

The top of the page features a decorative header. On the left, a blue curved banner contains a word cloud with terms like 'RESPECT', 'HOPE', 'TRUST', 'FAITH', 'LEAD', 'EXCELLENCE', 'NEVER GIVE UP', 'VALUES', 'PROFESSIONALISM', 'COMMITMENT', 'NOT AFRAID', 'BROTHER AND SISTER TO ALL', 'INNOVATION', 'AND RESOURCEFULNESS', 'NEW THINGS', 'PERSEVERANCE', and 'ZEAL'. On the right, there are large, overlapping organic shapes in pink, light blue, and green.

Child Protection Reform Amendment Bill 2017

A submission to the:
**Queensland Health, Communities,
Disability Services and Domestic and
Family Violence Prevention Committee**

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yourtown, September 2017

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Introduction

yourtown recognises the will and work of the Queensland government to drive a program of long-needed and significant reform of Queensland's child protection system with the aim of improving the experiences and outcomes of the children, young people and families who come into contact with or live their lives supported by child protection services.

We note that the Child Protection Reform Amendment Bill 2017 (the Bill) forms part of this reform agenda, and specifically aims to:

- Promote positive long-term outcomes for children in the child protection system
- Promote the safe care and connection of Aboriginal and Torres Strait Islander children with their families, communities and cultures
- Provide a contemporary information sharing regime for the child protection and family support system
- Support the implementation of other key reforms under the Supporting Families Changing Futures program

yourtown welcomes the opportunity to respond to the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee's Inquiry into the Bill. As a non-government service provider and through our relevant work with children and young people over several decades, we have considerable insight to share with the Committee.

About yourtown

yourtown (formally BoysTown) is a national organisation and registered charity that aims to tackle the issues affecting the lives of young people. Established in 1961, **yourtown's** Mission is *to enable young people, especially those who are marginalised and without voice, to improve their quality of life.*

yourtown provides a range of face to face and virtual services to young people and families seeking support. These services include:

- Kids Helpline, a national 24/7 telephone and on-line counselling and support service for 5 to 25 year olds with special capacity for young people with mental health issues
- Accommodation responses to families with children who experience homelessness and women and children seeking refuge from domestic and family violence
- Young Parent Programs offering case work, individual and group work support and child development programs for young parents and their children
- Parentline, a telephone counselling service for parents and carers in Queensland and the Northern Territory
- Expressive Therapy interventions for young children and infants who have experienced trauma and abuse or been exposed to violence
- Employment programs and social enterprises, which support young people to re-engage with education and/or employment, including Aboriginal and Torres Strait Islander specific services.

Kids Helpline

Kids Helpline is Australia's only national 24/7, confidential support and counselling service specifically for children and young people aged 5 to 25 years. It offers counselling support via telephone, email and a real-time web platform. Kids Helpline is staffed by a professional workforce, with all counsellors holding a tertiary qualification. Since March 1991, young Australians have been contacting Kids Helpline about a diverse group of issues ranging from everyday topics such as family, friends and school to more serious issues of child abuse, bullying, mental health issues, drug and alcohol use, self-injury and suicide.

yourtown submission

We have responded to the Inquiry's call for submissions through the framework of the Bill's four key policy objectives and the amendments through which it proposes to achieve these policy objectives. Below, we provide comments in relation to amendments where we have specific insight from our current service delivery and past experience of policy reform.

Promoting positive long-term outcomes for children in the child protection system

- **The best interests of children through childhood and the rest of their lives**

A critical guiding principle for the child protection system and every service it administers or funds must be that it meets the best interests of every individual child or young person it supports. The Bill's clarification that this principle applies 'through childhood and for the rest of the child's life' is welcome. At **yourtown**, we know and deal with the detrimental effect that uncertainty over their future lives and outcomes has on children and young people. This is an important principle therefore and one that the government must ensure all child protection staff embrace and adhere to in their work. Support will need to be provided to enable this shift in thinking.

It is important that the child protection system and all people who work to deliver its services consider that the best interests of a child or young person are highly individualised and a best interest approach must mark a departure from the idea 'one-size-fits all', whether that be, for example, in terms of a child being placed with his/her birth parents or permanent carers or when or how often a child must see their birth parents. The children and young people in child protection care often have highly complex histories, with families - like many - who have complex relationships and idiosyncrasies to consider and accommodate. Their stories must be considered, assessed and accommodated on a case by case basis.

It is also important to note that the best interests of the child or young person can only be met both in the short term and longer term if the system is appropriately resourced so that it can provide support and service options tailored to meet every individual's needs in a timely manner. To this end, **yourtown** is not convinced by the government's 'Estimated cost for government implementation' of the Bill, which suggests implementation costs will be met through existing resources. The child protection system is currently under significant financial pressure to simultaneously meet growing demand and manage wholesale reform, whilst Queensland continues to spend less than the national average on the full range of child protection services.¹

In addition, often under-resourced regional and remote communities have long-standing issues and limited options that hinder their ability to effectively meet the best interests of children and young people. A commitment to meeting the best interests of children and young people to achieve positive long term outcomes is commendable but it must be adequately resourced if it is to be meaningfully met and transformative change is to result. Adequate resourcing includes real investment in early intervention supports for families.

- **New permanency principles**

yourtown has firsthand experience of the effect that stable, trusted and secure relationships have on the experiences and outcomes of children and young people; developing such relationships is central to the

¹ Bluecard and Foster Care Systems Review, KPMG Report *Review of Demand and Resourcing for Child Protection in Queensland – Final Report* (February 2017) as appendix in Blue Card and Foster Care System Review Report on Term of Reference 5 https://www.qfcc.qld.gov.au/sites/default/files/final_report_BC_FC_ToR5.pdf

success of the programs we deliver. We welcome the Bill's introduction and definition of permanency in relational, physical and legal terms.

However, as with all aspects of the system, the Bill's introduction of a hierarchy of preferred care arrangements for best achieving permanency for a child to guide decision makers must be underpinned by the individual child or young person's needs and best interests.

- **Permanency planning**

Given we know the importance of stable relationships to a child's developments and outcomes, we welcome permanency planning, and particularly the need to contingency permanency plan in the event that timely reunification of a child with their birth parent/s is not possible.

- **Permanent care orders**

yourtown is broadly supportive of the Bill's introduction of permanent care orders. We note and welcome the Bill's care to ensure that children with a permanent care order will continue to be able to maintain ongoing and meaningful relationships with their birth parents and family members, again where it is in their individual best interests to do so.

However, we are also aware of learnings from other states where permanent care orders have been implemented and unintended consequences have arisen.² We note of particular importance in these experiences is the need to:

- Take care not to allow the drive for reform to pressure child protection staff to implement them too quickly, without due care and process. All legal requirements and expected service practices must be undertaken before a permanent care order is pursued including, for example and if appropriate, genuine attempts at reunification with birth parents and/or genuine attempts to place the child or young person with their kin. Implementation can be driven by workers from a *letter of the law* perspective rather than an *intent of the law* perspective as a result of adopting a need to reform too rapidly.
- Ensure that appropriate resources are in place (including in regional and rural communities) to enable timely assessments of permanent carers and to ensure additional 'bottlenecks' are not created in the system, which may detrimentally impact the welfare of children and young people.
- Consult with Aboriginal and Torres Strait Islander peoples and enable them to determine how and when permanent care orders are implemented, particularly as ideas and emphasis about the best interests of Aboriginal and Torres Strait Islander children and young people may differ to non-Indigenous considerations.
- Apply a case-by case approach to legal conditions on how often or when the child or young person can meet with a birth parent or family member. In Victoria, legislative changes mean permanent care orders may include a condition for contacts with parents or family of up to only four per year. From examples where this is being imposed it appears to be undermining connections to family and culture.³

² Submission to the CCYP Inquiry into the Permanency Amendments, submission of the Children's Court of Victoria (22 December 2016) - <https://ccyp.vic.gov.au/upholding-childrens-rights/ministerial-inquiries/permanency-amendments-inquiry/#TOC-4>

³ Submission to the CCYP Inquiry into the Permanency Amendments, submission of the Children's Court of Victoria's (22 December 2016) - <https://ccyp.vic.gov.au/upholding-childrens-rights/ministerial-inquiries/permanency-amendments-inquiry/#TOC-4>

- Consider the impact on existing carers, who may not be in a position to provide permanent care. This is of particular importance for Aboriginal and Torres Strait Islander children and young people as a drive to permanent care orders may rupture their links to kinship and community.⁴
- Alleviate concerns that a move to permanent care orders will not result in a reduced level of support and resources to carers, including financial support and specialist support services.
- Consider the impact on large sibling groups where part of a sibling group may have permanency placements implemented that further isolate them from other siblings.
- **Improving transition from care**

We support the requirement for transition planning to commence when a young person in out-of-home care turns 15 years of age and for a transition to independence plan to be incorporated into the child's case plan. Early transition planning can help provide certainty and stability for that child or young person and alleviate anxiety and doubt about the future. Indeed, **yourtown** staff advise that for optimum outcomes transition planning should occur as early as possible (e.g. younger than 15 if appropriate for the individual concerned), an idea that fits in with permanency planning and its goals.

We also strongly support the Bill's increase of the age to which a young person in the child protection system will be supported to 25 years of age. Many of the services **yourtown** delivers aim to support vulnerable young people (up until 25 years of age) transition to adulthood through pathways that include counselling, education, employment and parent support programs and with referral to an array of specialist support services. We recognise the value of planning and monitoring these transitions, and of ensuring that the right support is available for the young person at the right time, and that ongoing support is available throughout this important transition.

Promoting the safe care and connection of Aboriginal and Torres Strait Islander children

- **Additional principles for Aboriginal and Torres Strait Islander children**

yourtown strongly welcomes the new rights included in this amendment, particularly given the history of child protection responses in Aboriginal and Torres Strait Islander communities and the continued and understandable mistrust that these communities and peoples have of the system, services and staff. We also acknowledge the Queensland government's broader child protection reform agenda in relation to Aboriginal and Torres Strait Islander peoples as set out in *Changing Tracks: An action plan for Aboriginal and Torres Strait Islander children and families 2017-2019* and *Our Way: A generational strategy for Aboriginal and Torres Strait Islander children and families 2017-2037*. However, the scale of the challenges in implementing these reforms should not be underestimated, and considerable support and resourcing will be needed to ensure that the objectives of the reforms are achieved in practice. Reforms must also be implemented in a timely manner, with the focus being on meaningfully achieving their intent not on meeting the letter of the law or, for example, resulting KPIs.

Enshrining the nationally recognised Aboriginal and Torres Strait Islander Child Placement Principle in legislation is an important step as well being a key legislative requirement for government and agencies. In Queensland, where there have been audits of compliance conducted, only 15 percent of matters adhered to the existing legislative requirements to the principle whilst placements of Aboriginal and Torres Strait Islander children in out-of-home care with 'family, kin or other Aboriginal and Torres Strait Islander carers'

⁴ Submission to the CCYP Inquiry into the Permanency Amendments, submission of the Victorian Aboriginal Child Care Agency (November 2016) - <https://ccyp.vic.gov.au/upholding-childrens-rights/ministerial-inquiries/permanency-amendments-inquiry/#TOC-4>

is on the decline nationally.⁵ The implementation of this principle needs to be monitored to ensure meaningful efforts are consistently being undertaken by services and staff across the state's regions to apply it.

We also support the introduction of a framework to allow the Chief Executive to delegate some or all of its powers and functions under the Act to the chief executive of an Aboriginal and Torres Strait Islander entity. We acknowledge that the intention of the amendment is to underpin the implementation of Aboriginal and Torres Strait Islander self-determination in child protection matters. However, our staff tell us that Aboriginal and Torres Strait Islander peoples can have some mistrust of Aboriginal and Torres Strait Islander entities given their direct relationship to the current child protection system, with people sometimes viewing them as a mere - albeit more culturally appropriate - extension of the existing system. In view of these ongoing issues, we would suggest that government builds on its current thinking and the self-determination principle, and considers how further changes to the existing system and government structures might deliver a system that is fully fit for purpose for Aboriginal and Torres Strait Islander peoples and fully supports and embeds their right to self-determination.

- **Cultural advice about Aboriginal and Torres Strait Islander children**

At **yourtown**, we know the value of having Aboriginal and Torres Strait Islander support to provide relevant cultural advice and employ staff to advise the organisation more broadly and to run culturally appropriate programs. Given this, we welcome the broadening of the entities that may support the provision of relevant cultural advice for an Aboriginal or Torres Strait Islander child, noting that child safety services continue to be unable to provide culturally appropriate care for many Aboriginal and Torres Strait Islander children and young people with a care experience or needing care.⁶

This amendment recognises not only the many different Aboriginal and Torres Strait Islander peoples whose culture may not be represented in Aboriginal and Torres Strait Islander legal entities but also the individual nature of a child's relationship with their culture, which may often only fully exist in their family units. The advice that these entities give should be used to directly inform cultural competency training for carers (especially where carers are non-Indigenous), tailored to every child's cultural background.

- **Aboriginal or Torres Strait Islander entities exercising delegated key functions and powers of the chief executive**

Further to our comments made in relation to 'Additional principles for Aboriginal and Torres Strait Islander children', we would urge the government to consider the relationship between the Chief Executive and Aboriginal and Torres Strait Islander entities, and how some Aboriginal and Torres Strait Islander communities view the power and activities of these entities as a result. Further meaningful amendments to the existing structures may be needed if Aboriginal and Torres Strait Islander entities are to be trusted by and are to fully reflect and accommodate the needs, experiences and preferences of the people they support.

We also acknowledge the *Undertaking the Blue Card and Foster Care System Review* by the Queensland Family and Child Commission that concluded this year of the blue card in relation to Aboriginal and Torres

⁵ *Aboriginal and Torres Strait Islander children and child sexual abuse in institutional contexts, Report for the Royal Commission into Institutional Responses to Child Sexual Abuse*, Telethon Kids Institute (July 2017) - <http://www.childabuseroyalcommission.gov.au/getattachment/0da4f253-3442-40d5-b5db-7c31a9e80fd9/Aboriginal-and-Torres-Strait-Islander-children-and>

⁶ *The Family Matters Report: Measuring trends to turn the tide on Aboriginal and Torres Strait Islander child safety and removal*(2016) - https://nacchocommunique.files.wordpress.com/2016/11/family_matters_report_2016.pdf

Strait Islander communities. We support calls for the blue card's adaptation to meet the needs of these communities so that increasing numbers of Aboriginal and Torres Strait Islanders can work with their children and young people, which will be of particular benefit to remote and rural communities through increasing access to local kinship care.⁷

Providing a contemporary information sharing regime for the child protection system

- **Safeguards**

yourtown fully endorses this legislated approach to the sharing of sensitive information. Our information sharing guidelines at **yourtown** follow the same principles that the Bill introduces, including seeking informed consent if information sharing is to occur, and only sharing information without consent where there are genuine concerns about the immediate or imminent safety, welfare or wellbeing of a client or other individuals.

We welcome further guidelines from government about information sharing, and will review our current guidelines and practices to ensure we review our own to maintain best practice in this area.

- **Specialist service providers**

We concur with the need for the amendment to cover specialist service providers to share information with each other about their clients, not only in the event of concerns about a child's or young person's safety, but also more broadly in the best interests of their care and support. Clearly, this is an important amendment given these organisations provide so many child protection services and to ensure information-sharing is system-wide.

However, we note that the Bill defines 'specialist service providers' as "non-government entity, other than a licensee or an independent Aboriginal or Torres Strait Islander entity for an Aboriginal or Torres Strait Islander child, **funded by the State or the Commonwealth** to provide a service to— (a) a relevant child; or (b) the family of a relevant child". **yourtown** is a specialist service provider but is not funded by the government, although some of our programs are funded in full or in part by Queensland government (and other states and the Commonwealth). For example, our Young Parent Support Services and Family and Domestic Violence Refuge deliver child protection responses, working in tandem with local Child Safety Service Centres to support children and their families subject to child protection orders, but they are self-funded through **yourtown's** fundraising program.

Subsequently, we believe that the new legal protections for specialist service providers should be extended to other specialist service providers who undertake child protection work regardless of their funding status or source to maintain quality and robust responses to all children and young people accessing services.

Supporting the implementation of other key reforms under the reform program

- **Sharing information with interstate and New Zealand child protection agencies**

yourtown supports the Bill's new provisions to enable the sharing of information about children, young people, families and carers interstate and beyond to support the development of fully informed decisions about child protection issues.

⁷ Blue Card and Foster Care Systems Review, *Keeping Queensland's children more than safe: Review of the blue card system* (July 2017) - https://www.qfcc.qld.gov.au/sites/default/files/final_report_BC_review.pdf

The current Working with Children Checks, which vary from state to state, prevent an Australian-wide approach to protecting children and young people and we welcome any steps that can be taken to facilitate a nation-wide approach to information sharing.

- **Sharing information for research and related purposes**

yourtown is an advocate of evidence-based policy informed through robust research and evaluation, and we undertake and invest a significant amount of resources into this area in relation to our own services and programs. We understand the potential value of the data and information that the child protection system collects and manages in informing the design and improvement of policies and interventions in this area.

We support the Bill's efforts to support and extend the government's capacity to participate in research whilst stressing the importance of having secure systems and protocols in place to ensure confidential and highly sensitive information about vulnerable children, young people and families is safeguarded.