grounds for the belief. Where the DCPL request Child Safety prepare a further affidavit ahead of a court event, in the absence of a filing direction, unless otherwise agreed, a draft affidavit should be provided to the DCPL 7 business days before the court event. This will allow the DCPL 2 business days to settle the affidavit, then Child Safety 2 business days to finalise and return it to DCPL for filing, and then service of the affidavit no later than three business days before the court event to which the affidavit relates.
- 97A. In circumstances where the court is hearing 2 or more applications for orders together²² and a subject child dies during the proceedings, Child Safety are to prepare a separate affidavit evidencing the death. This will enable the DCPL to seek permission to withdraw the application in a way that is considerate and compassionate.²³

Part 5 Preparing and exhibiting a child protection history report

98. A child protection history report can provide important information to the court in a case where a child or the child's parent is previously known to Child Safety (or to a child protection agency in another State). It is understood that Child Safety assessments will consider all of the child's circumstances, including things that happened in the past where relevant.
99. However, a child protection history report that is to be filed in support of an application should be prepared with care. The essence of the task is to balance the requirement to properly inform the court of the broader context in which the current application should be decided; against the requirement to present relevant and, reliable evidence to the court, and to be fair to other parties.
100. A decision about what information to include should be made on a case by case basis. It is not as simple as including substantiated concerns and leaving out unsubstantiated concerns. Unsubstantiated concerns may be relevant in a particular case. For example, where:
- a. the concern was not substantiated at the time of the original investigation and assessment, however, the information is relevant to the current assessment because the concern is the same; and

²² See section 115 of the CP Act.

²³ See section 57A of the CP Act.

- b. there was a positive assessment of a parent's willingness and ability to protect the child (particularly if the concern is of a similar nature to the current concerns).
101. Child Safety should exercise caution when including information where no steps were taken to investigate the veracity or reliability of the information.
102. If, in preparing a child protection history report, information is not included, for reasons including those set out above, the child protection history report should make this clear, for example, by being titled 'relevant child protection history report'.

Part 6 Information received under section 159N of the CP Act

103. Where written information received by Child Safety under sections 159M or 159N of the CP Act has been taken into account in the assessment, or is relevant to the referral to the DCPL, that document should be attached to a Child Safety affidavit as an exhibit in preference to describing the contents of the document in the affidavit. Consent of the agency to use the document in court proceedings should be obtained.
104. Where information is received by Child Safety orally under sections 159M or section 159N of the CP Act, Child Safety should ask the agency to provide the information in writing and seek their consent to use the document for the purposes of court proceedings. Where this is not practicable or where the agency is unwilling to provide the information in writing, or to consent to the use of their written information, Child Safety should make a case note of the conversation and attach the case note as an exhibit to the affidavit. After the application has been filed, the DCPL can consider issuing a subpoena to the agency for the production of documents relevant to the proceeding.

Part 7 Section 105(1) of the CP Act - rule against hearsay

105. Pursuant to section 105(1) of the CP Act, the Childrens Court is not bound by the rules of evidence, but may inform itself in any way it thinks appropriate. This does not mean that the rules of evidence do not apply. The Childrens Court must conduct proceedings in a manner that ensures all parties are afforded procedural fairness. The rules of evidence should, therefore, be adhered to wherever possible, including the rule against hearsay.
106. This means that, wherever possible, evidence should be tendered by the person with direct knowledge of the matter. For example, evidence about the child's contact with a parent should be provided by the person who supervised the contact, such as the child safety support officer providing an affidavit exhibiting their case note of the contact. This is preferable to the information being provided in a hearsay form in the allocated child safety officer's affidavit prepared from Child Safety case notes. If a standalone affidavit is unable to be obtained, a report, letter or case note prepared by the person with direct knowledge of the matter should be exhibited to a Child Safety affidavit. Only in circumstances when an affidavit, report, letter or case note cannot be obtained should the hearsay evidence of the person be included in the affidavit of a Child Safety officer. Where there is a relevant contemporaneous case note, for example of a telephone

conversation between a child safety officer and a doctor, it should be attached as an exhibit to the affidavit.

107. Sometimes a person with direct knowledge of the matter may be reluctant to provide an affidavit because they have a relationship with the child or the child's parent, which they do not want to compromise, such as a family support worker.
108. Where the relationship may be damaged if the person provides evidence to the court, the DCPL and Child Safety should consider whether the evidence is necessary, even if it is relevant. If, for example, the case is strong without this evidence, the DCPL may decide not to seek the affidavit or not to seek the affidavit until later in the proceedings when it becomes clear it is necessary. In deciding how to deal with this type of information, the DCPL and Child Safety should have regard to the relationship between the child or parent and the person and, as much as possible, proceed in a way that preserves that relationship.
109. Where the DCPL decide the evidence of a person working with or who has a therapeutic relationship with the child or the child's parent is necessary, Child Safety should ensure the person understands why they are being asked to provide an affidavit so they can make an informed decision about whether to provide an affidavit. It may assist to explain to a person who has reservations about providing an affidavit that:
 - a. their evidence is relevant and necessary for the court to make a fully informed decision in the best interests of the child; and
 - b. they are being asked to detail relevant factual matters, or opinions where appropriate, for the court's consideration. They are not being asked to take a position against a parent. Their observations or opinions that do not support the application are as relevant as ones that do.
110. The preference for direct evidence does not apply to the evidence of children. There are statutory provisions that provide when a child may give evidence in a child protection proceeding. Only subject children aged 12 years and over can give evidence or be cross-examined; and that this can only happen with the leave of the court, if the child is represented by a lawyer, and if the child agrees.²⁴ Also, a person can only ask a child, other than a child who is a respondent, to swear or affirm an affidavit with the leave of the court.²⁵ It follows that it will almost always be preferable for the DCPL to provide a child's evidence to the court in a hearsay form in the affidavit of a Child Safety officer or other appropriate witness.
111. Care should be taken when including things children say about their parents in the 'child's wishes and views' section of an affidavit. The child's relationship with their parents will continue after the litigation has ended, and, as much as possible, should not be adversely affected by the litigation process. Relevant paragraphs should be drafted with care with a view to balancing the requirement to ensure this information is before the court with the importance of preserving enduring family relationships for the child. Often this will come down to not 'what' is said but 'how' it is said.
112. To avoid any doubt, evidence of the child's wishes and views is different from evidence of things the child said that comprise part of the evidence of *harm* or unacceptable risk

²⁴ See section 112 of the CP Act.

²⁵ See rule 81 of the Rules.

of *harm*. For example, the child's views about where they are staying or their contact with their parents can be distinguished from disclosures the child has made about *harm* caused to them by a parent. Although this evidence of *harm* will normally be provided in a hearsay form, it is clearly relevant and necessary evidence for the court.

Chapter 6 - The court process

Part 1 Court case management framework

113. The court case management framework is comprised of three parts:
- a. The Rules;
 - b. The Bench Book; and
 - c. Practice Directions made by the Chief Magistrate.
114. Part 7 of the Rules is dedicated to court case management. It provides a framework for how the court must manage a proceeding to ensure the proceeding is resolved in accordance with the objects of the Rules.
115. The overarching objective of the court case management framework is to promote the fair and expeditious resolution of child protection proceedings and to reduce unnecessary delay.
116. The specific aims of the court case management framework are to ensure:
- a. parties to child protection proceedings understand their rights, responsibilities and the court process
 - b. there are more consistent and transparent court processes;
 - c. the court focuses on the best interests of the child; and
 - d. the court actively manages proceedings with assistance from parties.
117. The DCPL and Child Safety should work in partnership to promote the aims of the court case management framework. For example, the DCPL and Child Safety should work together to:
- a. comply with timeframes fixed by the court for the completion of steps in a proceeding; and
 - b. assist the child, if they are participating in the proceeding, and the child's parents to understand their rights, responsibilities and the court process, particularly where they are unrepresented.

Part 2 Filing documents in court

118. The DCPL is responsible for filing all of the applicant's material in court, including the application and supporting affidavits (originating documents). A document must be received by the relevant court registry by 4:30pm on a day the registry is open for business for the document to be taken to be filed in the registry that day.²⁶ Child Safety should ensure that electronic copies of executed affidavits are provided to the DCPL as soon as practicable having regard to filing deadlines.

²⁶ See rule 17 of the Rules.

119. After originating documents are received back from the registry, the DCPL should provide Child Safety with a copy of the sealed:
 - a. application; and
 - b. front sheet of the affidavit showing the court's seal and the filing date.
120. These documents should be provided to Child Safety electronically. As the proceeding progresses, the DCPL should also provide Child Safety with a copy of any other filed document electronically as soon as practicable after sealed copies are received from the registry.
121. Where documents are filed electronically, Child Safety will be responsible for making copies of the sealed documents for service on the respondents. Where the DCPL file documents by delivering them to the registry personally or by post, and the registry issues sealed copies, these will be provided to Child Safety for service on the respondents.

Part 3 Service of documents filed by the DCPL

Division 1 Service of documents generally

122. Generally, Child Safety will serve originating documents and other documents filed by the DCPL on the parties to a proceeding, however, other arrangements can be decided on a case by case basis. The exception to this is subpoenas to produce a document or thing, which will be served on the subpoena recipient by the DCPL.
123. Child Safety, wherever practicable, should personally serve a copy of the application on the child's parents.²⁷ Personal service, particularly of originating material, is important because of the intrusive nature of the order sought, the likely vulnerability of the child's parents, and the fact they are often not represented by a lawyer at that stage of the proceeding. Child Safety should also tell the child about the application in a manner and to the extent that is appropriate having regard to the child's age and ability to understand.²⁸
124. Although the child is a party to the proceeding, the Rules provide that, subject to the Act, they may only be served with documents filed in the proceedings if:
 - a. they are participating in the proceeding; or
 - b. the court has ordered it.²⁹
125. A person who personally serves a document on the child's parents should:
 - a. explain what the documents are and what the proceedings are about;
 - b. tell the child's parents when the first/next court date is;
 - c. encourage the child's parents to obtain legal advice and give them information about how to contact their local Legal Aid Queensland office or other local community legal service, or if the parent is Aboriginal or a Torres Strait Islander, assisting them to seek assistance from the Aboriginal and Torres Strait Islander Legal Service (ATSILS);

²⁷ See section 56 of the CP Act.

²⁸ See sections 56 and 195 of the CP Act.

²⁹ See rule 25(2) of the Rules.

- d. tell the child's parents they may bring a support person to court, although whether the person is allowed to be present in the court is at the discretion of the court; and
 - e. tell the child's parents they can ask the court for permission to attend a court event by telephone or audio visual link if, for example, it will be difficult for them to attend in person. Child Safety should also provide the parents with information about how they can make the request where the parents indicate they may make a request.³⁰
126. Where Child Safety staff are serving documents filed by the DCPL, they should complete service of the documents as soon as practicable, and no later than three business days before the court event to which the documents relate.³¹ If Child Safety are unable to comply with this timescale, they should advise the DCPL. If a party is represented by a lawyer in the proceeding, the DCPL will serve their lawyer, this includes separate representatives.
127. After Child Safety staff have effected service of documents filed by the DCPL, the Child Safety staff member who served the documents should provide an affidavit of service. The affidavit should be executed as quickly as possible after service has been effected, and be provided to the DCPL electronically with the original to follow by post or hand delivery.

Division 2 Service on guardians and the public guardian

128. Where the DCPL is required to serve a document on a person in a proceeding, and the DCPL know the person has a guardian, the document must be served on the guardian.³² To assist the DCPL to comply with this obligation, Child Safety should advise the DCPL that a parent has a guardian when this is known to them. Where Child Safety reasonably believe a parent has impaired capacity but they are unsure whether the parent has a guardian, they should take steps to ascertain whether the parent has a guardian, for example, by contacting the QCAT registry to find out if QCAT has appointed a guardian for the parent.
129. If the DCPL reasonably believe a parent has impaired capacity but they are unsure whether the parent has a guardian, they should take steps to ascertain whether the parent has a guardian by seeking information from Child Safety or making enquiries themselves.
130. Where the public guardian has given written notice of an intention to appear in a child protection proceeding under section 108B(2) of the CP Act, they should be treated as a party, which includes serving them with copies of all documents filed by the DCPL in the proceedings.³³

³⁰ See rule 48 of the Rules.

³¹ See rule 26(2) of the Rules.

³² See rule 33 of the Rules.

³³ See rule 39 of the Rules.

Part 4 Duty of disclosure

Division 1 Duty of Disclosure

131. The DCPL has a duty to make full and early disclosure to the parties of all documents in the possession or control of the DCPL that are relevant to a child protection proceeding. This includes applications to make, vary, extend and revoke a child protection order. It also includes applications where the DCPL is a respondent, such as an application to revoke a child protection order made by a parent.³⁴ The DCPL should be proactive and forthcoming in discharging its duty of disclosure, which continues until the proceeding is decided.³⁵ However, the DCPL may refuse to disclose a relevant document in certain circumstances. This is discussed in part 4, division 6 below.
132. The duty of disclosure is intended to ensure the DCPL conducts proceedings on behalf of the State fairly and transparently, in a manner that does not disadvantage other parties, particularly in circumstances where they are not represented by a lawyer. Disclosure also ensures parties to a proceeding are equipped with relevant information so they can respond to the DCPL's case effectively.
133. In practice, the DCPL's duty of disclosure is a shared responsibility between the DCPL and Child Safety. Child Safety has a duty to disclose to the DCPL all information that is relevant to a proceeding that is in Child Safety's possession or control. This is also an ongoing duty that continues until the proceeding is finally decided or otherwise ends.³⁶ The DCPL and Child Safety should work together in a timely way to ensure the duty is complied with and that any directions of the court about disclosure can be fulfilled.
134. This means that all relevant documents that come into the possession or control of Child Safety after the DCPL has provided initial disclosure, should be provided to the DCPL for the purposes of disclosure. This is important to ensure the DCPL complies with its duty of disclosure and the model litigant principles generally. Further, the DCPL cannot tender a Child Safety document in a proceeding that has not been disclosed without the leave of the court.³⁷

Division 2 Duty to disclose relevant documents in DCPL's possession or control

135. 'Relevance' combined with 'possession or control' set the parameters of the DCPL's overarching duty of disclosure. Every document in Child Safety's possession or control about a child will not necessarily be relevant to a proceeding. To be relevant, the document must be relevant to the matters in issue in the proceeding. A document will be relevant if it tends to prove or disprove an allegation in issue. This includes a document that is likely to be relevant to a party's response to the applicant's case.
136. If a document is not relevant to an allegation in issue, it does not have to be disclosed. When documents contain information that is both relevant and not relevant to a proceeding, the whole document should be disclosed.

³⁴ See section 189C(1) and the definition of *child protection order* in Schedule 3 of the CP Act.

³⁵ See section 189C of the CP Act.

³⁶ See section 24 of the Act.

³⁷ See section 189D of the CP Act.

137. Possession or control refers to documents that are physically held by the DCPL and Child Safety, and documents that either agency is able to exercise power or command over such as emails, electronic documents and other documents that lack a physical form. It does not include documents that Child Safety has a power to obtain, such as information that can be requested under section 159N of the CP Act. A document in Child Safety's possession or control is deemed to be in the possession or control of the DCPL.³⁸

Division 3 Disclosure Form

138. Under rule 52 of the Rules, the DCPL must file and serve the 'Form D – Disclosure Form' attached to these Guidelines on each party to a child protection proceeding. The DCPL may file and serve a 'Form D – Disclosure Form' at any time on its own initiative or as directed by the court. Subject to a direction of the court to the contrary, the DCPL must file and serve the Disclosure Form on the parties within 20 days of the first mention date for the proceeding.³⁹ As set out in Guideline 127, above Child Safety will generally undertake service of the Disclosure Form on the parties, however, other arrangements may be agreed on a case by case basis.
139. The 'Form D – Disclosure Form' includes two lists of documents. The first list is found in Box A, and is comprised of the types of documents that are normally held by Child Safety. The second list is found in Box B, and is a list of specific documents that the DCPL has identified are relevant and should be disclosed. The second list may include a document that:
- a. does not fall within the types of documents contained in the first list; or
 - b. falls within the types of documents contained in the first list, however, because of its particular relevance, the DCPL decide to list it as a specific document that can be requested.
140. If the 'Form D – Disclosure Form' does not list any documents in Box B, Box B should be deleted.
141. To assist the DCPL to comply with the requirement to file the 'Form D – Disclosure Form' within 20 days of the first mention, Child Safety should provide electronically all relevant documents at the time of the referral and then continue to provide all relevant documents on an ongoing basis, such as:
- a. the documents that will be annexed to the Rule 13 affidavit;
 - b. other relevant documents in their possession or control that could be disclosed. Child Safety's approach to determining relevance should be inclusive. This means that if Child Safety staff are unsure whether a document is relevant they should provide it to the DCPL;
 - c. correspondence and emails;
 - d. relevant documents that Child Safety assess the DCPL should refuse to disclose under section 191(2) of the CP Act. Child Safety should provide documents that contain confidential information that require redaction before being disclosed. This includes notifier details, carer's addresses (where Child Safety has made a decision

³⁸ See section 189C(7) of the CP Act.

³⁹ See rule 52 of the Rules.

- to withhold this information) and third party details or information that could reasonably lead to the identification of these things; and
- e. advise the DCPL of any document Child Safety assess should be listed as a specific document on the 'Form D – Disclosure Form', because it falls outside the types of documents in the first list or because of the document's particular relevance.
142. Child Safety should provide written confirmation to the DCPL as soon as practicable after the above tasks have been completed. If the DCPL believe there may be other relevant documents that have not been provided, the DCPL should consult with OCFOS about this.
143. If the 'Form D – Disclosure Form' lists any documents in Box B, the DCPL should provide OCFOS with a copy of the draft Disclosure Form before it is filed, so OCFOS can provide any feedback to the DCPL before it is filed and served.
144. Where a party is unrepresented, the 'Form D - Disclosure Form' should be served on them personally wherever practicable. This is so the disclosure process, including how they can make a request for disclosure, can be explained. In addition, the party should be shown the information section at the end of the Disclosure Form, and be encouraged to obtain independent legal advice. Child Safety will normally serve the Disclosure Form on unrepresented parties. The DCPL may, however, attend to service of the Disclosure Form where this can be done at a court event.
145. Where a respondent's address is not known to the other respondent/s, it must be redacted from the copy of the 'Form D – Disclosure Form' served on the other respondent/s.
146. A copy of the 'Form E – Request for Disclosure Form' attached to these Guidelines, should be provided with the Disclosure Form when it is served on a party to the proceeding.
147. The filing and service of the 'Form D – Disclosure Form' in a proceeding is unlikely to be sufficient to discharge the DCPL's duty of disclosure. The proactive and ongoing nature of the DCPL's duty of disclosure under the Act is reflected in the Rules, which say that the DCPL may disclose a document at any time.⁴⁰ The DCPL does not have to wait for the return of the 'Form E – Request for Disclosure Form' before providing disclosure, particularly in a case where there is not a large number of relevant disclosable documents. In these cases the DCPL may provide early disclosure by giving a copy of the relevant disclosable documents to the parties at the earliest opportunity.

Division 4 Requests for disclosure

148. Requests for disclosure of a document or documents by a party should be in writing and may be made using the 'Form E – Request for Disclosure Form'. The request should include an adequate description of the document sought.⁴¹

⁴⁰ See rule 55(1) of the Rules.

⁴¹ See rule 53 (1) and (2) of the Rules.

149. Where an unrepresented party does not return the 'Form E – Request for Disclosure Form' or otherwise make a written request for disclosure, the DCPL and Child Safety should work together to ensure this is followed up with the party in a timely way. This may involve Child Safety contacting the party ensure they understand they may request the DCPL disclose a particular Child Safety document/s that that are relevant to the proceeding. Where a party needs assistance to understand the type of documents that are referred to in the first list on the Disclosure Form, they should be given this assistance.
150. The DCPL may also contact a party by telephone and/or in writing to them to make sure they understand the disclosure process, and what they may request the DCPL disclose using the 'Form E – Request for Disclosure Form'. In complying with its disclosure obligation, the DCPL should take reasonable steps to ensure a party has the benefit of disclosure of relevant Child Safety documents in the proceeding. Service of the Disclosure Form, particularly on unrepresented parties, on its own, will not normally be enough to satisfy the duty.
151. Where a party is represented, the DCPL should follow-up the return of the 'Form E – Disclosure Request Form' with their lawyer.

Division 5 Providing disclosure

152. The DCPL should be forthcoming in providing disclosure under the CP Act. This may involve proactively disclosing relevant documents in a proceeding at an early stage prior to the return of the 'Form E - Request for Disclosure Form'. In other cases, this may involve providing disclosure following receipt of the Request for Disclosure Form. Complying with the duty of disclosure will require strong collaboration and partnership working between the DCPL and Child Safety. In particular, the DCPL should consult with Child Safety about the documents that have been provided and about whether there are other relevant documents in Child Safety's possession or control that have not yet been provided. Where particular documents or classes of documents are requested by a party, Child Safety should ensure that all requested documents are provided to the DCPL as soon as reasonably practicable. This will assist the DCPL to respond to the request as soon as reasonably practicable as required under the Rules.⁴²
153. Responsibility for redaction of confidential information from Child Safety documents and records that are being provided in compliance with the DCPL's duty of disclosure, should be shared equally between the DCPL and Child Safety. This includes redaction of notifier details, carer's addresses (where Child Safety has made a decision to withhold this information) and third party details or information that could reasonably lead to the identification of these things. Where the DCPL undertakes the redaction of confidential information from documents that are otherwise disclosable, DCPL may request Child Safety to review particular redacted documents and provide the DCPL with written confirmation that all confidential information has been redacted.
154. The DCPL is responsible for deciding what documents are being disclosed and what documents are not being disclosed, because they are not relevant or because they fall within a ground for non-disclosure under section 191(2) of the CP Act.

⁴² See rule 52(3) of the Rules.

155. Disclosure can be provided either by inspection or service. Inspection may be useful particularly in matters with a large volume of disclosure documents. The DCPL and OCFOs should consult about how disclosure will be provided in each case.
156. Where disclosure is being provided by inspection, this will take place at a location mutually agreed between the DCPL and OCFOs. The DCPL is responsible for providing written notice to the parties of the place and time the documents can be inspected. Where disclosure by inspection occurs at a CSSC, Child Safety should make copies of the documents requested by the inspecting party. The copies should then be provided electronically entitled 'bundle of disclosure documents requested by [name of party] on [date]'. The DCPL is responsible for providing the requested documents to the inspecting party.⁴³
157. Where disclosure is being provided by service, the DCPL should provide a bundle of disclosure documents to the party either in hard copy form or electronic form depending on the party's circumstances, including whether they are represented by a lawyer. The DCPL should also provide a copy the bundle of disclosure documents electronically to Child Safety entitled 'bundle of disclosure documents provided to [name of party] on [date]'.
158. Before disclosure is provided, the DCPL must tell parties who inspect and/or receive copies of documents under the disclosure provisions of the CP Act, that it is an offence to, directly or indirectly, disclose or make use of the documents other than for a purpose connected to the proceeding.⁴⁴
159. When the DCPL provides disclosure of documents to a party, the DCPL must be satisfied that the document should not be refused under the non-disclosure grounds under section 191(2) of the CP Act to all parties, as the party may make the document available to any other party to the proceeding. Further, where a party requests disclosure of a document or documents provided to another party, the DCPL must provide immediate disclosure of the document or documents to the other party, subject to the non-disclosure grounds under section 191(2) of the CP Act.⁴⁵ If a particular ground for non-disclosure applies to one party but not another party in the proceeding, the DCPL should as per Guidelines 162 and 163 refuse to disclose, and then seek to manage the disclosure through the court on conditions the court considers appropriate. For example, disclosure of document (or part of a document) to one party may be likely to endanger the safety or psychological health of a person, however, disclosure of that information to another party may not give rise to these risks. In this instance, the disclosure should occur by court order with appropriate conditions to manage this risk.
160. The DCPL should be diligent in ensuring that disclosure is up to date by the court ordered conference. If this is not practicable, the DCPL should bring this to the court's attention so the conference can be rescheduled. Disclosure also needs to be up to date before a hearing of an application. The DCPL should seek directions from the court to ensure disclosure is completed before a court ordered conference or a hearing of the application as appropriate.⁴⁶

⁴³ See rule 56(2) of the Rules.

⁴⁴ See section 189E of the CP Act.

⁴⁵ See rule 57 of the Rules.

⁴⁶ See rules 52(4), 55 and 58(2).

161. The DCPL does not have to file a document it discloses to a party to the proceeding, unless the Rules require the document to be filed or the court directs that the document be filed.⁴⁷ Where the DCPL intends to rely on the document, it should comprise part of the evidence filed by the DCPL in support of the application.

Division 6 Non-disclosure under section 191 of the CP Act

162. When the DCPL is disclosing documents to a party, the DCPL must notify the party of any document the DCPL is refusing to disclose under section 191(2) of the CP Act.
163. Where the DCPL refuses to disclose a relevant document on a ground set out in section 191(2) of the CP Act, the DCPL must give the party written notice of the non-disclosure decision stating:
- a. the ground for non-disclosure;
 - b. the DCPL is not required to disclose the document, unless the court orders disclosure, and disclosure will then be on the terms ordered by the court; and
 - c. they can apply to court for an order requiring the DCPL to disclose the document under section 191 of the CP Act.⁴⁸
164. The DCPL should refuse to disclose a relevant document or part of a relevant document that falls within one of the grounds for non-disclosure mentioned in section 191(2) of the CP Act. The DCPL should consult with Child Safety about decisions to refuse disclosure of a relevant document as required.

Division 7 Disclosure compliance notice

165. The DCPL must provide written notice to the court that the duty of disclosure has been complied with ('Form F - Disclosure Compliance Notice Form' is attached to these Guidelines).⁴⁹ The DCPL should file and serve the notice on the parties prior to seeking a final determination of an application.⁵⁰ Until a 'Form F - Disclosure Compliance Notice Form' has been filed, the court cannot decide the proceeding.⁵¹
166. Examples of when the DCPL may seek to file a 'Form F - Disclosure Compliance Notice Form' include:
- a. before the hearing of the proceeding; and
 - b. prior to asking the court to make a child protection order in accordance with a resolution reached at a court ordered conference.
167. The DCPL may file more than one 'Form F - Disclosure Compliance Notice Form' before a proceeding is finally decided.

⁴⁷ See rule 59 of the Rules.

⁴⁸ See sections 191(4) and (5) of the CP Act.

⁴⁹ See rule 61 of the Rules.

⁵⁰ See rule 26 of the Rules.

⁵¹ See rule 61 of the Rules.

Part 5 Subpoenas for production of documents or things

Division 1 Requesting subpoenas to produce

168. A subpoena to produce a document or thing (subpoena to produce) can be requested by a party to the proceeding. A 'subpoena to produce' may also be issued by the court on its own initiative.⁵²
169. The DCPL should consult with Child Safety in deciding whether it is necessary to request one or more subpoenas to produce in a particular matter. Child Safety may request the DCPL consider issuing a subpoena to produce a document or thing if it is relevant to Child Safety's assessment. However, the DCPL may refuse to issue the subpoena. The DCPL is responsible for requesting subpoenas to produce in child protection proceedings. This includes drafting the request and filing the request in court. The request must be in the approved form and comply with the Rules.⁵³
170. Subpoenas to produce should not be issued as a matter of course in every case. Instead, they should be requested when necessary, and their scope should be appropriately targeted when a particular document or class of documents is sought.

Division 2 Service of subpoenas to produce

171. The DCPL is responsible for service of subpoenas to produce on the subpoena recipient and the parties.

Division 3 Conduct money

172. Conduct money is a sum of money paid to a subpoena recipient to meet their reasonable expenses of complying with the subpoena, including accessing and copying information. Conduct money is not payable to subpoena recipients who are employees or agencies of the State where they are not a party to or a participant in the proceeding.⁵⁴ This means that conduct money will not be payable to a department that is responsible for public health, education, housing services or the police.
173. Where conduct money is payable, the DCPL is responsible for payment. Although the DCPL is generally responsible for service of subpoenas to produce, where Child Safety agree to effect service, the DCPL will provide conduct money, in the form of a cheque, at the same time as the 'subpoena to produce' is provided to Child Safety for service. In these circumstances, Child Safety should ensure that, as well as serving the 'subpoena to produce' on the subpoena recipient, they also provide the cheque in payment of conduct money to the subpoena recipient.
174. Where Child Safety effect service of a 'subpoena to produce', the Child Safety staff member who served the subpoena should provide an affidavit of service. The affidavit should be executed as quickly as possible after service has been effected and be provided to the DCPL electronically, with the original to follow by post or hand delivery.

⁵² See rule 94(1)(b) of the Rules.

⁵³ See rule 93 of the Rules.

⁵⁴ See rule 100(2) of the Rules.

Division 4 Inspection and copying of material returned under subpoena

175. The DCPL should consult with Child Safety before making an application to inspect and copy material returned under a 'subpoena to produce'. The purpose of the consultation is to discuss whether there are any conditions the DCPL should request the court to impose in granting parties access to the material returned under the 'subpoena to produce'. For example, if the subpoena addresses a personal medical history of one of the parents, where the parties are legally represented, the DCPL may ask that only legal representatives be allowed to inspect and copy material returned under a 'subpoena to produce'.
176. The DCPL is responsible for inspecting material returned under a 'subpoena to produce', and if the court has given permission to copy the documents, for identifying and copying relevant documents. The DCPL should provide Child Safety with a copy of all documents copied.
177. The DCPL is responsible for compiling the bundle of subpoenaed material on which the DCPL intends to rely at a hearing, and for the indexing and paginating the bundle. Where a bundle of subpoenaed material is prepared by the DCPL, the DCPL will provide a copy of the bundle to Child Safety.

Part 6 Witnesses

Division 1 Coordination of witnesses

178. The DCPL and OCFOS should work together to identify witnesses who will give evidence at a hearing. The DCPL with the assistance of OCFOS will liaise with Child Safety witnesses in the lead up to the hearing about availability and other practical matters relating to giving evidence.
179. The DCPL is responsible for coordination of witnesses during a hearing, although the DCPL may be assisted by an OCFOS officer where they are in attendance at the hearing.

Division 2 Giving evidence in person or by audio visual link or audio link

180. Witnesses giving evidence as part of the DCPL's case should attend court in person, particularly Child Safety staff.
181. The DCPL may request permission from the court for a witness, particularly an expert witness, to give evidence by audio visual link or audio link.⁵⁵ In exceptional circumstances, the DCPL may request permission from the court for a Child Safety witness to give evidence remotely. For example, when the witness is unable to attend court due to illness or is no longer working for Child Safety, and lives a long distance from the court. Requests can be made in writing prior to the court event or orally at a

⁵⁵ See rule 48 of the Rules.

preceding court event. The court can also make a direction allowing a witness to give evidence remotely at a future court event on its own initiative.

182. The decision about whether to request permission for a witness to give evidence remotely rests with the DCPL. In deciding whether to make a request, the DCPL may consult with Child Safety to discuss the request and to obtain further information relevant to the request, such as the location of the witness and, in the case of an expert witness, the impact of appearing in person on their work commitments. Child Safety may approach the DCPL when they believe a request should be made for permission for a particular witness to give evidence by audio visual link or audio link. Child Safety should make contact with the DCPL about this as soon as possible, and before the review mention is held in the lead up to the hearing.
183. Where the DCPL make a written request for permission for a witness to give evidence by audio visual link or audio link, the request should comply with rule 48(2) of the Rules. In particular, rule 48(2) requires the person making the request to inform the court about:
- a. how and when notice of the request was given to the other participants to the proceeding;
 - b. whether any of the other participants object to the request; and
 - c. whether they are aware of any issues in the proceeding that are likely to be contested during the appearance.
184. When requested by the DCPL, Child Safety should assist the DCPL by obtaining the information required by rule 48(2) from parties and participants in the proceeding. The DCPL should request Child Safety's assistance to obtain this information as soon as practicable prior to the appearance. Child Safety should take reasonable steps to obtain this information and provide it to the DCPL with sufficient time for the DCPL to make the request prior to the court appearance.

Division 3 Subpoenas to attend to give evidence

185. A subpoena for a person to attend court to give evidence (subpoena to attend), can be requested by a party to the proceeding or can be issued by the court on its own initiative.⁵⁶
186. The DCPL should consult with Child Safety as necessary in deciding whether to request one or more subpoenas to attend to give evidence in a particular matter. The DCPL is then responsible for requesting 'subpoenas to attend'. This includes drafting the request and filing the request in court. The request must be in the approved form and comply with the Rules.⁵⁷

Division 4 Service of subpoenas to attend to give evidence

187. The DCPL and Child Safety should work together to ensure that 'subpoenas to attend' are served on a witness with as much notice as possible of the date the witness is required to attend court. Unless agreed, after the 'subpoena to attend' has been issued

⁵⁶ See rule 94(1)(b) of the Rules.

⁵⁷ See rule 93 of the Rules.

by the court and returned to the DCPL, the DCPL should, as soon as practicable, provide a copy of the 'subpoena to attend' to Child Safety for service.

Division 5 Notice to Child Safety witnesses

188. The DCPL should provide written notice to Child Safety stating which Child Safety staff are required, including when and where the staff are required to give evidence in a proceeding. The DCPL should give Child Safety as much notice as possible of the date a Child Safety staff member is required to attend court to give evidence.

Division 6 Expert witnesses

189. Where the DCPL calls an expert witness to give evidence in a proceeding, such as a psychiatrist or psychologist, the DCPL should take all reasonable steps to minimise the disruption and inconvenience to the witness. In particular, where the witness is giving evidence in person, the DCPL should ensure the witness is present at court no longer than necessary to give the required evidence. The DCPL should also, in appropriate cases, request permission from the court for the witness to give evidence by audio visual link or audio link.
190. The court can make directions about how expert evidence is to be taken in a child protection proceeding.⁵⁸ Directions can be made by the court about various matters including the type and number of experts that will give evidence. Where the DCPL intends to ask the court to make directions under this provision, it should consult with Child Safety about the directions the DCPL intends to seek.

Division 7 Conduct money, witness allowances and witness losses and expenses

191. Conduct money is payable to a witness who is subpoenaed to give evidence to meet their reasonable expenses of travel to and from court.⁵⁹ Conduct money is not payable to subpoena recipients who are employees or agencies of the State where they are not a party to or a participant in the proceeding.⁶⁰ This means that conduct money will not be payable to employees of government departments or agencies who attend court to give evidence such as employees of a department that is responsible for public health, education, housing services or the police.
192. Where conduct money is payable, for example, when the subpoena recipient is a general practitioner, the DCPL is responsible for payment. The DCPL will provide conduct money, in the form of a cheque, at the same time as the 'subpoena to attend' is provided to Child Safety for service. In these circumstances, Child Safety should ensure that, as well as serving the 'subpoena to attend' on the subpoena recipient, that they also provide the cheque in payment of conduct money to the subpoena recipient.
193. In addition to the payment of conduct money to a non-State witness who is not a participant in the proceeding, the court can order the party who subpoenaed the witness

⁵⁸ See rule 66(2) of the Rules.

⁵⁹ See rule 100(3) of the Rules.

⁶⁰ See rule 100(2) of the Rules.

to pay a travel and accommodation allowance, and losses and expenses, including legal costs, incurred by the witness incurred in complying with the subpoena.⁶¹ However, the court can only make such an order if the subpoena recipient gives notice to the party who issued the subpoena that substantial losses and expenses will be incurred in complying with the subpoena, and gives an estimate of those losses or expenses.⁶²

Where a subpoena recipient contacts Child Safety and raises a concern about the cost of complying with a 'subpoena to attend', Child Safety should:

- a. draw the subpoena recipient's attention to the notice on the subpoena advising them of their right to seek an order from the court for additional allowances and for substantial losses and expenses incurred in complying with the subpoena under rule 100(3) of the Rules;
- b. ask the subpoena recipient to provide written notice itemising the estimated losses and expenses they anticipate will be incurred in complying with the subpoena; and
- c. provide this information to the DCPL, together with a copy of any written communication from the subpoena recipient. This is so the DCPL can consider whether to take action to reduce the anticipated losses and expenses of the witness by, for example, seeking permission from the court for the witness to give evidence remotely.

194. The DCPL is responsible for payment of allowances, or losses and expenses ordered by the court to a witness where the 'subpoena to attend' was issued by the DCPL.

Division 8 Child witnesses

195. Subject children, or other children, rarely give evidence in child protection proceedings. This is because it is usually not necessary, and not in a child's best interests for them to give evidence. For these reasons, the CP Act and the Rules place restrictions around when a child can give evidence and be cross-examined in child protection proceedings.
196. Only subject children aged 12 years and over can give evidence or be cross-examined, and this can only happen:
- a. with the leave of the court;
 - b. if the child is represented by a lawyer; and
 - c. if the child agrees.⁶³
197. Further, a person can only ask a child, other than a child who is a respondent, to swear or affirm an affidavit with the leave of the court.⁶⁴
198. Despite the tight statutory controls about a child giving evidence in a proceeding, occasionally, a child may give evidence in a case. For example, an older child who is participating in a proceeding, and who has a direct representative, may decide they want to provide an affidavit in response to the application.
199. In the unlikely circumstances that a subject child files an affidavit in response to an application but is unrepresented, the DCPL should be proactive in ensuring the child has a lawyer appointed to represent them in the proceeding.

⁶¹ See rule 100(3) of the Rules.

⁶² See rules 100(3) and 100(4) of the Rules.

⁶³ See section 112 of the CP Act.

⁶⁴ See rule 81 of the Rules.

200. Legal Aid Queensland provides advice and representation services to children in child protection proceedings. The DCPL can help a child to obtain legal representation through Legal Aid Queensland by:
- a. asking Child Safety to assist the child to apply to Legal Aid Queensland for the appointment of a direct representative; and/or
 - b. requesting the court to appoint a separate representative to represent the child in the proceeding.
201. The DCPL may also pursue the appointment of an advocate from the Office of Public Guardian to support the child in the proceeding.
202. The DCPL should consider carefully whether it is necessary to cross-examine a child who has filed an affidavit in response to an application when a matter is proceeding to a contested hearing. The child should only be cross-examined if it is necessary. The DCPL should consult with Child Safety before reaching a decision about whether to seek the court's leave to cross-examine a child under section 112(3) of the CP Act. If the court's leave is granted, the DCPL must provide written notice to the child's legal representative that the child is required for cross-examination as soon as possible prior to the hearing.⁶⁵
203. Where a child has filed an affidavit in response to an application made by the DCPL, the DCPL should ensure that a party or participant seeking to cross-examine the child has obtained the requisite leave of the court under section 112(3) of the CP Act for that cross-examination. The DCPL should consult with Child Safety prior to making submissions to the court about whether leave for cross-examination of a child by another party or participant should be granted.
204. Where the court grants leave for cross-examination of the child, the DCPL should ensure the court makes directions about how the child will be cross-examined under rule 102 of the Rules. The DCPL should consult with Child Safety about what directions would be appropriate having regard to all of the circumstances of the case. The DCPL should assist the court to make directions that assist the child to give their best evidence, and to minimise any distress to the child. This could include those things specified by rule 102(2) of the Rules, namely:
- a. excluding a person or persons from the court while the child gives evidence;
 - b. allowing the child to have a support person nearby throughout their evidence; and
 - c. having the child give their evidence by audio visual link or audio link.
205. Where the child's parent is also a child and has filed an affidavit in the proceeding, the DCPL should consider, in consultation with Child Safety, whether to ask the court to make directions under rule 102(2) about how the child's parent will give evidence.

Part 7 Section 106 of the CP Act

206. The court has a duty under section 106 of the CP Act to, as far as practicable, ensure the parties to the proceeding, including the child (if they are participating) and the child's parents, and other parties understand the nature, purpose and legal implications of the

⁶⁵ See rule 91(3) of the Rules.

proceeding and any order or ruling made by the court. This includes not hearing a proceeding unless a person who requires help to understand or take part in the proceeding, has the help they need to understand or take part.

207. The DCPL, as a model litigant, has a responsibility to be proactive in considering whether a party or participant is likely to require help to understand or take part in the proceeding, and take appropriate steps.
208. Child Safety should assist the DCPL to comply with its model litigant obligations by advising the DCPL if a party or a person participating in the proceeding requires help to understand or take part. This includes circumstances where a parent or participant:
 - a. has difficulty communicating in English; or
 - b. has, or may have, a disability including an intellectual or cognitive impairment.
209. Where a party or a participant in a proceeding has a disability that prevents them from understanding the proceeding, the DCPL should assist the court to comply with its obligations under section 106 of the CP Act. The steps the DCPL should take will depend on the particular case, but may include:
 - a. asking Child Safety to assist the person to apply to Legal Aid Queensland or a Legal Aid preferred service provider for assistance, or a local community legal centre, or if the person is Aboriginal or a Torres Strait Islander, assisting them to seek assistance from ATSILS;
 - b. asking the court to issue a direction under rule 68(3) of the Rules directing the registry to send to Legal Aid Queensland the magistrate's written request that Legal Aid Queensland consider giving the person legal assistance for the proceeding; and
 - c. asking the court to make a direction under rule 67(2)(c)(ii) of the Rules, to ensure the person understands and can participate in the proceeding.

Part 8 Interpreters

210. Where a witness appearing as part of the DCPL's case needs an interpreter, the DCPL is responsible for arranging this. The DCPL should ensure that every witness called by the DCPL who needs an interpreter has one. Where Child Safety is aware that a witness may need an interpreter they should advise the DCPL. The DCPL is responsible and for payment of any applicable fees.
211. Where a party or a participant in a proceeding requires an interpreter to understand the proceeding and they are unrepresented, the DCPL should ask the court to appoint an interpreter to attend all court events to facilitate their taking part. This includes:
 - a. the child, where they are participating;
 - b. the child's parents; and
 - c. a person participating under section 113 of the CP Act with all of the rights and duties of a party.
212. Where the court orders the appointment of an interpreter, the costs of the interpreter should be met by the court.

Part 9 Preparation for hearing

213. The DCPL should act with diligence to ensure in a matter where the parties cannot reach an agreement to be considered by the court, that it progresses to a hearing as quickly as possible. Where a matter is set down for a hearing, the DCPL should ensure the DCPL is ready to proceed on the allocated hearing date.
214. The DCPL and Child Safety should work together in the lead up to a hearing to ensure that procedural directions of the court are complied with, and that the DCPL is ready to proceed. In particular, ongoing consultation and collaboration can assist to:
- a. ensure the DCPL is kept updated about Child Safety's casework with the child and family as required;
 - b. ensure there is ongoing assessment of the evidence in a matter and how that aligns with the application before the court;
 - c. provide an update about Child Safety's consultation and engagement with the recognised entity where the application is for an Aboriginal child or Torres Strait Islander child;
 - d. provide ongoing disclosure of relevant documents to other parties;
 - e. obtain further information or evidence required for the hearing;
 - f. settle draft affidavits;
 - g. serve filed material on the child's parents and other parties;
 - h. serve subpoenas to produce and subpoenas to attend to give evidence on subpoena recipients;
 - i. share and discuss material returned under subpoena;
 - j. discuss material filed by other parties;
 - k. notify Child Safety about when Child Safety staff will be required to attend court to give evidence; and
 - l. serve notice on a party that a person who made an affidavit that they filed in court is required to attend the hearing.
215. Responsibility for preparing a matter for hearing lies with the DCPL, including preparation of:
- a. a list of filed material to be relied on at the hearing;
 - b. a witness list;
 - c. all witnesses for hearing including Child Safety witnesses;
 - d. the bundle of subpoenaed material to be relied on at the hearing including indexing and paginating;
 - e. a chronology;
 - f. an outline of argument; and
 - g. draft orders of the court.
216. Where a respondent parent is in custody, the DCPL is responsible for liaising with the court to ensure that timely notice of the hearing is provided to the correctional centre so the parent is brought to court for the hearing.
217. Child Safety should assist the DCPL to prepare for the hearing by:
- a. preparing affidavits and other required material in a timely manner;
 - b. serving documents on the child's parents and other parties, and providing affidavits of service;

- c. providing the DCPL with current telephone contacts for all witnesses, including Child Safety witnesses; and
 - d. advising which Child Safety staff will be attending with authority to provide the Child Safety position about any issues that arise at court.
218. The DCPL may indicate that a Child Safety witness can be on 'standby' on the day they are due to give evidence. In these circumstances, the Child Safety witness should ensure they remain within or near the relevant CSSC, and are available on the telephone number provided at all times.

Part 10 Appearances by the DCPL

Division 1 Appearing in person

219. The DCPL's preferred mode of appearing in court is in person. In deciding whether to appear at a court event in person, the DCPL should consider:
- a. the nature of the court event;
 - b. the complexity and sensitivity of the case;
 - c. whether there are any issues that are likely to be contested at the court event;
 - d. whether the other parties, or their lawyers where they are represented, object to the DCPL appearing remotely;
 - e. whether there are particular characteristics of the proceeding, or a party to the proceeding that would make a remote appearance problematic; and
 - f. the distance the DCPL would have to travel to attend the court event.
220. Where an appearance in person is not practicable, the DCPL may seek the court's permission to appear by audio visual link or audio link. For example, where an appearance in person would require a DCPL lawyer to travel a long distance for a single court event. This is consistent with model litigant principles, which require the State to take appropriate steps to manage litigation efficiently. The DCPL may also seek to appear remotely in other circumstances, such as where the legal representative for another party intends to seek an adjournment for the purposes of providing legal advice, and the DCPL does not intend to oppose the adjournment.

Division 2 Appearing by audio visual link or audio link

221. A participant in a child protection proceeding, including the DCPL, can request the court's permission to appear at a future court event by audio visual link or audio link. The request can be made in writing prior to the court event or orally at a preceding court event. The court can also make a direction allowing a participant to appear remotely at a future court event on its own initiative.⁶⁶
222. Where the DCPL decides to make a written request to appear by audio visual link or audio link, the DCPL may ask OCFOs to assist by obtaining information required by the Rules, such as whether the parents object to the request.⁶⁷ The DCPL should request Child Safety's assistance as soon as practicable prior to the appearance. Child Safety

⁶⁶ See rule 48(1) of the Rules.

⁶⁷ See rule 48(2) of the Rules.

should take reasonable steps to obtain this information and provide this information to the DCPL with sufficient time for the DCPL to make the request prior to the court appearance.

223. Where permission is granted and the DCPL intend to appear at a court event by audio visual link or audio link, they should advise OCFOS.

Division 3 Engaging lawyers to appear on behalf of the DCPL

224. Section 11 of the Act provides that the DCPL may engage appropriately qualified lawyers to assist the DCPL to carry out its statutory functions (section 11 lawyer). The principal purpose of this section is to give the DCPL the power to engage a local solicitor or Counsel to appear on behalf of the DCPL at a court event. A section 11 lawyer will act as an agent for the DCPL appearing on the DCPL's instructions.
225. The DCPL should advise Child Safety that they have engaged a section 11 lawyer in the proceeding, and provide Child Safety with the name and contact details for the section 11 lawyer.

Part 11 Mentions

Division 1 Roles of the DCPL and Child Safety

226. As the applicant, the DCPL will attend all mentions of an application. The role of the DCPL at a mention is to lead submissions about the progress of the case and about any issues arising at the mention. The DCPL should consult with Child Safety and other stakeholders as required, particularly if there are resource or casework implications for Child Safety. However, the DCPL is responsible for all decision making about an application at a mention.
227. Child Safety have an important role to play at mentions as the DCPL's briefing partner. There are two aspects to this role—
- a. to ensure the DCPL, and ultimately the court, have up to date information about the child and family's circumstances, which are dynamic and can change rapidly; and
 - b. to participate in consultation with the DCPL and discussion with other parties and participants about issues arising at court, particularly where they relate to Child Safety's casework responsibilities for the child and family.

Division 2 Written updates and consultation with Child Safety before a mention

228. Child Safety, no later than 2 business days prior to each mention of an application, should provide electronically to the DCPL a written update in relation to the matter, and then within 24 hours before the mention, the DCPL and Child Safety should consult about the application and the child and family's current circumstances as required. Child Safety should ensure the DCPL is fully informed about any new developments in terms of case management or other relevant matters. If the DCPL has requested Child Safety prepare an affidavit ahead of a mention, as per Guideline 97, a draft affidavit should be provided to the DCPL 7 business days before the mention. This will allow the DCPL time

to settle and arrange for the affidavit to be filed, then served as soon as practicable, and no later than three business days before the mention.

229. In preparation for a mention, the DCPL and Child Safety should discuss relevant topics, which might include, but are not limited to:
- a. where the child is subject to one or more interim orders under section 67 of the CP Act, whether there is any change in the Child Safety assessment about the appropriateness of those orders for meeting the child's care and protection needs;
 - b. whether the DCPL should ask the court to make one or more of the orders listed in section 68 of the CP Act, such as ordering that the child be separately represented in the proceeding;
 - c. orders that are likely to have resource or financial implications for Child Safety, such as an order that increases the child's contact with their family or that stipulates that contact occur on a weekend;
 - d. timescales for holding a family group meeting to develop a case plan and file the case plan in court;
 - e. whether the court should make a protection order or vary a domestic violence order under the DFVP Act under rule 70 of the Rules;
 - f. whether the court should make an order under section 114 of the CP Act transferring a proceeding to another court, or an order under section 115 of the CP Act to hear 2 or more applications together.
230. Because of the inherently unpredictable nature of child protection proceedings, particularly where parents are unrepresented, there will be times where issues arise at a mention that were not anticipated. Child Safety should ensure an officer with authority to provide Child Safety's assessment about matters arising at court attends all court events, including each mention of the application, or is otherwise available by telephone.
231. Where an issue arises at court that the DCPL and Child Safety have not previously consulted about, the DCPL and Child Safety should consult as necessary at court. This may require the DCPL to request that the court stand the matter down for consultation between the DCPL and Child Safety on a relevant issue, which should include where required, consultation about Child Safety's capacity in respect of any resource implications, including financial in respect of the issue. Where the issue relates to a case work matter, such as the child's contact with their family, the DCPL must consult with Child Safety prior to providing a position to the court. The DCPL should adopt Child Safety's assessment about a casework issue unless the evidence does not support the assessment. Where the DCPL takes a position that conflicts with that of Child Safety's assessment, the DCPL should ensure the court is aware of Child Safety's assessment so it can consider this in reaching a decision.

Division 3 Discussions with other parties or participants

232. As the applicant, the DCPL will lead any discussions or negotiations with other parties, participants or their legal representatives at court. Where the DCPL engages in case discussions and a Child Safety staff member is not present, the DCPL should convey the content of the discussions to Child Safety.

Division 4 Appearances by parents who are in custody

233. Where a respondent parent is in custody, the DCPL is responsible for liaising with the court to ensure that timely notice of the mention is provided to the correctional centre so arrangements are made for the parent to appear remotely.

Part 12 Interim orders and other orders on adjournment

Division 1 Section 99 of the CP Act

234. The CP Act provides that the court may adjourn a proceeding for a child protection order for a period decided by the court.⁶⁸ In deciding the period of adjournment, the court must take into account the principle that it is in the child's best interests for the application for the order to be decided as soon as possible, and that delay in making a decision for a child should be avoided.⁶⁹ On an adjournment, the court pursuant to section 67 of the CP Act, can make an interim order granting temporary custody of the child to Child Safety⁷⁰ or a suitable person who is a member of the child's family.⁷¹
235. On an adjournment of a proceeding, the other relevant provision is s99 of the CP Act, which provides if:
- a. a child is in Child Safety's custody or guardianship, or the custody of a family member under an order; and
 - b. before the order ends, an application is made for the extension of the order or for another order;
 - c. the order granting custody or guardianship continues while there is a pending decision before the court on the new application, unless the court orders an earlier end to the custody or guardianship.
236. The DCPL in consultation with OCFOS, should actively consider if and when an application should be made requesting the court order an end to the continuation of an earlier order under section 99, and seeking an interim order under s67 of the Act, the factors may include:
- a. whether the child is in the custody of Child Safety pursuant to a temporary assessment order, court assessment order or temporary custody order;
 - b. whether the child is in Child Safety's custody or the custody of a member of the child's family pursuant to a child protection order;
 - c. whether the child is in Child Safety's guardianship pursuant to a child protection order;
 - d. that where a child is in the custody or guardianship of Child Safety under a child protection order, which includes an interim order pursuant to section 67 CP Act, the child and their parents acquire a right of review with respect to placement⁷², save in situations where Child Safety reasonably suspects compliance would constitute a

⁶⁸ Section 66(1) of the CP Act

⁶⁹ Section 66(3) of the CP Act

⁷⁰ Section 67(1)(a)(i) & (ii) of the CP Act

⁷¹ Section 67(1)(a)(ii) of the CP Act

⁷² Section 247 and schedule 3 of the CP Act

risk to the safety of the child or anyone with whom the child was living⁷³. In such situations, there is an obligation on Child Safety to provide information to the child and their parents as to this right of review⁷⁴. Where a temporary assessment order, court assessment order or a temporary custody order continues by virtue of section 99 of the CP Act and no interim child protection order is made pursuant to s67 of the CP Act, then there is no right of review, by a child or parent, in respect of placement⁷⁵ and the requirement of Child Safety is simply to notify the parents as the child's placement⁷⁶;

- e. the effect of the court ordering an earlier end to custody or guardianship under s99 of the CP Act, may change the applicable test in respect of interim custody, from a consideration of the court being satisfied:
 - i. that it is necessary to provide interim protection for the child while the investigation is carried out⁷⁷; and
 - ii. to there being an unacceptable risk to the child in the adjourned period without the making of the interim order.

Division 2 Interim orders under section 67 of the CP Act

237. When the court adjourns a proceeding, it can make any one or more of a number of interim orders under section 67 of the CP Act.
238. Although section 67(5) of the CP Act provides that an interim order only lasts for the period of the adjournment, an interim order made at the first mention of an application may be continued until the application is finalised, which can be a period of many months. It is critical the DCPL gives careful consideration to an application for an interim order. In particular, the DCPL should:
- a. apply the principles of the Act in decision making about whether to apply for an interim order, including the paramount principle and the principles that emphasise that State intervention in the lives of children and families should be the minimum necessary to meet the child's protection and care needs;
 - b. consider carefully the sufficiency of evidence to support an application for an interim order; and
 - c. wherever necessary, consult closely with Child Safety about any proposed interim order, and any issues arising in respect of the interim order such as the sufficiency of evidence to support the court making the order.
239. Child Safety should ensure the DCPL is aware of any circumstances where the making of an emergency order was contested or appealed by the child's parents.

Division 3 Other orders under section 68 of the CP Act

240. Under section 68 of the CP Act, the court can also make any one or more of a range of other orders on adjournment, including an order:

⁷³ Section 86(3) & (4) of the CP Act

⁷⁴ Section 86(2) of the CP Act

⁷⁵ Section 86(1) of the CP Act

⁷⁶ Section 85 of the CP Act

⁷⁷ For example section (45(1)(c)(i) of the CP Act

- a. requiring a social assessment report to be prepared and filed;
 - b. authorising a medical examination or treatment of the child and a report about the examination or treatment to be filed;
 - c. regulating the child's contact with their family during the adjournment;
 - d. requiring Child Safety to convene a family group meeting to develop or revise a case plan for the child, or for another stated purpose relating to the child's wellbeing and protection and care needs;
 - e. that a court ordered conference be held between the parties; and
 - f. that the child be separately legally represented in the proceeding.
241. The court is required to consider making each of the above orders when it adjourns a proceeding.⁷⁸ The DCPL should consult with Child Safety as appropriate in respect of the above orders prior to a mention.
242. Where the court is contemplating ordering the preparation of a written social assessment report about the child and the child's family under section 68(1)(a) of the CP Act on the adjournment of a proceeding, the DCPL should consult with Child Safety about this.⁷⁹ As far as possible, the DCPL should seek Child Safety's view about whether the report is necessary, and about the particular issues the report should address before indicating a position to the court. The DCPL should provide Child Safety's views about the proposed report to the court. The DCPL should not ask the court to order the preparation of a social assessment report without first consulting with Child Safety about the necessity of the proposed report, and about Child Safety's capacity to pay the costs of preparing the report.
243. Where the court orders the preparation of a written social assessment report under section 68(1)(a) of the CP Act, the DCPL should liaise with OCFOs to progress its preparation. Child Safety is responsible for payment of the costs of preparing the report. The DCPL should also, as far as possible, ensure the court clearly prescribes the particular issues the report should address.⁸⁰
244. Where the court proposes to make an order under section 68(1)(c) of the CP Act requiring Child Safety to supervise family contact with the child, the DCPL should consult with Child Safety to ascertain whether Child Safety agrees to supervise the contact. Where Child Safety does not agree to supervise family contact, Child Safety should provide reasons why not. The DCPL will then be able to provide this information to the court and other parties. Where Child Safety refuses to supervise the family contact, the DCPL should ensure the court is aware of this and the restriction on the court making an order requiring Child Safety to supervise family contact without the agreement of Child Safety under section 68(5) of the CP Act.
245. A further area of consultation between the DCPL and Child Safety is about other orders the court can make under section 68 of the CP Act about the appointment of a separate representative for the child. As indicated above, the Rules require the court to consider the appointment of a separate representative in every case.⁸¹ The DCPL and Child Safety should consult about this before the first mention of every application and at subsequent mentions as appropriate.

⁷⁸ See rules 68, 69 and 71 of the Rules.

⁷⁹ See rule 66(1) of the Rules.

⁸⁰ See section 66(2) of the CP Act.

⁸¹ See rule 68(1)(b) of the Rules.

Part 13 Orders under the Domestic and Family Violence Protection Act 2012

246. The court must consider whether to make a protection order or vary a domestic violence order under the *Domestic and Family Violence Protection Act 2012* (DFVP Act) in every case.⁸² The court can also make a direction about a proceeding under the DFVP Act, such as directing the registrar to request that information from that proceeding be provided to the Childrens Court.⁸³ The DCPL and Child Safety should consult about this prior to each court event for every case where domestic and family violence is an issue. In particular, the DCPL should seek Child Safety's view about whether the court should make a protection order or vary a domestic violence order and the reasons for that view.

Part 14 Court ordered conferences

Division 1 Holding a court ordered conference

247. Where an application for a child protection order is contested, there must be a conference between the parties or reasonable attempts to hold a conference must have been made.⁸⁴ The overarching purpose of a conference is to explore the possibility of the parties reaching an agreement about how the application should be resolved. A conference can also narrow the legal issues that are in dispute between the parties for determination at a hearing. The court may direct parties to try to decide or resolve a particular matter in dispute at a conference. In these circumstances, the court must issue a direction stating the particular matter the parties must try to decide or resolve at the conference.⁸⁵
248. In reaching an agreement to resolve the application at a conference, the safety, wellbeing and best interests of the child will be the DCPL's paramount consideration. The DCPL will also consider whether there is sufficient evidence to support the agreement reached by the parties.
249. The court is responsible for notifying parties and participants of the conference (except the child, unless they have filed a notice of address for service).⁸⁶ In cases where it may not be immediately clear that a participant should be notified of the conference, such as a person taking part in the proceeding under section 113 of the CP Act, the DCPL should pass this information on to the court.
250. Although the child is a party to the application, they are not required to attend the conference. However, where appropriate, having regard to the child's age and ability to understand the matter, the child must be told about the conference and be given an opportunity to participate.

⁸² See rule 70 of the Rules.

⁸³ See rule 70 of the Rules.

⁸⁴ See section 59(1)(c) of the CP Act.

⁸⁵ See rule 106 of the Rules.

⁸⁶ See rule 108 of the Rules.

251. Child Safety are required to tell the child about the conference where appropriate as soon as practicable after receiving notice of a conference from the court.⁸⁷ Child Safety should tell the child the date, time and location of the conference, as well as who will be attending and the purpose of the conference. Child Safety should also tell the child they can attend the conference if they want to, but they do not have to. Child Safety should also discuss with the child that, subject to the discretion of the convenor, there is flexibility about how they participate in a conference, for example, they can:
- a. bring a support person;
 - b. attend part, but not all, of the conference;
 - c. talk to the convenor without other participants being present; and or
 - d. provide their views about the application, or a matter relevant to the application, in writing.
252. Where the child indicates an intention to attend the conference, Child Safety should tell the DCPL and pass on any views expressed by the child about how they would like to participate in the conference. In appropriate cases, the DCPL should communicate this information to the convenor for the conference to assist them in their planning and preparation. For example, the child may want to attend the conference, but may not want to speak to the convenor when a particular person is in the room.
253. Where the child attends the conference and they are being given an opportunity to express their views, as far as possible, the DCPL should ensure this is done in accordance with the requirements of section 5E of the CP Act.
254. As a conference is a court event, Child Safety, no later than 2 business days prior to the conference, should provide electronically to the DCPL a written update in relation to the matter, and then within 24 hours before the conference, the DCPL and Child Safety should consult prior to the conference. The purpose of the consultation is for Child Safety to ensure the DCPL is fully informed about any new developments in terms of case management or other relevant matters about the child's case, and to exchange views about the application and any issues in dispute.
255. Issues to do with the application and about the evidence filed in support of the application discussed at the conference are the responsibility of the DCPL. Issues to do with case management, such as contact and placement, are the responsibility of Child Safety. The relevant agency will normally lead discussion about these matters as they arise at a conference.
256. The DCPL and Child Safety should consult about their respective positions about these matters and discuss what may be negotiable prior to the conference. Where the DCPL is considering a resolution of the application on different terms than those proposed in the application, it should consult with Child Safety about this. The DCPL cannot reach an agreement to resolve an application that includes case management actions that will be carried out by Child Safety, without the agreement of Child Safety. For example, where a parent proposes a resolution to an application that includes the parent having additional contact with the child, the DCPL cannot agree a settlement on these terms unless Child Safety agree to facilitate the additional contact between the child and the parent.

⁸⁷ See rule 44 of the Rules.

257. If the conference is for an Aboriginal child or Torres Strait Islander child, the DCPL should consult with and obtain the views of the recognised entity before agreeing to any resolution of the application at the conference. If the recognised entity is not in attendance at the conference, the DCPL should make contact with the recognised entity by telephone. If the DCPL cannot make contact with the recognised entity, the DCPL should explain to the convenor and participants at the conference that the agreement is subject to consultation with the recognised entity, and ask the convenor to record this in the report of the conference made under section 70 of the CP Act.
258. Occasionally, there may be a benefit in holding a further conference in a proceeding. For example, where significant information is received that is relevant to the application after the earlier conference was held. Where the DCPL believes a further conference may be of benefit, it should consult with Child Safety before asking the court to order that a further conference is held.

Division 2 Dispensing with the requirement to hold a conference in a contested matter

259. In exceptional circumstances, for example, where there is a risk to the safety of a party, section 59(1)(c)(ii) of the CP Act provides that the court can make a child protection order in a contested matter even though a conference has not been held. Before the DCPL submits to the court that it would be inappropriate to hold a conference, the DCPL should consult with Child Safety. If the application to dispense with the requirement for a conference is made by another party or by the court of its own motion, where practicable, the DCPL should consult with Child Safety before making submissions to the court about whether a conference should be held.

Part 15 Family group meetings held whilst the application is before the court

260. The function of the family group meeting is to deal with matters relating to a child's protection and care needs or wellbeing.⁸⁸ Where the purpose of the meeting is case planning, this includes considering the child's protection and care needs and agreeing on a plan to meet those needs and promote the child's wellbeing.
261. The DCPL will not ordinarily attend a family group meeting held whilst an application is before the court. However, depending on the circumstances of a particular case, the DCPL may attend a family group meeting on the request of Child Safety.⁸⁹
262. Generally, the purpose of the DCPL attending the family group meeting, will be to provide information about evidentiary matters that relate to the child's protection and care needs, or about matters to do with the application before the court. Circumstances when the DCPL may attend include:
- a. for complex matters; or
 - b. for the provision of legal advice in case planning for a matter that relates to the child's protection and care needs. For example, in a case where the *harm* to the

⁸⁸ See section 51J(1) of the CP Act.

⁸⁹ See section 51(L)(1)(j) of the CP Act.

child was caused by alleged physical abuse of the child by a parent that is the subject of separate criminal proceedings.

263. Following a case planning family group meeting, Child Safety should provide a copy of the documents prepared as part of the case planning process to the DCPL, namely the:
- a. most recent strengths and needs assessment for the child and the child's parents;
 - b. case plan; and
 - c. review report (if it is a revised case plan).
264. Prior to a case plan being endorsed by Child Safety, the DCPL may be asked to provide advice about whether the case plan:
- a. is appropriate for the child's assessed protection and care needs; and
 - b. in the case of a long-term guardianship order, includes satisfactory living and contact arrangements for the child.⁹⁰

Part 16 Interim and final hearings

265. The DCPL is responsible for running all aspects of the DCPL's case at interim and final hearings. The DCPL should, however, continue to work in partnership with Child Safety in carry out this responsibility.
266. Child Safety staff have three roles at interim and final hearings:
- a. to attend court as a witness to give evidence;
 - b. to support Child Safety staff who are giving evidence (this applies to OCFOS officers); and
 - c. to attend court as the DCPL's briefing partner.

Division 1 Child Safety staff as witnesses

267. Child Safety staff, in particular child safety officers, are key witnesses at interim hearings (where oral evidence is taken) and at final hearings. The Child Safety assessment for a child is at the centre of the DCPL's decision making and should be at the centre of the court's decision making on an application. A number of child safety officers may give evidence at a hearing including:
- a. the child safety officer that completed the initial investigation and assessment for a child and family that led to the referral of the *child protection matter* to the DCPL;
 - b. the child safety officer that is currently allocated to the child's case; and or
 - c. child safety officers that have previously been allocated to the child's case during a period of time relevant to the application before the court.
268. A child safety officer who is scheduled to give evidence at a hearing, should not be present in court during the hearing until after their evidence is completed. For this reason, the DCPL may decide to call the allocated child safety officer as their first witness so they can be present in court for the remainder of the hearing.

⁹⁰ See section 59(1)(b) of the CP Act.

Division 2 Child Safety staff attending court

269. Child Safety staff have an important role to play at interim and final hearings. There are two aspects to this role—
- a. to ensure the DCPL, and ultimately the court, have up to date information about the child and family's circumstances, which are dynamic and can change rapidly; and
 - b. to consult with the DCPL and participate in discussion with other parties about Child Safety's casework responsibilities for the child and family.
270. Child Safety should ensure that an officer with authority to provide the Child Safety assessment about matters arising at court attends all interim and final hearings, or is otherwise available by telephone (also see Guideline 230).
271. Where an OCFOS officer attends an interim hearing (where oral evidence is taken) or a final hearing, they may assist the DCPL with the coordination of witnesses during the hearing.

Division 3 Applications for adjournment of a hearing

272. The DCPL's overarching responsibility as a model litigant conducting court proceedings on behalf of the State, is to ensure that each application is ready to proceed on the allocated hearing date. Requests for an adjournment of a hearing by the DCPL should be rare, and wherever possible, should not be made on the day of the hearing.
273. Where an application for an adjournment of the hearing is made by another party or participant in a proceeding, the DCPL should consult with Child Safety in formulating a position about whether to oppose the adjournment. Consultation with Child Safety allows Child Safety to raise relevant issues including the impact of an adjournment on the child. The DCPL should consider carefully what position to take in response to an application for an adjournment of a hearing, balancing competing factors including:
- a. the requirement to resolve child protection proceedings as quickly and efficiently as possible;⁹¹
 - b. the requirement to provide procedural fairness to a party to the proceeding; and
 - c. whether a previous adjournment or adjournments have been granted by the court.

Part 17 Transition orders

274. When the court is deciding an application for a child protection order for a child that is already in the custody or guardianship of the chief executive, or a *suitable person* under a final child protection order, in certain circumstances, the court can make a transition order. A transition order can last for up to 28 days and is made so the child can be gradually transitioned into the care of the parents.⁹² Where the possibility of the court making a transition order arises either prior to or at a court event, the DCPL and Child Safety should consult about the proposed order. The DCPL should ensure the court is aware of Child Safety's assessment about the transition order.

⁹¹ See section 5B(n) of the CP Act.

⁹² See sections 65A and 65B of the CP Act.

Part 18 Court outcome communications

275. Following every court event, including a court ordered conference, the DCPL must provide Child Safety with written notice of the court outcome electronically, using the DCPL court outcome notification form. Along with the court outcome notification form, the DCPL should also provide Child Safety with a copy of any sealed orders or directions made by the court if they have not received them directly from the court. Separate to Child Safety's obligation under section 63 of the CP Act, the DCPL will provide the parties with a copy of any sealed order or directions made by the court.
276. Where possible, the court outcome notification should be provided electronically on the same day as the court event. If this is not possible, it should be provided by 5:00pm on the next business day. Where the court outcome notification cannot be provided during business hours on the same day as the court event, the DCPL must telephone Child Safety and advise them of the court outcome. Before 5:00pm the telephone call should be made to the relevant OCFOS officer. If the relevant OCFOS officer is not available, the DCPL should contact the PO5 OCFOS Legal Officer for the cluster. If it is after 5:00pm, the telephone call should be made to the Child Safety After Hours Service Centre on 1800 177 135 or 3235 9999.

Part 19 Amendment of application to seek a different order after filing

277. Ongoing review of an application and the evidence filed in support, may result in the DCPL deciding that a different child protection order to that sought in the application is considered appropriate and desirable for the child's protection. The safety, wellbeing and best interests of the child must be the DCPL's paramount consideration in decision making about the amendment of the application. The DCPL should also have regard to the sufficiency of evidence to support the order.
278. The Child Safety assessment is also subject to ongoing review. Where Child Safety assess that a different child protection order to that sought in the application is considered appropriate and desirable for the child's protection, they should notify the DCPL.
279. The DCPL may decide to amend an application in a number of circumstances, including:
- a. following consideration of new information provided by Child Safety or evidence filed by the separate representative or another party; and
 - b. as a result of negotiations at a court ordered conference or other court event.
280. Where the DCPL decide that a different child protection order is appropriate and desirable for the child's protection, the DCPL should amend the filed application to reflect the change of position. The amendment may seek to change aspects of the original application including:
- a. the type or duration of child protection order sought;
 - b. adding a further child protection order to the application;
 - c. who custody or guardianship of the child is granted to.
281. Before reaching a decision to amend an application, the DCPL should consult with Child Safety. Where the application is for an Aboriginal child or Torres Strait Islander child,

Child Safety should consult with the recognised entity for the child about the proposed amendment to the application. Child Safety should provide the DCPL with the outcome of the consultation for consideration by the DCPL in reaching a decision about whether to amend the application. Where the proposal to amend the application arises at a court event, the DCPL should consult with the recognised entity about the proposed change to the application at court. If the recognised entity is not present at court, the DCPL should attempt to make telephone contact with the recognised entity to discuss the proposed amendment.

282. Where Child Safety are not in agreement with the amendment and further time is necessary for consultation or further assessment, the DCPL should consider whether the application should be adjourned, rather than amended and decided, contrary to Child Safety's assessment. Where the DCPL decide to amend the application without the agreement of Child Safety, the DCPL should advise the court of Child Safety's assessment.

Part 20 Withdrawal of child protection order application

Division 1 written applications for withdrawal

283. Ongoing review of a matter may result in the DCPL deciding that a child protection order is no longer necessary for the child's protection. Where the DCPL is so satisfied, the DCPL should apply to withdraw the application.
284. The Child Safety assessment is also subject to ongoing review whilst they are working with a child and their family. Where Child Safety assess that a child protection order is no longer appropriate and desirable for the child's protection, they should notify the DCPL.
285. An application for a child protection order may only be withdrawn by the DCPL with the leave of the court.⁹³ The DCPL must consult with Child Safety before deciding to apply for the court's leave to withdraw an application for a child protection order. The DCPL may request further information from Child Safety under [section 23\(1\)](#) of the Act relevant to the decision to withdraw an application.
286. When the DCPL decide to withdraw an application for a child protection order, written notice of the decision should be provided electronically to Child Safety.
287. Where the DCPL decide to withdraw an application without the agreement of Child Safety, the DCPL must also provide Child Safety with written reasons for the decision and Child Safety may request an internal review of the decision using '[Form I – Child Safety Internal Review Request Form](#)'. If Child Safety request an internal review of the decision, the DCPL should delay filing the withdrawal application until after the internal review is completed. The DCPL and Child Safety need to act quickly in requesting and completing any review, so that the process is completed prior to the next court event wherever possible.

⁹³ See section 57A of the CP Act.

288. If the DCPL decide, following consultation with Child Safety, that the application should be withdrawn, they should prepare a written application in a proceeding in the approved form.⁹⁴
289. The application should state the reasons why a child protection order is no longer necessary for the child. There should be sufficient evidence to support the application and to allow the court to be satisfied a child protection order is no longer necessary for the child. This will usually require an affidavit to be filed in support of the application evidencing the reasons why the child protection order is no longer necessary. Where the DCPL decide to withdraw the application without the agreement of Child Safety, the DCPL should advise the court of Child Safety's assessment.

Division 2 Oral applications for withdrawal

290. An application for leave to withdraw an application can be made orally as well as in writing.⁹⁵ Although the preference is for the application to be made in writing, there may be circumstances when it is appropriate to make the application orally. For example, where all parties are in agreement, and it is in the best interests of the child to resolve the proceedings without delay.
291. The DCPL should consult with Child Safety before making an oral application for leave to withdraw an application. Where Child Safety do not agree with the withdrawal, the DCPL should adjourn the application for further discussion with Child Safety.

Chapter 7 - Children and other parties and participants

Part 1 Participants in a child protection proceeding

292. As well as the parties to the proceeding, the following are participants in a child protection proceeding:
- a. the separate representative for the child;
 - b. a person who is not a party to the proceeding, but who the court allows to take part under section 113 of the CP Act;
 - c. where the child is an Aboriginal child or Torres Strait Islander child, the recognised entity for the child;
 - d. where a guardian for a party has filed a notice of address for service, the guardian;⁹⁶ and
 - e. if the public guardian has given written notice of an intention to appear in the proceeding under section 108B(2) of the CP act, the public guardian.

Part 2 Participation of children in proceedings

293. The subject child is a party to a child protection proceeding. Although the child is not required to participate in the proceeding, the child has a right to attend and participate in

⁹⁴ See rule 73 of the Rules.

⁹⁵ See rule 74 of the Rules.

⁹⁶ In these circumstances, under rule 33, documents that are required to be served on the party must be served on the guardian.

the hearing, and to be represented by a direct representative and/or a separate representative under section 108 of the CP Act. In addition to or instead of being represented by a lawyer, the child may be supported by an advocate from the Office of Public Guardian.

294. Whether a child participates in a proceeding, and how the child participates will depend on the circumstances of each case. In particular, it will depend on the child's age and ability to understand the matter, and the child's views about taking part in the proceeding. The child's participation may be limited to the court receiving the child's views in writing, or it may extend to the child being represented by a direct representative and participating in the proceeding as a party.
295. In cases where the child's age and ability to understand mean they are likely to be able to participate in a proceeding (whether to a limited extent or otherwise), the DCPL, as a model litigant, has an obligation to ensure the child, at an early stage, is given information about participating in the proceeding.
296. Child Safety have an important role to play in assisting the DCPL to comply with this obligation by:
- a. telling the child about the proceeding and what it is about, in a manner appropriate to the child's age and ability to understand;⁹⁷
 - b. making sure the child is aware they do not have to participate in the proceeding, but they can if they want to;
 - c. making sure the child understands there is flexibility about the way they can participate in the proceeding;
 - d. explaining to the child they are entitled to have help to participate in the proceeding, which could include being represented by a lawyer, having an advocate appointed to support them or bringing a support person of their choice to court;
 - e. assisting the child to access help for the proceeding by, for example:
 - i. helping them to make an application for legal aid;
 - ii. making a referral to the Office of the Public Guardian; or
 - iii. helping the child to identify and make contact with a support person of their choice.
297. Child Safety should ensure the DCPL is fully informed about the child's views about participating in the proceeding, and about any steps Child Safety has taken to assist the child to obtain representation or support.
298. The DCPL should assist the court to manage the child's participation in the proceeding in a manner that gives paramount consideration to the safety, wellbeing and best interests of the child. The ways in which the DCPL can assist the court include:
- a. ensuring the court has relevant information;
 - b. asking the court to make a direction under rule 42(1) about how the child will participate when appropriate, for example, a direction allowing the child to have a support person nearby during the proceeding. When the child is an Aboriginal child or Torres Strait Islander child, support may be provided to the child by an appropriate person in accordance with Aboriginal tradition or Island custom; and
 - c. making submissions to the court about the way the court should hear from the child, which may include the examples provided in rule 43(2) of the Rules.

⁹⁷ As required under sections 56(1)(b) and 195 of the CP Act.

Part 3 Section 113 participants

299. Under section 113 of the CP Act, the court can allow a person who is not a party to the proceeding to take part, such as a member of the child's family or the child's carer. The extent and duration of the person's participation is determined by the court and can include doing some or all of the things a party can do.
300. The DCPL and Child Safety should consider whether there is a person with a relationship with the child who may wish to participate in the proceeding as a non-party. Where a person who may wish to participate is identified, the DCPL and Child Safety should discuss this.
301. Where the DCPL or Child Safety have contact with a person who may want to participate in a proceeding, such as a member of the child's family or the child's carer, they should tell the person that they can make an application to the court for an order allowing them to take part.
302. The DCPL and Child Safety should also:
- a. encourage the person to seek legal advice about making an application to take part in the proceeding; and
 - b. tell the person about rules 73 and 74 of the Rules, which deal with making an application in a proceeding.
303. Child Safety is responsible for serving the application on the parties. However, if a party is represented by a lawyer in the proceeding, the DCPL will serve their lawyer, this includes separate representatives.⁹⁸
304. Before making a submission to the court about an application under section 113, the DCPL should consult with Child Safety about the:
- a. person's relationship with the child;
 - b. extent to which the person is able to inform the court about a relevant matter;
 - c. extent to which the person should be allowed to participate; and
 - d. parent's, and, where appropriate, the child's views about the person's participation.
305. Section 113 provides broad flexibility for the court to decide how a non-party will take part in the proceeding. In formulating a position about a non-party's participation in the hearing, the DCPL should consider the person's participation carefully, having regard to all the circumstances of the case. The DCPL's paramount consideration must be the safety, wellbeing and best interests of the child. The DCPL should also have regard to the extent the person can assist the court in its consideration of the application.
306. Where appropriate, the DCPL should ask the court to expressly prescribe the scope of the person's participation under section 113, which may include prescribing certain things in the order. For example, where the child has expressed concern about the person receiving particular information in the filed material, the DCPL may submit that that information is redacted from the material provided to the person.

⁹⁸ See rule 73 of the Rules.

Part 4 Unrepresented parents and section 113 participants

307. Where a parent, or a person who has been allowed to take part in the proceedings under section 113 of the CP Act, is unrepresented, there is an enhanced duty of fairness on the DCPL. The DCPL should take particular care to apply model litigant principles by taking actions including:
- a. encouraging the parent or section 113 participant to seek legal advice including accessing the duty lawyer service where available, and by providing them with information about how they can apply for legal aid;
 - b. explaining the nature of the application and providing information about the court process;
 - c. providing the parent or section 113 participant with a further copy of material previously served on them, where they attend a court event without a relevant document and this is impairing their ability to participate effectively;
 - d. drawing the court's attention to:
 - i. section 106 of the CP Act where relevant, for example, where a parent has a disability, and assisting the court to comply with its obligations under section 106;
 - ii. section 109 of the CP Act and the requirement for the court to be satisfied the parent has had a reasonable opportunity to obtain legal representation before proceeding to hear an application; and
 - iii. rule 80(3) of the Rules that prohibits the court from drawing any inference from a failure by a parent (or other respondent) to file an affidavit in response to the application.
308. The DCPL can assist unrepresented parents and section 113 participants in the ways set out above, but DCPL lawyers should not advise on legal issues, evidence or the conduct of their case.
309. Child Safety should also assist unrepresented parents and section 113 participants by:
- a. explaining the content of documents served on them;
 - b. ensuring they are aware of the next court date;
 - c. encouraging them to obtain legal advice and representation, and giving them information about how to access Legal Aid Queensland or a local community legal centre, or if they are Aboriginal or a Torres Strait Islander, assisting them to seek assistance from the Aboriginal and Torres Strait Islander Legal Service (ATSILS);
 - d. telling them they may bring a support person to court (although whether the person is allowed to be present in the court is at the discretion of the court); and
 - e. telling them they can ask the court for permission to attend a court event by telephone (or by audio visual link), and giving them information about how they can make the request.

Part 5 Aboriginal children and Torres Strait Islander children and participation by recognised entities

310. Before exercising a power under the Act for an Aboriginal child or Torres Strait Islander child the court must consider:
- a. the views of the recognised entity about the child and the child's Aboriginal tradition or Island custom; and

- b. the general principle that an Aboriginal child or Torres Strait Islander child should be cared for within an Aboriginal or Torres Strait Islander community.⁹⁹
311. The court must also consider how it is to be informed about these matters, and matters relevant to the additional provisions for placing Aboriginal children and Torres Strait Islander children in care mentioned in section 83 of the CP Act, and whether to issue directions to ensure it is appropriately informed.¹⁰⁰
312. The DCPL should assist the court by making submissions where appropriate about any directions the court should make to ensure it is informed about the matters, this will include the DCPL seeking a direction at the first mention that the recognised entity be served with all filed documents and orders.¹⁰¹
313. As a participant in the proceeding, the recognised entity can provide their views about the child and Aboriginal tradition or Torres Strait Islander custom to the court either in writing or orally.¹⁰²
314. Before a court event, Child Safety should make contact with the recognised entity to ensure they are aware of the date and time of the court event, and to encourage their attendance.
315. When an application is amended or withdrawn, the DCPL and/or Child Safety should consult with the recognised entity.

Part 6 Communications with legal representatives

316. Communications with legal representatives for parties or participants about an application will normally be between the DCPL and the legal representative. The exception to this is where the communication is about a matter that falls exclusively within Child Safety's casework responsibilities. For example, where a legal representative wants to discuss arrangements for a family group meeting or the child's contact with a parent, the communication should be between the legal representative and the CSSC directly. The point of contact in CSSCs for legal representatives who want to discuss casework matters is the relevant OCFOS officer. Where a legal representative contacts the DCPL to discuss a casework matter, the DCPL lawyer should refer the legal representative to the relevant OCFOS officer. OCFOS officers should inform the DCPL about matters discussed with legal representatives when they are material to the application. For example, where Child Safety make changes to the child's contact arrangements with a parent following discussion with a legal representative, they should advise the DCPL.
317. Where a legal representative contacts Child Safety about a matter that relates to an application and is not exclusively about casework, Child Safety should ask the legal representative to contact the DCPL and provide contact details for the relevant DCPL lawyer. Similarly, where Child Safety receive written communication from a legal representative that relates to the application, Child Safety should forward the

⁹⁹ See section 6(4) of the CP Act.

¹⁰⁰ See rule 72 of the Rules.

¹⁰¹ See rule 67(2)(b) of the Rules

¹⁰² See rule 47(2) of the Rules.

communication to the DCPL who will respond. Where the DCPL receive written communication about an application from a legal representative, the DCPL should consult with Child Safety before responding if the communication touches on any casework matters, and provide a copy of the communication electronically.

318. The DCPL should keep Child Safety regularly updated about communications with legal representatives for parties or participants, and should consult with Child Safety when appropriate, for example, if an offer to settle the application is made.

Chapter 8 – Applications to vary or revoke a child protection order

Part 1 Referrals by Child Safety

319. When Child Safety is satisfied that a child protection order (other than an interim order under section 67 of the CP Act)¹⁰³ in force for a child is no longer appropriate and desirable for the child's protection, Child Safety must refer the child to the DCPL.¹⁰⁴
320. As well as stating the reasons why the child protection order is no longer appropriate and desirable for the child's protection, the referral to the DCPL should state:
- a. where the Child Safety recommendation is that the child protection order be varied:
 - i. the reasons why the child continues to be a *child in need of protection*;
 - ii. the type and duration of child protection order that is appropriate and desirable for the child's protection; and
 - iii. the reasons why the recommended child protection order is appropriate and desirable for the child's protection;
 - b. where the Child Safety recommendation is that the child protection order be revoked and another child protection order be made in its place:
 - i. the reasons why the child continues to be a *child in need of protection*;
 - ii. the type and duration of child protection order that should be made in place of the current order; and
 - iii. the reasons why the recommended replacement child protection order is appropriate and desirable for the child's protection;
 - c. where the Child Safety recommendation is that the child protection order be revoked:
 - i. the reasons why the child is no longer a *child in need of protection*;
 - ii. the reasons why the child protection order is no longer appropriate and desirable for the child's protection; and
 - iii. where the current order is a long term guardianship order in favour of a member of the child's family or other *suitable person*, the reasons why the revocation of the order is consistent with the child's need for emotional security and stability.
321. The DCPL must provide written reasons to Child Safety about decisions relating to applications to vary or revoke a child protection order without the agreement of Child Safety, and the decisions are subject to internal review (see Chapter 11 of these Guidelines).

¹⁰³ See section 65(8) of the CP Act.

¹⁰⁴ See section 15(1)(b) of the Act.

Part 2 Applications to vary or revoke a child protection order by a parent or child

322. As well as the DCPL, the child or the child's parent can apply to:
- a. vary a child protection order;
 - b. revoke a child protection order and make another child protection order in its place; or
 - c. revoke a child protection order.¹⁰⁵
323. Where such an application is made, the court is required to provide notice of the application to the DCPL and Child Safety.¹⁰⁶ Child Safety is responsible for personally serving the application on respondents other than the DCPL, and for telling the child about the application.¹⁰⁷
324. If it appears the applicant is not represented by a lawyer, Child Safety should provide the applicant with information about how they can apply for legal representation. If the applicant is a child, as well as providing information about applying for legal representation, Child Safety may also assist the child to obtain the support of an advocate from the Office of the Public Guardian.
325. After the DCPL receive notice of the application, the DCPL should consult with Child Safety to:
- a. discuss Child Safety's current assessment about whether the child is a *child in need of protection* and whether the current child protection order is appropriate and desirable for the child's protection;
 - b. obtain Child Safety's feedback about the application and any affidavits filed in support; and
 - c. discuss the preparation of draft affidavits in reply, including agreeing a timetable for providing draft affidavits to the DCPL.
326. As well as providing draft affidavits in reply to the DCPL, Child Safety should also provide a statement:
- a. making a recommendation about the position the DCPL should take in response to the application; and
 - b. summarising the reasons for that recommendation.
327. Where the DCPL do not agree with the Child Safety recommendation, there should be further consultation. Ultimately, the DCPL is responsible for determining how the DCPL will respond to the application.
328. The DCPL and Child Safety should work collaboratively to finalise any affidavits in reply. The DCPL may request further evidence or information from Child Safety in response to an application, and Child Safety should take reasonable steps to provide the information.

¹⁰⁵ See section 65(1) of the CP Act.

¹⁰⁶ See section 65(5)(b) of the CP Act.

¹⁰⁷ See section 65(5)(c) and sections 56 and 195 of the CP Act.

329. There should be ongoing consultation between the DCPL and Child Safety until the application is finalised. Child Safety should keep the DCPL updated about any relevant changes in the child's or the parent's circumstances. Child Safety should ensure an officer with relevant case knowledge and authority attends all court events or is otherwise available by telephone.
330. The DCPL does not have to provide written reasons to Child Safety about decisions the DCPL makes as a respondent to an application Child Safety does not agree with, and decisions are not subject to internal review.

Chapter 9 – Interstate transfers of child protection orders and proceedings

Part 1 Introduction

331. There are five types of interstate transfers of child protection orders and proceedings. They are:
- a. administrative transfer of a child protection order from Queensland to another State;
 - b. judicial transfer of a child protection order from Queensland to another State;
 - c. transfer of a child protection order from another State to Queensland;
 - d. transfer of a child protection proceeding from Queensland to another State; and
 - e. transfer of a child protection proceeding from another State to Queensland.
332. A table showing the responsibilities of the DCPL and Child Safety for each of these transfers is provided at Appendix 2 to these Guidelines.
333. The DCPL is involved in three types of transfers: judicial transfer of a child protection order to another State; the transfer of a child protection proceeding from Queensland to another State; and the transfer of a child protection proceeding from another State to Queensland.
334. Child Safety and its interstate counterparts are signatories to the Interstate Child Protection Protocol (Protocol). The Protocol and supporting operating guidelines contain agreed principles, procedures and timeframes for the conduct of interstate transfers and requests for assistance. The interstate liaison officers in Child Safety are the Child Safety contact for interstate officers. Interstate liaison officers also advise Child Safety staff about issues relevant to the interstate transfer of child protection orders and proceedings. Where information about the requirements of the Protocol and Child Safety's liaison with interstate officers is relevant to the DCPL's functions in this area, Child Safety should provide this information to the DCPL.

Part 2 Applications for judicial transfer of an order to another State

335. Child protection orders (other than an interim order under section 67 or an order granting long-term guardianship of a child to a person other than the chief executive) may be transferred to another State administratively or by the Childrens Court of

Queensland.¹⁰⁸ The DCPL is responsible for making applications for judicial transfer of a child protection order.

336. Where Child Safety determine that an application should be made for judicial transfer of a child protection order to another State, they should make a referral to the DCPL.
337. The referral should state:
- a. the reasons why Child Safety are satisfied the order should be transferred;
 - b. the proposed interstate order including any relevant provisions of the proposed order;
 - c. how the proposed interstate order equates to the Queensland child protection order;
 - d. the reasons why the protection sought to be achieved by the proposed interstate order could not be achieved by an order on less intrusive terms; and
 - e. why it is in the child's best interests that the order be transferred.
338. The referral should be accompanied by a draft affidavit evidencing the matters mentioned above. The draft affidavit should also:
- a. address whether a family group meeting has been held or reasonable attempts have been made to hold a family group meeting;
 - b. exhibit the child's current case plan and review report;
 - c. include the child's views and wishes about the proposed transfer;
 - d. state where the child, the child's parents and other persons significant to the child are living;
 - e. where the child is Aboriginal or a Torres Strait Islander, detail any consultation with the recognised entity about cultural considerations, and how the proposed transfer may impact on the child's identity and future links to their family and community; and
 - f. exhibit the written consent of the interstate officer to the transfer.
339. The DCPL should not make an application for the transfer of an order to another State unless an interstate officer has provided their written consent for the transfer. In deciding whether to bring the transfer application, the DCPL's paramount consideration is the safety, wellbeing and best interests of the child.
340. The DCPL should consult with Child Safety in deciding whether to make the transfer application. If the DCPL propose not to make the transfer application, they must consult with Child Safety before reaching this decision. Where the DCPL decide not to make the application without the agreement of Child Safety, written reasons are required and the decision is subject to internal review using 'Form I – Child Safety Internal Review Request Form'.

Part 3 Applications for transfer of a proceeding to another State

341. The DCPL may apply to transfer a current child protection proceeding to another State.
342. Where Child Safety determine that a current proceeding should be transferred to another State, they should notify the DCPL in writing. The written notice should state:
- a. the reasons why Child Safety are satisfied the proceeding should be transferred;

¹⁰⁸ See sections 206 and 212 of the CP Act.

- b. the reasons why it is in the child's best interests that the proceedings be transferred; and
 - c. whether Child Safety assess that the court should make an interim order granting custody of the child or responsibility for supervision of the child to an interstate officer or another person if a transfer order is made.¹⁰⁹
343. The written notice should be accompanied by a draft affidavit evidencing the matters mentioned above. The draft affidavit should exhibit the written consent of the interstate officer to the transfer and should also include information about:
- a. whether there are any child protection orders in force for the child in the other State;
 - b. whether there are any current, or have previously been any, child protection proceedings for the child in the other State;
 - c. where the child, the child's parents and other persons significant to the child are living;
 - d. include the child's views and wishes about the proposed transfer; and
 - e. where the child is Aboriginal or a Torres Strait Islander, any consultation with the recognised entity about cultural considerations, and how the proposed transfer may impact on the child's identity and future links to their family and community.
344. Where the DCPL determine that it may be in the child's best interests for a current child protection proceeding to be transferred to another State, they should consult with Child Safety about this. In particular, Child Safety liaise with the relevant interstate office about the proposed transfer, and should report back to the DCPL about this. The DCPL should not make an application for the transfer of a proceeding to another State unless an interstate officer has provided their written consent for the transfer.
345. The DCPL should consult with Child Safety in deciding whether to make the transfer application. If the DCPL propose not to make the transfer application, they must consult with Child Safety before reaching this decision. Where the DCPL decide not to make the application without the agreement of Child Safety, written reasons are required and the decision is subject to internal review by Child Safety using 'Form I – Child Safety Internal Review Request Form'.

Part 4 Applications for transfer of a proceeding to Queensland

346. Where another State seeks to transfer a child protection proceeding to Queensland under a law of that State, they must first obtain the consent for the transfer from Child Safety. Child Safety must consent to the transfer, unless satisfied it is not in the child's best interests for the proceedings to be transferred.¹¹⁰ Child Safety should consult with the DCPL before consenting to the transfer.
347. When Child Safety consents to a transfer of a proceeding to Queensland, Child Safety should provide the DCPL with a copy of:
- a. the written consent to the transfer;
 - b. the decision from the interstate court to transfer the proceeding;
 - c. any interim order issued by the interstate court; and
 - d. Child Safety's written notice filed in the court stating that the DCPL is a party to the proceeding in place of the interstate officer.

¹⁰⁹ See section 230 of the CP Act.

¹¹⁰ See section 234 of the CP Act.

348. Upon registration of the interstate transfer decision in the court, the DCPL becomes a party to the proceeding in place of the interstate officer.
349. The DCPL and Child Safety (along with other parties including the child and the child's parents) may apply to the court to revoke the registration of the interstate transfer decision. The DCPL and Child Safety should not take this step without first consulting with each other.

Chapter 10 – Appeals

Part 1 Responsibility for appeals

350. The DCPL is responsible for bringing and responding to appeals against the following decisions of the court:
- a. determining an application for a child protection order;
 - b. on an application for a child protection order, including interim orders made on the adjournment of a proceeding; and
 - c. on an application to transfer a child protection order or child protection proceeding from Queensland to another State.
351. Child Safety is responsible for bringing and responding to appeals against a decision of the court on an application for an emergency order. Child Safety may instruct the DCPL to appear on its behalf in these appeals. Further guidance about the DCPL appearing on the instructions of Child Safety in appeals against emergency orders, and other child-related matters is contained in Chapter 12 of these Guidelines.
352. An appeal can be commenced by the DCPL in response to a request from Child Safety or on the DCPL's own initiative. Where Child Safety request that the DCPL bring an appeal, the DCPL will make an independent decision about whether to commence proceedings. Child Safety cannot direct the DCPL to bring an appeal, however, the DCPL should have regard to the reasons why Child Safety say the appeal should be brought.

Part 2 Timeliness

353. Timely decision making about whether to bring an appeal is critical. Both the DCPL and Child Safety should act quickly. Consultation between the DCPL and Child Safety about whether to bring a DCPL appeal should occur in a timely way.

Part 3 Urgent and non-urgent appeals

354. Urgent action in appeal decision making is particularly important for appeals against interim and final decisions on a child protection order application that are determined to place the child at immediate and unacceptable risk of suffering significant *harm* (urgent appeals). Urgent appeals should be brought with utmost speed (ideally on the day of the

decision or the next business day) and should normally be accompanied by an application to stay the operation of the decision.

355. Examples of an urgent appeal include appeals against a decision:
- a. not to make an interim order granting temporary custody of a child to Child Safety in circumstances where the child has been in the temporary custody of Child Safety and this is determined to be necessary in order to meet the protection and care needs of the child; and
 - b. to make a protective supervision order for a child who is in the custody of Child Safety at the time of the decision, which is assessed to place the child at unacceptable risk of suffering significant *harm*.
356. Non-urgent appeals relate to decisions of the court that do not give rise to an immediate and unacceptable risk of significant *harm* to the child (non-urgent appeals). For example:
- a. a decision to make an order granting custody of the child to Child Safety on an application for a long-term guardianship order in favour of the chief executive;
 - b. a decision to make an order granting custody of the child to Child Safety for one year on an application for a two year custodial order in favour of Child Safety; and
 - c. a decision involving an erroneous statement or application of the law that does not result in an outcome that places the child at immediate and unacceptable risk of significant *harm*.

Part 4 Child Safety requests the DCPL bring an appeal

357. Where Child Safety assess that an appeal should be brought, Child Safety should make a written appeal request using 'Form H – Child Safety Appeal Request Form' sent electronically (unless the request relates to an urgent appeal, which can be requested by telephone). If the appeal request cannot be made electronically, it can be hand delivered, faxed or posted to the DCPL. The DCPL should provide a written acknowledgement of receipt of the appeal request electronically within 24 hours of receiving the request.
358. The appeal request should state the reasons why Child Safety believe an appeal should be brought including:
- a. the impact of the court's decision on the safety, wellbeing and best interests of the child; and
 - b. the proposed grounds of appeal including a statement of how the court erred.
359. This information should be set out in summary form in the 'Form H – Child Safety Appeal Request Form' attached to these Guidelines.
360. Written requests for appeals other than urgent DCPL appeals, should be made as soon as practicable and within five working days of the date of the court's decision. This is to allow time for an internal review of the DCPL's decision before the appeal period ends, if the DCPL decide not to bring an appeal without the agreement of Child Safety.

Part 5 Consultation and collaboration with Child Safety

361. The DCPL should consult with Child Safety in deciding whether to commence an appeal. In particular, the DCPL must consult with Child Safety before deciding not to bring an appeal requested by Child Safety. The DCPL should also consult with Child Safety before deciding to commence an appeal on the DCPL's own initiative.
362. There should be ongoing consultation between the DCPL and Child Safety until the appeal is resolved. The DCPL and Child Safety should consult prior to appeal court events to ensure the DCPL has up to date information about the child's circumstances and to discuss relevant casework matters. Child Safety should ensure an officer with relevant case knowledge and authority attends all appeal court events or is otherwise available by telephone.
363. The DCPL and Child Safety should also work together on the preparation of any further evidence to be filed in the appeal. Where an appeal is accompanied by an application for a stay of the operation of a decision, the DCPL may file a further affidavit evidencing the steps Child Safety has taken to mitigate the risk of *harm* to the child arising from the decision appealed against, such as safety planning, home visits and police welfare checks. The DCPL and Child Safety should work together quickly and efficiently to ensure further evidence is filed in a timely way.

Part 6 Deciding whether to bring an appeal

364. In deciding whether to bring an appeal, the DCPL's paramount consideration must be the safety, wellbeing and best interests of the child.
365. The DCPL should also consider whether:
- there are grounds for the appeal and a reasonable prospect of success; and
 - the appeal raises issues of general importance to the application of the Act, the CP Act or other relevant legislation.
366. Decisions about whether to bring an urgent appeal, whether on request by Child Safety or on the DCPL's own initiative, should be made urgently and by the end of the next business day following the court's decision.

Part 7 Notification of decision

367. If the decision relates to an urgent appeal, immediate notification of the DCPL's decision about whether to bring an appeal, should be provided to Child Safety by telephone and followed up with written notification of the decision.
368. Decisions about whether to bring a non-urgent appeal, should be made as soon as practicable. Where Child Safety makes a non-urgent appeal request, it should be decided and written notification of the decision provided within five business days of receipt of the appeal request.

Part 8 Written reasons for decision and internal review

369. Where the DCPL decide not to commence an appeal requested by Child Safety, the DCPL must provide written reasons for the decision (unless Child Safety, following consultation, agree that an appeal should not be brought).
370. The written reasons must be prepared by the DCPL lawyer that made the decision. The written reasons should:
- a. be in the 'Form C – Director's Written Reasons for Decision form' attached to these Guidelines;
 - b. use clear and unambiguous language;
 - c. state the reasons why the DCPL decided not to bring an appeal;
 - d. explain the basis for the decision;
 - e. be provided to Child Safety:
 - i. for urgent DCPL appeal requests, by the end of the next business day following receipt of the request, and at the same time as notification of the decision is provided; and
 - ii. for non-urgent DCPL appeal requests, within five business days of receipt of the request and at the same time as notification of the decision is provided.
371. Child Safety may request an internal review of a decision not to bring an appeal requested by Child Safety using 'Form I – Child Safety Internal Review Request Form'. Internal reviews should be made and dealt with in accordance with the procedure set out in Chapter 11, Part 4 of these Guidelines.

Part 9 Responding to appeals

372. Where the DCPL is a respondent in an appeal brought by another party, the DCPL should consult with Child Safety in responding to the appeal. In particular, the DCPL should consult with OCFOs in the preparation of the DCPL's outline of argument and any further affidavits to be filed in the appeal. The DCPL should also consult with Child Safety in preparation for appeal court events.
373. The DCPL do not have to provide written reasons to Child Safety about decisions the DCPL makes as a respondent in an appeal that Child Safety does not agree with, and decisions are not subject to internal review.

Chapter 11 – Miscellaneous

Part 1 Ongoing matter review

374. A decision by the DCPL to apply for a child protection order is subject to ongoing review until the application is finalised. This is particularly important because of the dynamic nature of the lives of children and families. Ongoing review will involve regular consultation with Child Safety and ongoing assessment of the evidence about whether:
- a. the child is a *child in need of protection*; and
 - b. the order sought is appropriate and desirable; or

- c. where the child is subject to a child protection order, whether revocation of the order is still appropriate and desirable for the child's protection.
375. Ongoing case review may also involve the DCPL requesting further information or evidence from Child Safety under section 23 of the Act to ensure the sufficiency, relevance and appropriateness of the evidence before the court.
376. The Child Safety assessment is also subject to ongoing review whilst they are working with a child and their family. Where Child Safety assess that different intervention to that sought in the application is appropriate and desirable for the child's protection, they should notify the DCPL. For example, whilst an application is before the court, Child Safety may assess that a more or less intrusive order, or that no order should be made for the child. In these circumstances, the DCPL and Child Safety should consult, so the DCPL can decide whether the application before the court should be amended or withdrawn.
377. Child Safety may also assess that, due to a change of circumstances, the interim protective measures in place to protect a child are no longer appropriate to meet the child's protective needs. For example, Child Safety may assess that a child that is the subject of an application for a protective supervision order has suffered *harm* or is at unacceptable risk of suffering *harm* if the child is not taken into custody. In these circumstances, Child Safety and the DCPL should engage in urgent consultation so the DCPL can consider whether there is sufficient evidence to support an application for temporary custody, and can make arrangements to have the application brought on urgently for mention. In some cases it may be necessary for Child Safety to take a child into custody under section 18 of the CP Act. However, generally the DCPL and Child Safety should engage in urgent consultation with a view to ensuring the child's protective needs are met by seeking the appropriate interim orders on adjournment of the application for a child protection order.

Part 2 Transcripts of proceedings

378. The DCPL is responsible for deciding whether to obtain a transcript of proceedings for applications for child protection orders and appeals. Where the DCPL decide to obtain a transcript of proceedings, the DCPL is responsible for payment of any applicable fees.

Part 3 Section 99MA of the CP Act – notification of suspension to the DCPL

379. Section 99MA of the CP Act provides for the mandatory suspension of a QCAT *review proceeding* about a Child Safety contact decision, when the person who commenced the *review proceeding* is also a party to a child protection proceeding before the court. The purpose of the provision is to allow decisions about a child's contact with a parent or family member to be made in one jurisdiction.
380. Where a *review proceeding* is suspended by QCAT, the *tribunal registrar* must notify the parties to the review and court of the suspension. Child Safety is then required to notify the parties to the child protection proceeding of the suspension. Child Safety should provide notice of the suspension to the DCPL and other parties as soon as practicable

and prior to the next court event. The notification to the DCPL, along with a copy of the notifications sent by Child Safety to the parties should be provided to the DCPL electronically.

Part 4 Internal review of the DCPL's decision

Division 1 Reviews generally

381. Where the DCPL is required to provide written reasons for a decision to Child Safety under section 18 of the Act, Child Safety may request that the DCPL conduct an internal review of the decision. Written reasons are required when the DCPL:
- a. make a decision on a *child protection matter* that Child Safety disagree with (section 18(1)(a) or (b) of the Act);
 - b. decide to withdraw an application for a child protection order without the agreement of Child Safety (section 18(1)(c) and Chapter 8 of the Guidelines);
 - c. decide not to bring an appeal requested by Child Safety, where Child Safety still want the appeal to be brought following consultation (section 18(1)(c) and Chapter 10 of the Guidelines);
 - d. decide not to make an application to transfer a child protection order to another State without the agreement of Child Safety (section 18(1)(c) and Chapter 9 of the Guidelines); and
 - e. decide not to make an application to transfer a child protection proceeding to another State without the agreement of Child Safety (section 18(1)(c) and Chapter 9 of the Guidelines).
382. Internal reviews must be conducted on the same information the DCPL considered in reaching the decision. Where Child Safety have new information and they want the DCPL to reconsider the child's case, Child Safety should make a new referral of a *child protection matter* to the DCPL including the new information.
383. Internal reviews should be dealt with by the DCPL as quickly as possible and prior to the expiry of any current order or appeal period, unless the review request is received after the order or the appeal period has ended.
384. The request should:
- a. be made in writing using 'Form I – Child Safety Internal Review Request Form' attached to these Guidelines and sent electronically;
 - b. be made as soon as practicable and within 5 business days of the date the DCPL notified Child Safety of the decision. If the review relates to a child that is subject to a current order, the request should be made as soon as practicable prior to the expiry of the order. If the review relates to a non-urgent DCPL appeal, the request should be made as soon as practicable and within 5 business days of the date the DCPL notified Child Safety of the decision not to appeal;
 - c. state briefly the reasons why Child Safety disagree with the DCPL's decision and indicate any matters Child Safety want the DCPL to take into account in the review; and
 - d. not include new information.
385. The DCPL should provide a written acknowledgement of receipt of the review request electronically within 24 hours of receiving the request.

386. The review must be conducted by a different decision maker of the same or a higher level to the original decision maker.
387. The review should be completed within 5 working days of receipt of the request or earlier if the order or appeal period ends during this time. The review should either confirm the original decision or make a different decision to the original decision.
388. The decision on the review should:
- a. be recorded in the 'Form J – Director's Review Decision Notification Form' attached to these Guidelines;
 - b. state the reasons for the decision;
 - c. list any actions arising from the decision; and
 - d. be provided to Child Safety as soon as possible and within one business day of the completion of the review.
389. Where the decision on the review is to make a different decision to the original decision, the DCPL should communicate this to Child Safety immediately by telephone with the completed 'Form J – Director's Review Decision Notification Form' to be provided as soon as practicable after that. The DCPL should take any steps required to action the new decision on an urgent basis. For example, if the original decision was to refer the matter back to Child Safety and, on review, the DCPL decide to apply for a child protection order, the application (and supporting material) should be finalised and filed as a matter of urgency.

Division 2 Reviews where the child is subject to an emergency order

390. Where Child Safety make a review request for a child that is subject to an emergency order, the DCPL and Child Safety should work together efficiently to ensure that, wherever possible, the review can be completed and any resulting action taken before the emergency order ends.
391. In order to achieve this, a review request for a child subject to an emergency order:
- a. should be made urgently following receipt of the written reasons for decision;
 - b. can be made orally by telephoning the DCPL; and
 - c. should be decided urgently and, wherever possible, before the emergency order ends.
392. Similarly, the DCPL should communicate the outcome of a review request to Child Safety immediately by telephone with the completed written internal review outcome to be provided as soon as practicable after that.

Division 3 Reviews of the DCPL decision not to bring an appeal

393. Generally, requests for internal review of a decision not to bring a DCPL appeal requested by Child Safety should be made quickly and as soon as practicable after receipt of the DCPL's written reasons for decision.

394. Where the review relates to an urgent DCPL appeal, it should be dealt with urgently without delay and by the end of the next business day following receipt of the request. Internal reviews relating to non-urgent appeals should be dealt with expeditiously and before the appeal period ends.

Part 5 Information sharing between the DCPL and Child Safety

395. In performing its statutory functions, the DCPL may receive information about a child the subject of an application or their family that is relevant to Child Safety's ongoing intervention with the child. For example, a member of the child's family may provide information to the DCPL at a court event about a parent's drug use that suggests the child may be suffering *harm* or is at risk of suffering significant *harm*. As well as advising the family member to pass this information on to Child Safety directly in light of Child Safety's frontline child protection responsibilities, the DCPL should also provide this information to Child Safety. The information should be provided as soon as practicable after receipt of the information. In the first instance, the DCPL may provide the information orally or in writing electronically. Where the DCPL provide the information orally, this should be followed by subsequent written confirmation of the information provided.
396. Where the information received by the DCPL suggests a child may have been the victim of an offence, or that an offence has occurred that gives rise to a risk of significant *harm* to the child, the DCPL should provide the information to police. The information should be provided to police in writing as soon as practicable after receipt or on an urgent basis depending on the nature of the information received. Before the DCPL provide information to the police, the DCPL should provide the information to Child Safety and advise Child Safety the information is also being provided to police.

Part 6 Child Protection (International Measures) Act 2003

397. The *Child Protection (International Measures) Act 2003* (Qld) (CP(IM) Act) provides for Queensland's involvement in implementing the child protection aspects of the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (Child Protection Convention). The Child Protection Convention is an international agreement about parental responsibility and measures to protect children, which aims to ensure there is international cooperation and jurisdictional clarity for the protection of children across international borders. The child protection aspects of the Child Protection Convention are the responsibility of the States and Territories.
398. The Director-General of Child Safety is designated as the central authority for implementing the child protection aspects of the Child Protection Convention.¹¹¹ Circumstances when Child Safety's obligations under the CP(IM) Act are engaged include where:
- a. urgent protective measures are required for a child who is present in Queensland although habitually resident in a Convention country other than Australia; or

¹¹¹ See section 29(1) of the CP(IM) Act.

- b. a Convention Country requests that Queensland seek protective measures for a child whose habitual residence is the requesting Convention Country but the child is present in Queensland for the time being.
399. As the designated central authority for implementing the child protection aspects of the Child Protection Convention, Child Safety is responsible for all communication with Convention Countries about the Child Protection Convention. If an officer from a Convention Country contacts the DCPL about a child, the DCPL should:
- a. explain that the Director-General of Child Safety is designated as the central authority for implementing the child protection aspects of the Child Protection Convention; and
 - b. ask the Convention Country to contact the Legal Services Branch of Child Safety and provide the relevant contact details.
400. Child Safety's obligations under the CP(IM) Act include conducting investigations and assessments of children and families, providing support on a voluntary basis and pursuing compulsory intervention in the court through an application for an emergency order and/or by making a referral to the DCPL recommending that an application for a child protection order be made.
401. When Child Safety assess that a child to whom the CP(IM) Act applies is:
- a. a *child in need of protection*; and
 - b. that a child protection order is appropriate and desirable for the child's protection;
402. Child Safety should refer the child to the DCPL. The referral should comply with Chapter 2 of these Guidelines.
403. The DCPL should make a decision about how to deal with the referral in accordance with section 17 of the Act and Chapter 3 of these Guidelines. The DCPL is not obliged to file an application for a child protection order for a child that is referred to it, to which the CP(IM) Act applies. The DCPL should assess the referral including considering the sufficiency of evidence to make an application in the normal way.

Part 7 Media and publications

404. DCPL lawyers are not permitted to make public comment in their professional capacity about any aspect of their work without the permission of the Director. Section 19 of the Act imposes a duty of confidentiality on persons who gain information about a person's affairs through the administration of the Act. This information may only be recorded and disclosed to someone else in accordance with the provisions of section 19(3) of the Act. Sections 187 and 188 of the CP Act also impose a duty of confidentiality on persons who gain information about a person's affairs through the administration of the CP Act. This information may only be used or disclosed in accordance with the provisions of sections 187(4) and (5) and section 188(3) of the CP Act.

Part 8 Alleged Child Safety contravention of the CP Act or an order, or contempt of court

404A. If in a proceeding there is an allegation that a Child Safety officer has contravened the CP Act or an order made under the Act, or is charged with contempt of court, the DCPL should apply to adjourn the matter to afford the Child Safety officer with the opportunity to obtain legal advice and if necessary, to allow the attendance of either OCFOs or Child Safety's Court Services Unit, or an independent lawyer.

Part 9 Family Law Proceedings

404B. Section 69ZK of the *Family Law Act 1975 (Cwlth)* provides that a court exercising family law jurisdiction must not make an order in relation to a child who is under the care of a person under a child welfare law, unless the order is to come into effect when the child ceases to be under that care, or the order is made with the written consent of Child Safety.

404C. Where Child Safety is aware of a current family law proceeding at the time of referring a *child protection matter* to the DCPL, this information must be included within Part 10 of the Form A – Referral of Child Protection Matter/s Summary form, and a copy of any family law order (including interim orders) for the child should be provided in the brief of evidence. Where a family law proceeding is commenced whilst a child protection proceeding is before the court, Child Safety is required to notify the DCPL as soon as practicable after receiving notice of the family law proceedings.

404D. Where Child Safety consents to the family law jurisdiction whilst the child protection proceedings are before the court, Child Safety should ensure the court hearing the family law proceeding is aware of the DCPL's position in the child protection proceeding.

Chapter 12 – Providing advice and representation to Child Safety

405. The Act allows the DCPL to provide legal advice and representation upon request to Child Safety.¹¹²

406. The DCPL may provide legal advice to Child Safety when requested about:

- a. the functions of the chief executive of Child Safety under the *Adoptions Act 2009* and the CP Act;
- b. other matters relating to the safety wellbeing and best interests of a child; and
- c. matters involving the State's obligations under the Convention on the Civil Aspects of International Child Abduction (Hague Child Abduction Convention) as applied under section 111B of the *Family Law Act 1975 (Cwlth)*.

407. The DCPL may also represent the State in legal proceedings when requested:

- a. under the *Adoptions Act 2009* and the CP Act;
- b. relating to the safety wellbeing and best interests of a child; and
- c. under the *Family Law (Child Abduction Convention) Regulations 1986* pertaining to the State's obligations under the Hague Child Abduction Convention.

408. In each of these circumstances, the DCPL acts on the instructions of Child Safety and on a fee for service basis. Child Safety should provide formal instructions to the DCPL

¹¹² See section 9(2) of the Act.

by hand delivering, posting or faxing a letter of instructions together with any other relevant information to the DCPL.

Director's Guidelines – current as at 1 July 2017

A handwritten signature in black ink, appearing to read 'Nigel A. Miller', with a stylized, cursive script.

Nigel A. Miller

Director of Child Protection Litigation

Appendix 1 - Definitions & Abbreviations

Definitions

- *child protection matter* - has the meaning given to it in Schedule 1 of the Act
- *child in need of protection* - has the meaning given to it in section 10 of the CP Act
- *harm* - has the meaning given to it in section 9 of the CP Act
- emergency order – temporary assessment order, court assessment order and temporary custody order
- final child protection orders – child protection orders specified in section 61 of the CP Act
- *review proceeding* - has the meaning given to it in section 99MA(9) of the CP Act
- *suitable person* - has the meaning given to it in Schedule 3 of the CP Act
- *tribunal registrar* - has the meaning given to it in section 99MA(9) of the CP Act
- chief executive (child safety) – the chief executive of Child Safety

Abbreviations

- Chief executive of the Department of Communities, Child Safety and Disability Services – Child Safety
- *Child Protection Act 1999* – CP Act
- Child Safety Service Centre – CSSC
- Director of Child Protection Litigation – DCPL
- *Director of Child Protection Litigation Act 2016* – the Act
- Office of the Director of Child Protection Litigation – ODCPL
- Office of the Child and Family Official Solicitor – OCFOS

Appendix 2 - Interstate transfers of child protection orders and proceedings

The table shows responsibility for the transfer of orders and proceedings to and from Queensland between the DCPL and Child Safety.

Type of transfer	DCPL responsibility	Child Safety responsibility
Administrative transfer of an order to another State ¹¹³	<ul style="list-style-type: none"> no involvement 	<ul style="list-style-type: none"> Child Safety responsibility
Judicial transfer of an order to another State ¹¹⁴	<ul style="list-style-type: none"> makes the application conducts the application 	<ul style="list-style-type: none"> liaises with interstate officer to obtain consent to transfer and the provisions of proposed interstate order makes referral to the DCPL serves application on parties arranges a family group meeting obtains the child's views and wishes where appropriate notifies parties to application of the court outcome
Transfer of an order to Queensland ¹¹⁵	<ul style="list-style-type: none"> no involvement 	<ul style="list-style-type: none"> Child Safety responsibility
Transfer of proceedings to another State ¹¹⁶	<ul style="list-style-type: none"> makes the application conducts the application 	<ul style="list-style-type: none"> liaises with interstate government officer to obtain written consent for the transfer of the proceeding serves application on parties notifies parties to application of the court outcome
Transfer of proceedings to Queensland ¹¹⁷	<ul style="list-style-type: none"> following registration of the interstate transfer decision in the Childrens Court the DCPL becomes a party to the proceedings in place of the interstate government officer conducts the application 	<ul style="list-style-type: none"> chief executive decides whether to provide written consent for transfer of the proceedings to Queensland chief executive files copy of the interstate transfer decision and any interim orders of interstate court in the Childrens Court where an interstate government officer is a party to the proceeding, the chief executive files a notice stating that the DCPL is a party to the proceeding in place of the interstate government officer

¹¹³ See sections 206 to 211 of the CP Act.

¹¹⁴ See sections 206 and 212 to 219 of the CP Act.

¹¹⁵ See sections 220 to 224 of the CP Act.

¹¹⁶ See sections 225 to 232 of the CP Act.

¹¹⁷ See sections 233 to 238 of the CP Act.

Appendix 3 – Guidelines Forms

Contents:

- Form A – Referral of Child Protection Matter/s Summary Form
- Form B – Deleted
- Form C – Written reasons for decision Form
- Form D – Disclosure Form
- Form E – Request for Disclosure Form
- Form F – Disclosure Compliance Notice Form
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- Form H – Child Safety Appeal Request Form
- Form I – Child Safety Internal Review Request Form
- Form J – Internal Review Decision Notification Form

Form A – Referral of Child Protection Matter/s Summary Form

This form is to be completed by an Office of the Child and Family Official Solicitor (OCFOS) officer¹¹⁸ or a Child Safety Service Centre Officer when Child Safety is referring a child protection matter to the Director of Child Protection Litigation (DCPL).¹¹⁹

If the referred child protection matter involves a child/ren subject to an emergency order/s, the referral should be made as soon as practicable and where possible no later than 24 hours prior to the emergency order ending.¹²⁰

If the referred child protection matter involves a child/ren subject to a child protection order/s in force, the referral should be made as soon as practicable and where possible not less than 28 calendar days before the child protection order/s ends.¹²¹

Part 1 Form Completion Information			
Date referral completed:		Officer completing referral:	

Part 2 Proposed Court Location			
Proposed court location:		If proposed court location is not where the child/ren or parents live, provide reasons and include the views of the parents and child/ren if known:	

Part 2A Child Safety Service Centre with ongoing case management responsibility	
If the DCPL applies for a child protection order/s, which Child Safety Service Centre will have ongoing case management responsibility:	

Part 3 Child Safety Information			
OCFOS Officer:		Phone:	
		Email:	
Child Safety Service Centre:		Phone:	
Child Safety Officer:		Email:	
Team Leader:		Email:	
After Hours Contact:		Phone:	
		Email:	

Part 4(a) Child's Information <i>(if there is more one child, complete a part per child in order of oldest child to youngest child)</i>			
Child's given name/s:		Child's family name:	
Date of birth:		Child's ICMS no:	
Gender:	<input type="checkbox"/> Female <input type="checkbox"/> Male <input type="checkbox"/> Not stated/prefer not to say		
Cultural identity:	<input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Aboriginal and Torres Strait Islander <input type="checkbox"/> Neither Aboriginal nor Torres Strait Islander <input type="checkbox"/> Not stated/prefer not to say		

¹¹⁸ See Director of Child Protection Litigation's Guidelines 16, 22 - 24.

¹¹⁹ Section 15 *Director of Child Protection Litigation Act 2016*.

¹²⁰ See Director of Child Protection Litigation's Guideline 31.

¹²¹ See Director of Child Protection Litigation's Guideline 30.

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Form A – Referral of Child Protection Matter Summary Form

Name and relationship of person caring for child: ¹²²			
Address of child:			
Phone:		Email:	
Mother's given name:		Mother's family name:	
Date of birth:		Mother's ICMS number:	
Mother's address:			
Mother's phone:		Email:	
Cultural identity:	<input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Aboriginal and Torres Strait Islander <input type="checkbox"/> Neither Aboriginal nor Torres Strait Islander <input type="checkbox"/> Not stated/prefer not to say		
Legal representative Name and firm:		Email:	
		Phone:	
Postal address:			
Father's given name:		Father's family name:	
Date of birth:		Father's ICMS number:	
Father's address:			
Father's phone:		Email:	
Cultural identity:	<input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Aboriginal and Torres Strait Islander <input type="checkbox"/> Neither Aboriginal nor Torres Strait Islander <input type="checkbox"/> Not stated/prefer not to say		
Legal representative Name and firm:		Email:	
		Phone:	
Postal address:			

Part 4(b) Second Child's Information *(delete this part if there is only one child. Duplicate the part if there is more than two children. If a mother's or father's details are the same as a previous child, record 'Same as [name of child]')*

Child's given name/s:		Child's family name:	
Date of birth:		Child's ICMS no:	
Gender:	<input type="checkbox"/> Female <input type="checkbox"/> Male <input type="checkbox"/> Not stated/prefer not to say		
Cultural identity:	<input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Aboriginal and Torres Strait Islander <input type="checkbox"/> Neither Aboriginal nor Torres Strait Islander <input type="checkbox"/> Not stated/prefer not to say		
Name and relationship of person caring for child: ¹²³			
Address of child:			
Phone:		Email:	
Mother's given name:		Mother's family name:	
Date of birth:		Mother's ICMS number:	
Mother's address:			
Mother's phone:		Email:	
Cultural identity:	<input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Aboriginal and Torres Strait Islander <input type="checkbox"/> Neither Aboriginal nor Torres Strait Islander <input type="checkbox"/> Not stated/prefer not to say		

¹²² Complete part 8 if there has been a decision not to tell the child/ren's parent/s in whose care the child/ren are placed and where the child/ren are living

¹²³ Complete part 8 if there has been a decision not to tell the child/ren's parent/s in whose care the child/ren are placed and where the child/ren are living

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Legal representative Name and firm:		Email:	
		Phone:	
Postal address:			
Father's given name:		Father's family name:	
Date of birth:		Father's ICMS number:	
Father's address:			
Father's phone:		Email:	
Cultural identity:	<input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Aboriginal and Torres Strait Islander <input type="checkbox"/> Neither Aboriginal nor Torres Strait Islander <input type="checkbox"/> Not stated/prefer not to say		
Legal representative Name and firm:		Email:	
		Phone:	
Postal address:			

Part 5 Recognised Entity (RE) *(complete this part if a child is Aboriginal and/or Torres Strait Islander)*

Name of RE:		Phone:	
Name of RE Advisor:		Email:	
Postal address:			
Has consultation occurred with RE:	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Does the RE agree with Child Safety's recommendation:	<input type="checkbox"/> Yes <input type="checkbox"/> No		

Part 6 Emergency Order Information¹²⁴ *(complete this part if there is an existing temporary assessment order/s (TAO), court assessment order/s (CAO) or temporary custody order/s (TCO) for the child/ren, or if an emergency order/s was sought and not made, the reasons for it)*

Is there an existing emergency order for the child/ren:	<input type="checkbox"/> Yes <i>(complete the appropriate order section below)</i> <input type="checkbox"/> No <i>(complete last section of table)</i>		
Which type of order/s:	<input type="checkbox"/> TAO	Date order/s end/s:	Magistrate location:
Provisions of order/s:	<input type="checkbox"/> Authorised contact with child/ren <input type="checkbox"/> Child/ren in chief executive's custody <input type="checkbox"/> Medical examination or treatment of child <input type="checkbox"/> Parent not to have contact (direct or indirect) with the child <i>(if selected, provide name of parent/s subject to order):</i> <input type="checkbox"/> Parent not to have contact (direct or indirect) with the child unless a person or a person of stated category is present <i>(if selected, provide name of parent/s subject to order and details):</i> <input type="checkbox"/> Enter and search a place to find the child		

¹²⁴ See Director of Child Protection Litigation's Guideline 23(b).

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Which type of order/s:	<input type="checkbox"/> CAO	Date order/s end/s:		Court location:	
Provisions of order/s:	<input type="checkbox"/> Authorised contact with child/ren				
	<input type="checkbox"/> Medical examination or treatment of child				
	<input type="checkbox"/> Child/ren in chief executive's temporary custody				
	<input type="checkbox"/> Child/ren's contact with their family during chief executive's custody <i>(if selected, provide details):</i>				
	<input type="checkbox"/> Parent not to have contact (direct or indirect) with the child <i>(if selected, provide name of parent/s subject to order):</i>				
	<input type="checkbox"/> Parent not to have contact (direct or indirect) with the child unless a person or a person of stated category is present <i>(if selected, provide name of parent/s subject to order and details):</i>				
	<input type="checkbox"/> Enter and search a place to find the child				
Which type of order/s:	<input type="checkbox"/> TCO	Date order/s end/s:		Magistrate location:	
Provisions of order/s:	<input type="checkbox"/> Authorised contact with child/ren				
	<input type="checkbox"/> Child/ren in chief executive's custody				
	<input type="checkbox"/> Medical examination or treatment of child				
	<input type="checkbox"/> Parent not to have contact (direct or indirect) with the child <i>(if selected, provide details subject to order):</i>				
	<input type="checkbox"/> Parent not to have contact (direct or indirect) with the child unless a person or a person of stated category is present <i>(if selected, provide name of parent/s subject to order and details):</i>				
	<input type="checkbox"/> Enter and search a place to find the child				
If an emergency order/s was sought and not made, what were the reasons:					

Part 7 Existing Child Protection Order Information¹²⁵ *(complete this part if there is an existing child protection order/s for the child/ren. If more than one type of order is made for a child, or if 2 or more children are being referred under existing orders, indicate which type of order relates to each child)*

Is there an existing child protection order for the child/ren:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Date order/s end:	
Which type of order/s:	<input type="checkbox"/> Directing no contact with child/ren <i>(if selected, provide name of parent/s subject to order):</i>			

¹²⁵ See Director of Child Protection Litigation's Guideline 23(c).

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Form A – Referral of Child Protection Matter Summary Form

	<input type="checkbox"/> Directing supervised contact with child/ren <i>(if selected, provide name of parent/s subject to order):</i>
	<input type="checkbox"/> Directive order – other <i>(if selected, provide name of parent/s subject to order and what directed to do or refrain from doing):</i>
	<input type="checkbox"/> Supervision order <i>(if selected, provide details of the matters Child Safety is to supervise):</i>
	<input type="checkbox"/> Custody order – to suitable person who is member of child's family (STC-SPF) <i>(if selected, name of suitable person):</i>
	<input type="checkbox"/> Custody order – chief executive (STC-CE)
	<input type="checkbox"/> Short-term guardianship – to chief executive (STG-CE)
	<input type="checkbox"/> Long-term guardianship – to suitable person who is member of child's family (LTG-SPF) <i>(if selected, name of suitable person):</i>
	<input type="checkbox"/> Long-term guardianship – to another suitable person nominated by chief executive (LTG-SPO) <i>(if selected, name of suitable person):</i>
	<input type="checkbox"/> Long-term guardianship – to chief executive (LTG-CE)
Has there been previous child protection order/s for the child/ren? ¹²⁶ <i>(if yes, please provide a list of all previous child protection orders including date/s made, and provide a copy of any order/s in SharePoint)</i>	
<input type="checkbox"/> Yes <input type="checkbox"/> No	

Part 8 Care Agreement Information¹²⁷ <i>(complete this part if there is an existing care agreement for the child/ren)</i>			
Is there a care agreement for the child/ren:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Type of agreement:	<input type="checkbox"/> Assessment care agreement <input type="checkbox"/> Child protection care agreement
Date agreement commenced:		Date agreement will end:	
Has there been previous care agreements, and or has the agreement been extended for the child/ren: <i>(if yes, please provide a list of all previous care agreements, and or extensions of the agreement including date/s agreements entered and ended, and provide a copy of the agreement/s in SharePoint)</i>			<input type="checkbox"/> Yes <input type="checkbox"/> No

Part 8A No Emergency Order, Existing Child Protection Order or Care Agreement¹²⁸ <i>(complete this part if there is no emergency order/s, existing child protection order/s or a care agreement/s for the child/ren)</i>	
Is there no emergency order/s, existing child protection order/s or a care agreement for the child/ren:	<input type="checkbox"/> Yes <input type="checkbox"/> No
If the DCPL applies for a child protection order/s, what date for a first mention before the court has been assessed as being appropriate and desirable for the child/ren's protection:	

¹²⁶ See Director of Child Protection Litigation's Guideline 23(d).

¹²⁷ See Director of Child Protection Litigation's Guideline 23(e).

¹²⁸ See Director of Child Protection Litigation's Guideline 23(ea).

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Form A – Referral of Child Protection Matter Summary Form

Provide reasons why the specific date has been assessed as being appropriate and desirable for the child/ren's protection:	
--	--

Part 9(a) Details of the referred child protection matter (child/ren in need of protection and a child protection order/s is appropriate and desirable for the child/ren's protection)¹²⁹	
Is the chief executive satisfied that the child/ren are in need of protection and a child protection order/s are appropriate and desirable for the child/ren's protection: <i>(if yes, complete this part. If no, complete part 9(b))</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Has the chief executive substantiated alleged harm and, or alleged risk of harm:	<input type="checkbox"/> Alleged harm <input type="checkbox"/> Alleged risk of harm
What is the type of alleged abuse and or neglect:	<input type="checkbox"/> Physical abuse <input type="checkbox"/> Psychological abuse <input type="checkbox"/> Emotional abuse <input type="checkbox"/> Neglect <input type="checkbox"/> Sexual abuse or exploitation
Briefly describe what is the action/s or lack of action/s (behaviours by the parent/carer) that have been assessed to have caused the alleged abuse or neglect or alleged risk of abuse or neglect:	
What is/would be the harm – the resulting detrimental effect of a significant nature on the child (impact experienced by the child):	<input type="checkbox"/> Physical <input type="checkbox"/> Psychological <input type="checkbox"/> Emotional
Provide reasons why the child/ren are in need of protection:	
Provide reasons why a child protection order/s is appropriate and desirable for the child/ren's protection	
What type of order/s is considered appropriate and desirable for the child/ren's protection: <i>(If Child Safety considers more than one type of order appropriate and desirable for a child, or if it is proposed that 2 or more applications for orders will be heard together, indicate which type of order relates to each child)</i>	<input type="checkbox"/> Directing no contact with child/ren <i>(if selected, provide name of parent/s subject to the order, and duration of order):</i>
	<input type="checkbox"/> Directing supervised contact with child/ren <i>(if selected, provide name of parent/s subject to the order, and duration of order):</i>
	<input type="checkbox"/> Directive order – other <i>(if selected, provide name of parent/s subject to order and what directed to do or refrain from doing, and duration of order):</i>
	<input type="checkbox"/> Supervision order <i>(if selected, provide details of the matters Child Safety is to supervise, and duration of order):</i>

¹²⁹ See Director of Child Protection Litigation's Guidelines 17 & 22.

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Form A – Referral of Child Protection Matter Summary Form

	<input type="checkbox"/> Custody order – to suitable person who is member of child's family (STC-SPF) <i>(if selected, name of suitable person, and duration of order):</i>
	<input type="checkbox"/> Custody order – chief executive (STC-CE) <i>(if selected, provide duration of order):</i>
	<input type="checkbox"/> Short-term guardianship – to chief executive (STG-CE) <i>(if selected, provide duration of order):</i>
	<input type="checkbox"/> Long-term guardianship – to suitable person who is member of child's family (LTG-SPF) <i>(if selected, name of suitable person and details):</i>
	<input type="checkbox"/> Long-term guardianship – to another suitable person nominated by chief executive (LTG-SPO) <i>(if selected, name of suitable person and details):</i>
	<input type="checkbox"/> Long-term guardianship – to chief executive (LTG-CE)
What interim order/s have been assessed as being appropriate and desirable for the child/ren's protection: ¹³⁰ <i>(If Child Safety considered more than one type of order interim or is appropriate and desirable for a child, or if it is proposed that 2 or more applications for orders will be heard together, indicate which type of interim order relates to each child)</i>	<input type="checkbox"/> Child/ren in temporary custody of the chief executive
	<input type="checkbox"/> Child/ren in temporary custody of suitable person who is member of the child/ren's family <i>(if selected, name of suitable person):</i>
	<input type="checkbox"/> Parent not to have contact (direct or indirect) with the child <i>(if selected, provide name of parent/s subject to proposed order):</i>
	<input type="checkbox"/> Parent not to have contact (direct or indirect) with the child unless a person or a person of stated category is present <i>(if selected, provide name of parent/s subject to proposed order and details):</i>
	<input type="checkbox"/> Authorised contact with child/ren
	<input type="checkbox"/> Enter and search a place to find the child
Provide details of why proposed interim orders have been assessed as being appropriate and desirable for the child/ren's protection:	

Part 9(b) Details of the referred child protection matter (child protection order/s in force and is no longer appropriate and desirable for the child/ren's protection)¹³¹

Is there a child protection order/s, other than an interim order, in force for the child/ren, and the chief executive satisfied that the order/s are no longer appropriate and desirable for the child/ren's protection: <i>(if yes, complete this part and ensure the details of the existing order/s have been entered into Part 7 above)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Provide reasons why the existing child protection order/s is no longer	

¹³⁰ See Director of Child Protection Litigation's Guideline 23(g).

¹³¹ See Director of Child Protection Litigation's Guidelines 17 & 22.

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Form A – Referral of Child Protection Matter Summary Form

appropriate and desirable for the child/ren's protection:	
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Part 10 Other relevant proceedings and orders¹³² <i>(complete this part if there is other relevant proceedings or orders for the child/ren)</i>	
Is there a proceeding in which a court is exercising jurisdiction conferred on the court under the <i>Family Law Act 1975</i> (Cwlth) for the child/ren, or an existing family law order for the child/ren: <i>(if yes, please provide details and include a copy of any order/s in SharePoint)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
Details:	
Is there a proceeding in the Magistrates Court under the <i>Domestic and Family Violence Protection Act 2012</i> involving the child/ren's parents: <i>(if yes, please provide details, and include any relevant material in SharePoint)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
Details:	
Is there is a domestic violence order already in force involving the child/ren's parents, and if so, is the chief executive of the view that the order should be varied in terms of the date it ends or the terms of the order: <i>(if yes, please provide details for the view, including who is the aggrieved/applicant and who is the respondent, and include a copy of any order/s in SharePoint)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
Details:	
Is there a proceeding before the Queensland Civil and Administrative Tribunal (QCAT) for an application for a review of a reviewable decision, or any QCAT decision on an application for a review of a reviewable decision involving the child/ren: <i>(if yes, please provide details, including who is/was the applicant, the decision that is/was the subject of the review application, and include a copy of any related material in SharePoint)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
Details:	
Is there a related criminal law proceeding/s in a court involving the child/ren: <i>(if yes, please provide details, and include a copy of any related material in SharePoint)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown

Part 11 Confidential and sensitive information¹³³ <i>(complete this part if there is some confidential and sensitive information that should not be disclosed)</i>	
Is there any safety concerns for the child/ren, their parents or any other prospective participants:	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, who of the following do the concerns relate to: <i>(please provide details of the safety concerns and include a copy of any related documents in SharePoint)</i>	<input type="checkbox"/> Child/ren <input type="checkbox"/> Mother <input type="checkbox"/> Father <input type="checkbox"/> Carer <input type="checkbox"/> Child Safety Officer <input type="checkbox"/> Team Leader <input type="checkbox"/> Legal representative <input type="checkbox"/> Other

¹³² See Director of Child Protection Litigation's Guideline 23(f).
¹³³ See Director of Child Protection Litigation's Guidelines 28 & 29.

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Form A – Referral of Child Protection Matter Summary Form

Details:	
Has there been a decision not to tell the child/ren's parent/s in whose care the child/ren are placed and where the child/ren are living: <i>(if yes, please provide details, and include a copy of any related documents in SharePoint)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Details:	
Is there any other confidential and or sensitive information that has not been or should not be disclosed under section 186 and or section 191 of the <i>Child Protection Act 1999</i> : <i>(if yes, please provide details, including if Child Safety received the information from a prescribed entity or service provider and if they have been consulted about the disclosure of the information, and address the relevant ground/s under ss186 and, or 191 of the Act, and include a copy of any related documents into the withheld folder in SharePoint)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Details:	

Part 11A Additional Issues <i>(complete if there is are additional issues that need to be mentioned)</i>

Part 12 List of attached documents <i>(the types of documents to include are copies of the emergency application, emergency order, adjournment order, previous Child Protection Orders, care agreements, supporting affidavit (including date filed), and attachments would include, criminal histories, child protection history reports, case plan, most recent review report, any expert reports that are relevant. A copy of each document listed should be included in SharePoint)</i>			
No.	Document type (including attachments)	Author	Date of document
1			
2			
3			
4			
5			
6			

Form C – Director's Written Reasons for Decision Form

This form is to be completed by a Director of Child Protection Litigation (DCPL) lawyer¹³⁴ when providing written reasons to Child Safety about how the DCPL has dealt with a referred child protection matter¹³⁵ or a request for the DCPL to institute an appeal against a decision on an application/s for a child protection order.

Part 1 Form completion information					
Lawyer completing form:		Date form completed:		Date of decision:	

Part 2 Form A – Referral of Child Protection Matter/s Summary Information Form, or Form H – Child Safety Appeal Request Form			
Officer completed referral/request form:		Date referral/request completed:	

Part 3 Director of Child Protection Litigation information				
DCPL file lawyer:		Phone:		Email:

Part 4 Child Safety information			
OCFOS Officer:		Phone:	
		Email:	
Child Safety Service Centre:		Phone:	
Child Safety Officer:		Email:	
Team Leader:		Email:	
After Hours Contact: (if required)		Phone:	
		Email:	

Part 5(a) Child's information <i>(if there is more one child, complete a part per child in order of oldest child to youngest child)</i>			
Child's given name/s:		Child's family name:	
Date of birth:		Child's ICMS no:	

Part 5(b) Child's information <i>(delete this part if there is only one child. Duplicate the part if there are more than two children)</i>			
Child's given name/s:		Child's family name:	
Date of birth:		Child's ICMS no:	

Part 6 For a referred child protection matter/s¹³⁶, type of order/s Child Safety considered appropriate and desirable for the child/ren's protection¹³⁷ <i>(if this form relates to a request by Child Safety for the DCPL to institute an appeal against a decision on an application/s for a child protection order go to Part 10)</i>

¹³⁴ See Director of Child Protection Litigation's Guidelines 75 and 370.

¹³⁵ Section 17 of the *Director of Child Protection Litigation Act 2016*.

¹³⁶ Section 15(1)(a) and (b) of the *Director of Child Protection Litigation Act 2016*.

¹³⁷ Section 16(1)(a)(iii) and section 16(1)(b) *Director of Child Protection Litigation Act 2016*.

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 Issued under section 39 of the *Director of Child Protection Litigation Act 2016*
Form C – Director's Written Reasons for Decision Form

What type of order/s is considered appropriate and desirable for the child/ren's protection: (if Child Safety considers more than one type of order appropriate and desirable for a child, or if it is proposed that 2 or more applications for orders will be heard together, indicate which type of order relates to each child)	<input type="checkbox"/> No order ¹³⁸
	<input type="checkbox"/> Directing no contact with child/ren (if selected, provide name of parent/s subject to the order, and duration of order)
	<input type="checkbox"/> Directing supervised contact with child/ren (if selected, provide name of parent/s subject to the order, and duration of order)
	<input type="checkbox"/> Directive order – other (if selected, provide name of parent/s subject to order and what directed to do or refrain from doing, and duration of order)
	<input type="checkbox"/> Supervision order (if selected, provide details of the matters Child Safety is to supervise, and duration of order)
	<input type="checkbox"/> Custody order – to suitable person who is member of child's family (STC-SPF) (if selected, name of suitable person, and duration of order)
	<input type="checkbox"/> Custody order – chief executive (STC-CE) (if selected, provide duration of order)
	<input type="checkbox"/> Short-term guardianship – to chief executive (STG-CE) (if selected, provide duration of order)
	<input type="checkbox"/> Long-term guardianship – to suitable person who is member of child's family (LTG-SPF) (if selected, name of suitable person and details)
<input type="checkbox"/> Long-term guardianship – to another suitable person nominated by chief executive (LTG-SPO) (if selected, name of suitable person and details)	
<input type="checkbox"/> Long-term guardianship – to chief executive (LTG-CE)	

Part 7 Did the DCPL consult with Child Safety about the referred child protection matter/s¹³⁹

Did the DCPL consult with Child Safety:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Date of consultation:	
Name/s of OCFOS and or Child Safety officers consulted:			

Part 8 How has the DCPL dealt with the referred child protection matter/s

Did the DCPL decide to apply for an order/s: ¹⁴⁰	<input type="checkbox"/> Yes <input type="checkbox"/> No
What type of order/s did the DCPL decide to apply for: (if the DCPL considers more than one type of order	<input type="checkbox"/> No order ¹⁴¹
	<input type="checkbox"/> Directing no contact with child/ren (if selected, provide name of parent/s subject to the order, and duration of order)

¹³⁸ Section 16(1)(b) *Director of Child Protection Litigation Act 2016*.

¹³⁹ Section 18(1) of the *Director of Child Protection Act 2016*.

¹⁴⁰ Section 17(1)(a) *Director of Child Protection Litigation Act 2016*.

¹⁴¹ Section 16(1)(b) *Director of Child Protection Litigation Act 2016*.

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Issued under section 39 of the *Director of Child Protection Litigation Act 2016*
Form C – Director's Written Reasons for Decision Form

<i>appropriate and desirable for a child, or if it is proposed that 2 or more applications for orders will be heard together, indicate which type of proposed order relates to each child)</i>	<input type="checkbox"/> Directing supervised contact with child/ren (if selected, provide name of parent/s subject to the order, and duration of order)
	<input type="checkbox"/> Directive order – other (if selected, provide name of parent/s subject to order and what directed to do or refrain from doing, and duration of order)
	<input type="checkbox"/> Supervision order (if selected, provide details of the matters Child Safety is to supervise, and duration of order)
	<input type="checkbox"/> Custody order – to suitable person who is member of child's family (STC-SPF) (if selected, name of suitable person, and duration of order)
	<input type="checkbox"/> Custody order – chief executive (STC-CE) (if selected, provide duration of order)
	<input type="checkbox"/> Short-term guardianship – to chief executive (STG-CE) (if selected, provide duration of order)
	<input type="checkbox"/> Long-term guardianship – to suitable person who is member of child's family (LTG-SPF) (if selected, name of suitable person and details)
	<input type="checkbox"/> Long-term guardianship – to another suitable person nominated by chief executive (LTG-SPO) (if selected, name of suitable person and details)
<input type="checkbox"/> Long-term guardianship – to chief executive (LTG-CE)	
Did the DCPL decide to refer the matter/s back to Child Safety: <input type="checkbox"/> Yes¹⁴² <input type="checkbox"/> No 	
Did the DCPL apply for an order/s of a different type, or order/s that were otherwise different from, the order/s Child Safety considered appropriate and desirable for the child/ren's protection: <input type="checkbox"/> Yes¹⁴³ <input type="checkbox"/> No 	

Part 9 DCPL reasons for decision on the referred child protection matter/s¹⁴⁴ (include identification of any deficiencies in evidence if applicable, and give reasons why the matter/s was referred back to Child Safety or why the DCPL decided to apply for an order/s of a different type, or order/s that were otherwise different from, the order/s Child Safety considered appropriate and desirable for the child/ren's protection?)

Part 10 The decision that Child Safety has requested the DCPL to institute an appeal against (complete this part if the decision relates to a request by Child Safety for the DCPL to institute an appeal against a decision on an application/s for a child protection order)

Date order/s made:		Court location:		Name of magistrate	
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¹⁴² Written reasons will be provided for the decision within 5 business days, unless child is subject to an order ending within one month of the date of the decision or an emergency order – see section 18(2) of the *Director of Child Protection Litigation Act 2016* and Director of Child Protection Litigation's Guideline 75 & 76.

¹⁴³ Written reasons will be provided for the decision within 5 business days, unless child is subject to an order ending within one month of the date of the decision or an emergency order – see section 18(2) of the *Director of Child Protection Litigation Act 2016* and Director of Child Protection Litigation's Guidelines 75 & 76.

¹⁴⁴ Section 18(2) of the *Director of Child Protection Act 2016*.

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Form C – Director's Written Reasons for Decision Form

If the decision Child Safety has requested the DCPL institute an appeal against a final decision on an application/s for a child protection order, what is the type of order/s the court has made: <i>(if the court has made more than one type of order for a child, or heard 2 or more applications for orders together, indicate which type of order relates to each child)</i>	<input type="checkbox"/> No order
	<input type="checkbox"/> Directing no contact with child/ren <i>(if selected, provide name of parent/s subject to order, and duration of order)</i>
	<input type="checkbox"/> Directing supervised contact with child/ren <i>(if selected, provide name of parent/s subject to order, and duration of order)</i>
	<input type="checkbox"/> Directive order – other <i>(if selected, provide name of parent/s subject to order and what directed to do or refrain from doing, and duration of order)</i>
	<input type="checkbox"/> Supervision order <i>(if selected, provide details of the matters Child Safety is to supervise, and duration of order)</i>
	<input type="checkbox"/> Custody order – to suitable person who is member of child's family (STC-SPF) <i>(if selected, name of suitable person, and duration of order)</i>
	<input type="checkbox"/> Custody order – chief executive (STC-CE) <i>(if selected, duration of order)</i>
	<input type="checkbox"/> Short-term guardianship – to chief executive (STG-CE) <i>(if selected, duration of order)</i>
	<input type="checkbox"/> Long-term guardianship – to suitable person who is member of child's family (LTG-SPF) <i>(if selected, name of suitable person)</i>
	<input type="checkbox"/> Long-term guardianship – to another suitable person nominated by chief executive (LTG-SPO) <i>(if selected, name of suitable person)</i>
<input type="checkbox"/> Long-term guardianship – to chief executive (LTG-CE)	
If Child Safety has requested the DCPL institute an appeal against an interim decision on an application/s for a child protection order, provide details of the decision:	
Does Child Safety's appeal request relate to all or part of the decision on an application/s for a child protection order:	<input type="checkbox"/> All of the decision <input type="checkbox"/> Part of the decision <i>If part, provide details:</i>

Part 11 For a request for the DCPL to institute an appeal, what has Child Safety assessed to be appropriate and desirable for the protection of the child/ren

What type of final order/s has Child Safety assessed to be appropriate and desirable for the child/ren's protection:	<input type="checkbox"/> No order
	<input type="checkbox"/> Directing no contact with child/ren <i>(if selected, provide name of parent/s subject to the order, and duration of order)</i>
	<input type="checkbox"/> Directing supervised contact with child/ren <i>(if selected, provide name of parent/s subject to the order, and duration of order)</i>

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<i>(if Child Safety considered more than one type of order appropriate and desirable for a child, or if 2 or more applications for orders were heard together, indicate which type of order relates to each child)</i>	<input type="checkbox"/> Directive order – other <i>(if selected, provide name of parent/s subject to order and what directed to do or refrain from doing, and duration of order)</i>
	<input type="checkbox"/> Supervision order <i>(if selected, provide details of the matters Child Safety is to supervise, and duration of order)</i>
	<input type="checkbox"/> Custody order – to suitable person who is member of child's family (STC-SPF) <i>(if selected, name of suitable person, and duration of order)</i>
	<input type="checkbox"/> Custody order – chief executive (STC-CE) <i>(if selected, provide duration of order)</i>
	<input type="checkbox"/> Short-term guardianship – to chief executive (STG-CE) <i>(if selected, provide duration of order)</i>
	<input type="checkbox"/> Long-term guardianship – to suitable person who is member of child's family (LTG-SPF) <i>(if selected, name of suitable person and details)</i>
	<input type="checkbox"/> Long-term guardianship – to another suitable person nominated by chief executive (LTG-SPO) <i>(if selected, name of suitable person and details)</i>
	<input type="checkbox"/> Long-term guardianship – to chief executive (LTG-CE)
If Child Safety has requested the DCPL institute an appeal against an interim decision on an application/s for a child protection order, provide details of what Child Safety has assessed to be appropriate and desirable for the protection of the child/ren:	

Part 12 Did the DCPL consult with Child Safety about the appeal request¹⁴⁵

Did the DCPL consult with Child Safety:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Date of consultation:	
Name/s of OCFOs and or Child Safety officers consulted:			

Part 13 How has the DCPL dealt with the appeal request

Did the DCPL decide to institute an appeal: ¹⁴⁶	<input type="checkbox"/> Yes <input type="checkbox"/> No <i>(if yes, complete the below section)</i>
If the DCPL have decided to institute an	<input type="checkbox"/> No order

¹⁴⁵ Director of Child Protection Litigation's Guidelines 361.

¹⁴⁶ Section 9(1)(c)(i) *Director of Child Protection Litigation Act 2016*.

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 Issued under section 39 of the *Director of Child Protection Litigation Act 2016*
Form C – Director's Written Reasons for Decision Form

appeal, what type of final order/s will the DCPL seek: <i>(if the DCPL considers more than one type of order appropriate and desirable for a child, or if it is proposed that 2 or more applications for orders will be heard together, indicate which type of order relates to each child)</i>	<input type="checkbox"/> Directing no contact with child/ren – <i>(if selected, provide name of parent/s subject to the order and duration of order)</i>
	<input type="checkbox"/> Directing supervised contact with child/ren <i>(if selected, provide name of parent/s subject to the order and duration of order)</i>
	<input type="checkbox"/> Directive order – other <i>(if selected, provide name of parent/s subject to order and what directed to do or refrain from doing, and duration of order)</i>
	<input type="checkbox"/> Supervision order <i>(if selected, provide details of the matters Child Safety is to supervise, and duration of order)</i>
	<input type="checkbox"/> Custody order – to suitable person who is member of child's family (STC-SPF) <i>(if selected, name of suitable person and details, and duration of order)</i>
	<input type="checkbox"/> Custody order – chief executive (STC-CE) <i>(if selected, duration of order)</i>
	<input type="checkbox"/> Short-term guardianship – to chief executive (STG-CE) <i>(if selected, duration of order)</i>
	<input type="checkbox"/> Long-term guardianship – to suitable person who is member of child's family (LTG-SPF) <i>(if selected, name of suitable person and details)</i>
	<input type="checkbox"/> Long-term guardianship – to another suitable person nominated by chief executive (LTG-SPO) <i>(if selected, name of suitable person and details)</i>
<input type="checkbox"/> Long-term guardianship – to chief executive (LTG-CE)	
If the decision Child Safety has requested the DCPL institute an appeal against, is an interim decision on an application/s for a child protection order, what does the DCPL consider appropriate and desirable for the protection of the child/ren:	

Part 14 DCPL Reasons for decision on appeal request ¹⁴⁷ *(include identification of any deficiencies in evidence if applicable, and give reasons why the DCPL decided not to institute an appeal)*

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¹⁴⁷ Section 18(2) of the *Director of Child Protection Act 2016*.

Registry: [Click here to enter text.](#)
Number: [Click here to enter text.](#)

Form D – Disclosure Form

Note to respondent parents: there is important information about this document in the attached disclosure process information sheet.

Child's details

These are the same details as appear on the application for a child protection order form.

Given name	
Family name	
Date of birth	
Gender	<i>Click on the appropriate box</i> <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Not stated/prefer not to say
Cultural identity	<i>Click on the appropriate box</i> <input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Aboriginal and Torres Strait Islander <input type="checkbox"/> Neither Aboriginal nor Torres Strait Islander <input type="checkbox"/> Not stated/prefer not to say

Applicant

The applicant is usually the person applying to the court for the making or extension of a child protection order (normally the Director of Child Protection Litigation). It can also be the person the person applying to the court to vary or revoke a child protection order.

Applicant's name	
Relationship to child	

First respondent

For applications to make or extend a child protection order, respondents usually include anyone who is a 'parent' as defined under section 52 of the Child Protection Act 1999. If a parent makes an application to vary or revoke a child protection order, the Director of Child Protection Litigation is a respondent along with each other parent.

Given name	
Family name	
Relationship to child	

Second respondent (if applicable)

Delete the below box if there is only one respondent. Add additional boxes if there are more than two respondents.

Given name	
Family name	
Relationship to child	

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Director's Guidelines
Form D – Disclosure Form

Additional participants (if applicable)

Sometimes additional people are included in a child protection proceeding as though they are a party (e.g. a separate representative appointed for a child under section 110 of the Child Protection Act 1999). These participants' details should be included here. Add additional boxes if there is more than one additional participant in this proceeding. Delete this box if there are no additional participants in this proceeding.

Given name	
Family name	
Role in proceeding	

Notice to respondents and participants:

Under section 189C of the Child Protection Act 1999, the Director of Child Protection Litigation (the Director) has an ongoing duty to disclose to you all documents in the Director's possession or control that are relevant to the proceeding.

The Director is giving you a list of the types of documents in **Box A** that are ordinarily in the possession or control of Child Safety to help you decide which documents you may want to access. Each of these documents may not be in the possession or control of Child Safety in every case. The Director has also given you a list of additional, specific documents in **Box B** that are in the Director's possession or control that the Director thinks you may want to access. *(Delete this sentence if Box B of this template is not completed).*

If you request disclosure of a document, the Director must give you access to the document unless the Director is permitted to refuse access under section 191(2) of the Child Protection Act. If you request a document, the Director may refuse to disclose the document to you if the Director is of the view that disclosure should be refused because of section 191(2). The Director must tell you about this refusal and explain the reason why you are being refused access to the document. For more information about what you can do if the Director refuses to give you access to documents, see the attached disclosure process information sheet.

Box A: Types of documents that are normally in the possession or control of Child Safety

- information received by Child Safety where it is suspected a child has been, is being, or is likely to be harmed including:
 - notifications (subject to section 186 *Child Protection Act 1992*); and
 - child concern reports;
- assessments about whether the child is a *child in need of protection* including investigation and assessment outcomes and attached documents;
- records of interview;
- structured decision making assessments including:
 - safety assessments;
 - family risk evaluations and family risk re-evaluations; and
 - reunifications assessments;
- assessments of the child's strengths and needs;
- assessments of a parent's strengths and needs;
- case plans and review reports;
- referrals from Child Safety to another agency;
- information received by Child Safety about the child or their parents from another agency;
- referrals and minutes from Suspected Child Abuse and Neglect Team meetings, Domestic Violence Collaborative Agency Meetings and carer agency meetings;
- about the child prepared by an external reporter or assessor;
- reports about a parent prepared by an external reporter or assessor;

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Form D – Disclosure Form

- case notes made by Child Safety, for example, about a child's contact with a parent or a Child Safety visit to a parent;
- child protection history report(s);
- criminal, domestic violence, or traffic history of any person relevant to the proceeding;
- cultural support plans; and
- correspondence between Child Safety and a parent.

Box B: Specific documents that are in the possession or control of the Director of Child Protection Litigation (delete if not applicable)

- Director of Child Protection Litigation to complete as required.

Addresses for service

This form is to be given to all other parties to the proceeding by the Director of Child Protection Litigation.

First respondent's details

Full name	
Address	
Phone	
Mobile (if applicable)	
Fax (if applicable)	
Email (if applicable)	

Second respondent's details (if applicable)

Full name	
Address	
Phone	
Mobile (if applicable)	
Fax (if applicable)	
Email (if applicable)	

Director of Child Protection Litigation's address for service

Full name	
Address	
Phone	
Mobile (if applicable)	
Fax (if applicable)	
Email (if applicable)	

Director of Child Protection Litigation (authorised officer details)

Signed	
Full name	
Date	

Filed in the *insert court location* registry on *insert date of filing*:

Registrar

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Form D – Disclosure Form

Signature and seal of registrar

Disclosure process - why have I been given this form?

You have been given this form because section 189C of the Child Protection Act 1999 provides that the Director of Child Protection Litigation (the Director) has an ongoing duty to disclose to each other party all documents in the Director's possession or control that are relevant to the proceeding. This form is how the Director tells you about the documents which it has an obligation to disclose to you.

Although the Director has an obligation to disclose relevant documents to you, you can also ask the Director for any particular relevant documents that you want disclosed to you.

Under rule 52 of the Childrens Court Rules, the Director must file and serve this disclosure form on you within 20 days of filing an application for a child protection order. The Director may also give this form to you again at any other time it thinks it is appropriate to or because the Childrens Court has ordered it to.

How do I access documents?

*If you tell the Director you want access to particular documents you should read the following information. There are two lists of documents. The first list (in **Box A**) explains the types of documents the Director normally has access to because they are documents that are normally held by the Department of Communities, Child Safety and Disability Services (Child Safety). This list is to help you decide if there are any particular documents you want to be disclosed. The second list (**Box B**) is a list of additional, specific documents the Director has decided are relevant and you might want to be disclosed to you. (~~Delete sentence if Box B does not list specific documents.~~)*

*If you want to access a particular document you can request it by filling out the **request for disclosure form** which has been given to you with this form. You should try and be **as specific as you can** when describing the documents that you want so that the Director can locate the document for you and organise the best way for you to have access to it. Information that can help the Director locate documents for you include:*

- *Who the document is about*
- *What the document is about*
- *The date of the document or the time period to which the period relates*

How will the Director let me access documents?

*You can indicate to the Director how you would prefer to access the documents when you fill in the **request for disclosure form**. For example, you may ask that the Director post the documents to you or send them to you by email (if an electronic copy of the document is available).*

The Director will consider your request but it is ultimately up to the Director as to how you will be given access to the documents. For example, if you request a large number of documents be sent to you, the Director may ask that you come to an office to inspect the documents instead and take copies of the documents that you need.

Can the Director refuse to give me access to any documents that I ask for?

The Director may refuse to give you access to certain documents or information in the circumstances outlined in section 191(2) of the Child Protection Act. If you ask the Director for access to a document and the Director refuses to give you access to the document, the Director will explain to you why the Director is refusing to give you access.

If the Director tells you that the Director refuses to give you access to a document under section 191(2), the Director is not required to disclose the document unless the Childrens Court orders disclosure. If the Childrens Court orders disclosure, the disclosure is on the terms ordered by the Childrens Court.

What do I do if I don't agree with the Director's refusal to give me access to a document?

If you do not agree with the Director's refusal to give you access to a document you should seek independent legal advice from a lawyer. The lawyer may be able to help explain why you have been refused disclosure of a document.

You may apply to the Childrens Court under s 189(5)(c) to ask the Childrens Court to order the Director to disclose the document to you. A lawyer might be able to help you apply to the Childrens Court to seek an order for the Director to disclose the document to you.

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Form E – Request for Disclosure Form

Registry: [Click here to enter text.](#)

Number: [Click here to enter text.](#)

Form E – Request for Disclosure Form

Child's details

These are the same details as appear on the application for a child protection order form

Given name	
Family name	
Date of birth	
Gender	<i>Click on the appropriate box</i> <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Not stated/prefer not to say
Cultural identity	<i>Click on the appropriate box</i> <input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Aboriginal and Torres Strait Islander <input type="checkbox"/> Neither Aboriginal nor Torres Strait Islander <input type="checkbox"/> Not stated/prefer not to say

Details of party requesting disclosure

Put your details here.

Name of person requesting disclosure	
Relationship to child	
Role in proceeding <i>(delete the one that does not apply to you)</i>	<input type="checkbox"/> I am the applicant <i>(you will normally be the applicant if you are applying to vary or revoke an existing child protection order)</i> <input type="checkbox"/> I am the/a respondent <i>(you will normally be the respondent if the Director of Child Protection Litigation has commenced a proceeding for a child protection order and you are responding to their application)</i>

Details of the documents that I would like access to:

*In the **disclosure form** that Director of Child Protection Litigation (the Director) gave you (which is attached to this form), the Director explained that the Director has an obligation to disclose all documents relevant to the proceeding under section 189C of the Child Protection Act 1999. The Director also listed the documents and types of documents that are normally held by the Director and/or Child Safety (Box A). The Director may have also included additional specific documents that the Director thinks you might want to access (which may have been Box B).*

You can request access to any documents in the possession or control of the Director that are relevant to the proceeding.

The Director explained that the Director may refuse to disclose documents to you under section 191(2) of the Child Protection Act 1999. The Director will have given you a list of documents that the Director is refusing to disclose to you because of section 191(2) (which may have been Box B or C). The Director might refuse documents that DCPL document number: 7285485

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Form E – Request for Disclosure Form

you have requested because the Director, when reviewing them, has realised that there is a reason to refuse to disclose them to you because of section 191(2). If this happens, the Director will explain to you why the Director has refused to disclose the documents.

*If you would like access to any documents then you should write those documents in the box below. Remember, as per the requirements in section 190 of the *Child Protection Act 1999*), try to give as much information as you can about each document, so that the Director can find it for you and can work out how best to give you access to it, such as*

- who the document is about
- what the document is about
- the date of the document or what period of time the document relates to

I would like access to the following documents:

How would you like to access the documents?

The Director of Child Protection Litigation will try and give you the documents in the way that you specify below. However, sometimes the Director can't give you the documents in the way that you would like. If the Director can't give you the documents in the way that you have requested the Director will explain why.

If you are unhappy with the way that the Director has decided that you should have access to the documents, you should seek advice from a lawyer about what to do.

Please select the boxes

I would like to **inspect** the documents (only answer question 1)

If you want to receive copies of the documents, do not tick the box below. Go to the box.

☐ I would like to **inspect** the requested documents

Selecting this option means that you are asking the Director to arrange for you to attend at an office to look at the documents you have requested in this form. You can then ask to make copies of the ones that you think that you might need for when you go to court.

I would like to **receive copies** of the documents

If you want to inspect the documents, do not tick the box below. Go to the box above.

☐ I would like to **receive copies** of the requested documents.

Selecting this option means that you are asking the Director of Child Protection Litigation to send you the documents that you have requested in this form.

I would like to receive copies of the requested documents:

- ☐ by post
- ☐ by email
- ☐ by fax

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Form E – Request for Disclosure Form

What do I do now?

You have to give this document to the Director. You don't have to give this document to anyone else.

You can give this document to the Director in person (you can do this by giving it to one of the Director's staff, for example, at court). You can also send it to the Director by post, email or fax (just select the one you prefer) using the details below:

- ☐ Post: *insert postal address*
- ☐ Email: *insert email address*
- ☐ Fax: *insert fax no*

Director of Child Protection Litigation (lawyer details)

Full name	
Date	

OFFICE USE ONLY
Received by the Director on:

Registry: [Click here to enter text.](#)
Number: [Click here to enter text.](#)

Form F – Disclosure Compliance Notice Form

Child's details

Given name	
Family name	
Date of birth	
Gender	<i>Click on the appropriate box</i> <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Not stated
Cultural identity	<i>Click on the appropriate box</i> <input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Aboriginal and Torres Strait Islander <input type="checkbox"/> Neither Aboriginal nor Torres Strait Islander <input type="checkbox"/> Not stated/prefer not to say

The Director of Child Protection Litigation provides notice under rule 61 of the Childrens Court Rules 2016 that the Director:

- 1) understands the duty of disclosure under section 189C of the *Child Protection Act 1999* and the consequences for failing to disclose a document under section 189D of the *Child Protection Act 1999*;
- 2) has considered the matters mentioned in rule 60 of the Childrens Court Rules 2016; and
- 3) has complied and will continue to comply with the duty of disclosure to the best of the Director's knowledge and ability.

Signed by [print full name]	Signature	Date

Form H – Child Safety Appeal Request Form

This form is to be completed by an Office of the Child and Family Official Solicitor (OCFOS) officer or Child Safety Officer when the chief executive (Child Safety) has assessed that a court decision on an application/s for a child protection order is not appropriate and desirable for the protection of the child/ren,¹⁴⁸ and requests the Director of Child Protection Litigation (DCPL) institute an appeal against the decision.¹⁴⁹

If the request is for an urgent appeal to be instituted, the form should be made as soon as practicable and where possible on the day of the decision.¹⁵⁰

Part 1 Form completion information			
Date form completed:		Officer completing request:	

Part 2 Child Safety information			
OCFOS Officer:		Phone:	
		Email:	
Child Safety Service Centre:		Phone:	
Child Safety Officer:		Email:	
Team Leader:		Email:	
After Hours Contact:		Phone:	
		Email:	

Part 3 Details of the decision Child Safety requests an appeal against			
Is Child Safety requesting an urgent appeal against a decision: <i>(an urgent appeal against a decision is when Child Safety assess it places the child(ren) at immediate and unacceptable risk of suffering significant harm)</i>			<input type="checkbox"/> Yes <input type="checkbox"/> No
Date of decision:		Location of Court:	Magistrate

Part 4 Director of Child Protection Litigation information	
DCPL file lawyer:	

Part 5(a) Child's information <i>(if the appeal request related to more one child, complete a part per child in order of oldest child to youngest child)</i>			
Child's given name/s:		Child's family name:	
Date of birth:		Child's ICMS no:	

Part 5(b) Child's information <i>(delete this part if there is only one child. Duplicate the part if there are more than two children)</i>			
Child's given name/s:		Child's family name:	
Date of birth:		Child's ICMS no:	

¹⁴⁸ See Director of Child Protection Litigation's Guideline 359.

¹⁴⁹ Section 9(1)(c)(i) of the *Director of Child Protection Litigation Act 2016*.

¹⁵⁰ See Director of Child Protection Litigation's Guideline 354.

Director's Guidelines
 Issued under section 39 of the *Director of Child Protection Litigation Act 2016*
Form H – Child Safety Appeal Request Form

Part 6 Details of the decision that Child Safety is requesting the DCPL to institute an appeal against and the reasons for an appeal ¹⁵¹	
If the decision Child Safety is requesting DCPL institute an appeal against, is a final decision on an application/s for a child protection order, what is the type of order/s the court has made: <i>(if the court has made more than one type of order for a child, or heard 2 or more applications for orders together, indicate which type of order relates to each child)</i>	<input type="checkbox"/> No order
	<input type="checkbox"/> Directing no contact with child/ren <i>(if selected, provide name of parent/s subject to the order, and duration of order)</i>
	<input type="checkbox"/> Directing supervised contact with child/ren <i>(if selected, provide name of parent/s subject to the order, and duration of order)</i>
	<input type="checkbox"/> Directive order – other <i>(if selected, provide name of parent/s subject to order and what directed to do or refrain from doing, and duration of order)</i>
	<input type="checkbox"/> Supervision order <i>(if selected, provide details of the matters Child Safety is to supervise, and duration of order)</i>
	<input type="checkbox"/> Custody order – to suitable person who is member of child's family (STC-SPF) <i>(if selected, name of suitable person, and duration of order)</i>
	<input type="checkbox"/> Custody order – chief executive (STC-CE) <i>(if selected, provide duration of order)</i>
	<input type="checkbox"/> Short-term guardianship – to chief executive (STG-CE) <i>(if selected, provide duration of order)</i>
	<input type="checkbox"/> Long-term guardianship – to suitable person who is member of child's family (LTG-SPF) <i>(if selected, name of suitable person and details)</i>
	<input type="checkbox"/> Long-term guardianship – to another suitable person nominated by chief executive (LTG-SPO) <i>(if selected, name of suitable person and details)</i>
<input type="checkbox"/> Long-term guardianship – to chief executive (LTG-CE)	
If Child Safety is requesting DCPL institute an appeal against an interim decision on an application/s for a child protection order, provide details of the decision:	
Does the appeal request relate to all or part of the decision on an application/s for a child protection order:	<input type="checkbox"/> All of the decision <input type="checkbox"/> Part of the decision <i>If part, provide details:</i>
Outline the impact of the court's decision on the safety, wellbeing and best interests of the child:	

¹⁵¹ See Director of Child Protection Litigation's Guideline 358.

Director's Guidelines
Issued under section 39 of the *Director of Child Protection Litigation Act 2016*
Form H – Child Safety Appeal Request Form

What are the proposed grounds of appeal including a statement of how the court erred:	
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Part 7 For a request for the DCPL to institute an appeal, what has Child Safety assessed to be appropriate and desirable for the protection of the child/ren

What type of final order/s has Child Safety considered appropriate and desirable for the child/ren's protection: <i>(if Child Safety considers more than one type of order appropriate and desirable for a child, or if it is proposed that 2 or more applications for orders will be heard together, indicate which type of order relates to each child)</i>	<input type="checkbox"/> No order
	<input type="checkbox"/> Directing no contact with child/ren <i>(if selected, provide name of parent/s subject to the order, and duration of order)</i>
	<input type="checkbox"/> Directing supervised contact with child/ren <i>(if selected, provide name of parent/s subject to the order, and duration of order)</i>
	<input type="checkbox"/> Directive order – other <i>(if selected, provide name of parent/s subject to order and what directed to do or refrain from doing, and duration of order)</i>
	<input type="checkbox"/> Supervision order <i>(if selected, provide details of the matters Child Safety is to supervise, and duration of order)</i>
	<input type="checkbox"/> Custody order – to suitable person who is member of child's family (STC-SPF) <i>(if selected, name of suitable person, and duration of order)</i>
	<input type="checkbox"/> Custody order – chief executive (STC-CE) – <i>if selected, provide duration of order.</i>
	<input type="checkbox"/> Short-term guardianship – to chief executive (STG-CE) <i>(if selected, provide duration of order)</i>
	<input type="checkbox"/> Long-term guardianship – to suitable person who is member of child's family (LTG-SPF) <i>(if selected, name of suitable person and details)</i>
	<input type="checkbox"/> Long-term guardianship – to another suitable person nominated by chief executive (LTG-SPO) <i>(if selected, name of suitable person and details)</i>
<input type="checkbox"/> Long-term guardianship – to chief executive (LTG-CE)	
If Child Safety is requesting DCPL institute an appeal against an interim decision on an application/s for a child protection order, provide details of what Child Safety has assessed to be appropriate and desirable for the protection of the child/ren:	

Form I – Child Safety Internal Review Request Form

This form is to be completed by an Office of the Child and Family Official Solicitor (OCFOS) officer or Child Safety Officer when the chief executive (Child Safety) requests the Director of Child Protection Litigation (DCPL) conduct an internal review of a decision.¹⁵²

If the request is for an urgent internal review, the form should be made as soon as practicable after the receipt of the DCPL's written reasons for decision.¹⁵³ Otherwise, an internal review request that relates to a decision about an appeal should be made within 5 business days, with other requests to be made within 10 business days, or before the expiry of any current order or appeal period.¹⁵⁴

Part 1 Form completion information

Date form completed:		Officer completing request:	
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Part 2 Child Safety information

OCFOS Officer:		Phone:	
		Email:	
Child Safety Service Centre:		Phone:	
Child Safety Officer:		Email:	
Team Leader:		Email:	
After Hours Contact: (if required)		Phone:	
		Email:	

Part 3 Director of Child Protection Litigation information

DCPL file lawyer:	
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Part 4 Is the DCPL decision that Child Safety is requesting be reviewed urgent? *(has the decision resulted in an assessment by Child Safety that the child/ren are at immediate and unacceptable risk of suffering significant harm (e.g. child subject to an emergency order that is about to end))*

Is Child Safety requesting an urgent review of a decision?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Date of decision	
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Part 5(a) Child's information *(if the request relates to more than one child, complete a part per child in order of oldest child to youngest child)*

Child's given name/s:		Child's family name:	
Date of birth:		Child's ICMS no:	

Part 5(b) Child's information *(delete this part if there is only one child. Duplicate the part if there are more than two children)*

Child's given name/s:		Child's family name:	
Date of birth:		Child's ICMS no:	

¹⁵² See Director of Child Protection Litigation's Guidelines 381.

¹⁵³ See Director of Child Protection Litigation's Guideline 388.

¹⁵⁴ See Director of Child Protection Litigation's Guideline 384.

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Form I – Child Safety Internal Review Request Form

Part 6 Details of the DCPL decision that Child Safety is requesting be reviewed	
Decision referring a <i>child protection matter</i> back to Child Safety ¹⁵⁵	<input type="checkbox"/> Yes <input type="checkbox"/> No
Applying for a child protection order of a different type, or an order that is otherwise different from the order Child Safety considered appropriate and desirable ¹⁵⁶	<input type="checkbox"/> Yes <input type="checkbox"/> No
Decision to withdraw an application ¹⁵⁷	<input type="checkbox"/> Yes <input type="checkbox"/> No
Decision not to transfer a child protection order to another State ¹⁵⁸	<input type="checkbox"/> Yes <input type="checkbox"/> No
Decision not to transfer a child protection proceeding to another State ¹⁵⁹	<input type="checkbox"/> Yes <input type="checkbox"/> No
Decision not to bring an appeal ¹⁶⁰	<input type="checkbox"/> Yes <input type="checkbox"/> No

Part 7 Child Safety's reasons why the internal review is sought including any matters Child Safety want the DCPL to take into account in the review <i>(if there is new information, the child protection matter should be the subject of a new referral to the DCPL including the new information)</i>

¹⁵⁵ See Director of Child Protection Litigation's Guidelines 68 and 381.

¹⁵⁶ See Director of Child Protection Litigation's Guidelines 78, 321 and 381.

¹⁵⁷ See Director of Child Protection Litigation's Guideline 287 and 381.

¹⁵⁸ See Director of Child Protection Litigation's Guideline 340 and 381.

¹⁵⁹ See Director of Child Protection Litigation's Guideline 345 and 381.

¹⁶⁰ See Director of Child Protection Litigation's Guideline 371 and 381.

Form J – Director's Review Decision Notification Form

This form is to be completed by a Director of Child Protection Litigation (DCPL) lawyer¹⁶¹ when providing written notice to Child Safety about the outcome of a requested internal review.

Part 1 Form completion information					
Lawyer completing form:		Date form completed:		Date of decision:	

Part 2 Form I – Child Safety Internal Review Request Form			
Officer completed request form:		Date request completed:	

Part 3 Director of Child Protection Litigation information				
DCPL file lawyer:		Phone:		Email:

Part 4 Child Safety information			
OCFOS Officer:		Phone:	
		Email:	
Child Safety Service Centre:		Phone:	
Child Safety Officer:		Email:	
Team Leader:		Email:	
After Hours Contact: (if required)		Phone:	
		Email:	

Part 5(a) Child's information <i>(if there is more one child, complete a part per child in order of oldest child to youngest child).</i>			
Child's given name/s:		Child's family name:	
Date of birth:		Child's ICMS no:	

Part 5(b) Child's information <i>(delete this part if there is only one child. Duplicate the part if there are more than two children)</i>			
Child's given name/s:		Child's family name:	
Date of birth:		Child's ICMS no:	

Part 6 Details of the DCPL decision that Child Safety requested be reviewed	
Decision referring a <i>child protection matter</i> back to Child Safety ¹⁶²	<input type="checkbox"/> Yes <input type="checkbox"/> No
Applying for a child protection order of a different type, or an order that is otherwise different from the order Child Safety considered appropriate and desirable ¹⁶³	<input type="checkbox"/> Yes <input type="checkbox"/> No

¹⁶¹ See Director of Child Protection Litigation's Guideline 388.

¹⁶² See Director of Child Protection Litigation's Guidelines 68 and 381.

¹⁶³ See Director of Child Protection Litigation's Guidelines 78, 321 and 381.

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Form J – Director's Review Decision Notification Form

Decision to withdraw an application ¹⁶⁴	<input type="checkbox"/> Yes <input type="checkbox"/> No
Decision not to transfer a child protection order to another State ¹⁶⁵	<input type="checkbox"/> Yes <input type="checkbox"/> No
Decision not to transfer a child protection proceeding to another State ¹⁶⁶	<input type="checkbox"/> Yes <input type="checkbox"/> No
Decision not to bring an appeal ¹⁶⁷	<input type="checkbox"/> Yes <input type="checkbox"/> No

Part 7 How has the DCPL dealt with the internal review request	
Did the DCPL on review make a different decision: ¹⁶⁸	<input type="checkbox"/> Yes <input type="checkbox"/> No – <i>If yes, complete the below section</i>
Provide the reasons for the decision and list any actions arising from the decision: <i>(e.g. filing an application for a child protection order)</i>	

¹⁶⁴ See Director of Child Protection Litigation's Guideline 287 and 381.
¹⁶⁵ See Director of Child Protection Litigation's Guidelines 340 and 381.
¹⁶⁶ See Director of Child Protection Litigation's Guidelines 345 and 381.
¹⁶⁷ See Director of Child Protection Litigation's Guidelines 371 and 381.
¹⁶⁸ See Director of Child Protection Litigation's Guidelines 388 and 389.

