



Improving child protection matters in Queensland courts

A baseline evaluation of Work Package 36 reforms

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Acronyms

CAs	Child Advocates (Office of the Public Guardian)
CREATE	CREATE Foundation
CPO	Child Protection Order
CSO	Child Safety Officer
DCCSDS	Department of Communities, Child Safety and Disability Services
DCPL	Director of Child Protection Litigation
DJAG	Department of Justice and Attorney-General
HREC	Human Research Ethics Committee
LAQ	Legal Aid Queensland
NGOs	Non-government Organisations
OCFOS	Office of the Child and Family Solicitor
OPG	Office of the Public Guardian
PMP	Program Management Plan (for the Stronger Families reforms)
QATSICPP	Queensland Aboriginal and Torres Strait Islander Child Protection Peak
QCAT	Queensland Civil and Administrative Tribunal
QWIC	Queensland Wide Inter-Linked Courts
REs	Recognised Entities
WP36	Work Package 36: Court Processes

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The implementation of the child protection reforms is a collaborative effort across a number of justice business units, and we would like to acknowledge the involvement and support of Queensland Courts Service, the Queensland Civil and Administrative Tribunal (QCAT) and Office of the Public Guardian in this evaluation. The Department of Communities, Child Safety and Disability Services and Crown Law were instrumental in conducting the file review for quality of evidence and we would also like to extend our thanks to our expert panel, who have been instrumental in guiding this work. Finally, we would like to thank Deputy Chief Magistrate Leanne O'Shea for her work conducting a file review for the participation of children and young people, her input into the quality of evidence file review and her support to contact Magistrates across Queensland.

This report was prepared by Katrina Middlin and Anne Edwards. Statistical analysis of QCAT data was undertaken by April Chrzanowski.



1. Introduction

1.1. *Background to the Stronger Families justice reforms*

The Queensland Child Protection Commission of Inquiry (the Inquiry) was conducted in 2012-13 owing to a widespread perception that the current child protection system in Queensland is failing vulnerable children and their families.

The Inquiry conducted a review of Queensland's child protection system and developed a 10 year roadmap to support families and protect children. In its final report, *Taking Responsibility: A Roadmap for Queensland Child Protection* the Inquiry made 121 recommendations. Of these, 116 were accepted by the then Queensland Government, with the remaining five accepted in principle. Implementation of the recommendations has been carried out by successive Queensland Governments.

To implement the reforms, a Program Management Plan (PMP) was developed by the Department of the Premier and Cabinet. The PMP divides the Inquiry recommendations into 45 Work Packages, which are categorised under seven domains based on the outcomes they intend to achieve. Reforms to the court system comprise Work Package 36 (WP36), and are being led by the Department of Justice and Attorney-General (DJAG).

1.2. *Overview of Work Package 36*

WP36 contains 13 recommendations, which will be implemented between 1 July 2014 and 30 June 2020. A program logic for WP36 was developed during the early stages of implementation (see Appendix 1) and divides WP36 into four areas:

1. **Court reforms:** The court reforms include the establishment of a Court Case Management Framework (comprised of Childrens Court Rules, practice directions and a bench book); appointment of additional dedicated Childrens Court Magistrates, and clarification of the roles of the President of the Childrens Court and the Chief Magistrate. These reforms intend to provide the Childrens Court with the tools and processes needed to actively manage child protection proceedings and help ensure consistent outcomes.
2. **Establishment of the Director of Child Protection Litigation (DCPL):** The DCPL was established on 1 July 2016, and now acts as the applicant for Child Protection Orders (CPOs). The DCPL is an independent statutory officer that is intended to provide greater accountability and oversight for CPO applications that are being sought by the chief executive, by ensuring that applications filed in court are supported by good quality evidence, promoting efficiency and evidence-based decision-making.
3. **Legal Aid Queensland (LAQ) funding review:** As a result of the review, the Queensland Government has allocated \$8.249 million to LAQ from 2016–20, for the provision of a child protection litigation service across Queensland. In 2016–17, \$0.55 million has been allocated for the continuation of the service in the current nine locations (Townsville, Brisbane, Southport, Maroochydore, Caboolture, Ipswich, Toowoomba and Pine Rivers), with an injection of close to \$2 million per annum over 2017–20 to enhance and expand the service into more locations. Legal advice and support in these matters will provide children and families with improved access to legal representation. This will be key to ensuring the voices of children, families and carers are heard in decisions that affect them.
4. **Queensland Civil and Administrative Tribunal (QCAT) reforms:** Changes to QCAT processes will enable children and young people to participate in tribunal processes, which will help ensure their voices are heard. The reforms will also improve the

timeliness of proceedings, and provide for QCAT outcomes to be published. To date a number of initiatives have been implemented.¹

These work areas will contribute to three key intermediate outcomes for WP36: improved quality of evidence in child protection matters; improved quality of decision-making due to improved quality of evidence; and the voices of children, families and carers being heard in decisions that impact them. In turn, these intermediate outcomes will enable the achievement of the primary long-term outcome for WP36: 'Fair, timely and consistent outcomes in courts and tribunals'.

The program logic for WP36 is provided in Appendix 1 and a full list of WP36 recommendations is provided in Appendix 2.

1.3. Evaluation purpose and scope

The Inquiry identified that "research and evaluation capacity within government about effective child protection practice ... is inadequate."² As a result, the Inquiry recommended that each agency with child protection responsibilities develop an evaluation framework to enable the outcomes of the reforms to be assessed (recommendation 12.14). In response to this recommendation, DJAG developed an evaluation framework to assess whether or not the justice portfolio reforms had been successful.

Under the evaluation framework, baseline data will be collected in 2015–16 (baseline), with follow-up evaluations scheduled for the 2018-19 and 2022–23 financial years.

The purpose of the 2015–16 evaluation is to:

- establish a comparison point against which the effectiveness of implementation can be assessed in the future;
- identify emerging outcomes and issues in implementation to date; and
- inform future delivery of WP36 recommendations, where appropriate.

The evaluation covers all recommendations under WP36 (see Appendix 2) with the exception of recommendation 13.10 (expert assistance pilot project). Recommendation 13.10 will be separately evaluated.

It is important to note that the reforms which are the focus of this evaluation are those that DJAG has been responsible for implementing. There are a series of other related reforms which are the responsibility of other agencies that are likely to contribute to the findings of DJAG's evaluation work. Any changes observed by this evaluation may not be solely attributable to DJAG's reforms alone, but must be understood in the context of the broader suite of reforms that have collectively achieved a changed result, including the establishment of the Office of the Child and Family Official Solicitor (OCFOS) in the Department of Communities, Child Safety and Disability Services (DCCSDS). This issue will become particularly apparent when the evaluation is replicated in 2018–19 and 2022–23, and further comment will be made in future reports to explore this issue in more depth.

¹ Initiatives include:

- A child friendly web-page on the QCAT website
- Enhancements to the QCAT case management system and processes to ensure data are captured to enable evaluation
- Improvements to reporting procedures and data collection, including new processes to capture the count and type of young people's involvement in child protection review proceedings, the cultural background of parties, and common issues raised during child protection review compulsory conferences
- The implementation of a Practice Direction for administrative review in child protection matters, to set out how children and young people are included in the review of decisions made by DCCSDS.

² *Taking responsibility: A roadmap for Queensland Child Protection*. 2013. Brisbane: Queensland Child Protection Commission of Inquiry, p.428.

2. Evaluation approach and methods

2.1. Evaluation design

To measure effectiveness, triangulation of methods and data has been designed to enhance reliability.³ Triangulation⁴ was first used in the social sciences by arguing that using more than one method in the validation process ensured that variation observed reflected the trait and not the method used.⁵ The concept was expanded by Denzin (1970), who identified different types of triangulation, all of which have the purpose of strengthening confidence in the findings by overcoming the bias inherent in a single method, investigator, data source or theory, and increasing the accuracy of the findings because different methods highlight different aspects of a phenomenon.⁶

This study involves methodological triangulation by combining methods, including analysis:

- administrative data;
- survey data;
- semi-structured interviews;
- focus groups;
- court file review results; and
- review of appeals.

Data triangulation will also occur through the collection of data from multiple stakeholder groups including:

- Magistrates and QCAT Members;
- members of the legal community;
- members representing the interests of Aboriginal and Torres Strait Islander communities;
- members of organisations that represent the interests of children;
- children and young people themselves; and
- parents/carers/kinship carers who have been involved in child protection proceedings.

This combination of methods and data should allow for a comprehensive analysis and interpretation of the court outcomes for these recommendations.

The evaluation was designed to include both Queensland-wide data collection through a survey and analysis of administrative data, as well as face-to-face qualitative data collection in three regions. Qualitative data were collected in the Southeast metropolitan region (including Brisbane, Beenleigh and the Gold Coast); South West Queensland (Toowoomba) and regional North Queensland (Townsville).

³ M Miles and A Huberman, *Qualitative Data Analysis* (Sage Publications Ltd, 1994)

⁴ D Campbell and D Fiske 'Convergent and discriminant validity by multitrait-multimethod matrix' (1959) 56 *Psychological Bulletin*, 81.

⁵ T Jick 'Mixing qualitative and quantitative methods: triangulation in action', (1979) 24 *Administrative Sciences Quarterly*, 602.

⁶ N K Denzin, *The Research Act in Sociology: A Theoretical Introduction to Sociological Methods* (Butterworths 1970).

2.2. Key evaluation questions

The evaluation of the WP36 reforms is guided by four key evaluation questions:

1. Have the reforms contributed to improving the functioning of courts and tribunals?
2. Have the reforms contributed to increasing the voices of children and young people in court and tribunal proceedings?
3. Have the reforms contributed to outcomes being in the best interests of the child?
4. What factors have enabled or hindered the achievement of outcomes?

As the 2016 evaluation has focussed on collecting baseline information and identifying emerging outcomes, it is too early to comment substantively on these questions at this time.

2.3. Methods and sampling

Analysis of administrative data

Administrative data were collected from Queensland Courts Services, LAQ and QCAT. The data provided background information for the evaluation, such as the number of applications made to the Childrens Court or QCAT and types of orders.

The data were also used to provide a baseline for a number of measures, including:

- time to finalisation for matters in the Childrens Court and QCAT;
- percentage and number of cases that are older than six and twelve months from date of lodgement;
- count of parties legally represented in the Childrens Court; and
- type of legal representation.

Survey of justice stakeholders

The first stage of data collection was a survey of justice stakeholders, which focussed on processes and outcomes in the Childrens Court and QCAT. The survey was conducted via an online questionnaire administered using Survey Monkey.

The survey covered a range of topics including: case management in the Childrens Court, quality of evidence in child protection proceedings, participation in decision-making by children and young people, parents and carers, participation by Aboriginal and Torres Strait Islander children and families, effectiveness of Office of the Public Guardian (OPG) Child Advocates (CA), and implementation of the reforms to date (see Appendix 3 for the questionnaire).

Prior to implementation, the online questionnaire was piloted by five individuals, who provided feedback on questions and tested the instrument. The online questionnaire was open for six weeks between February and April 2016. A description of the 74 respondents to the survey is outlined in Table 1.

Table 1: Survey sample

Stakeholder group	Inclusion criteria	Respondents
Magistrates and QCAT Members	All Magistrates; QCAT Members who have heard at least one child protection matter in the past 12 months	14
Legal service providers	Legal professionals who usually have at least one open child protection case	27
OPG	Child Advocates	3
DCCSDS	Court Services staff and Court Coordinators	30
	Total	74

Interviews with children and young people

DJAG and OPG engaged CREATE Foundation (the national peak consumer body for children and young people in out-of-home care) to undertake interviews with a group of children and young people about their experiences with court and tribunal processes. CREATE recruited participants through their internal *clubCREATE* database of children and young people in care, as well as through out-of-home-care service providers statewide. Children and young people aged 8–20 years were invited to participate, with prospective participants also provided with an information sheet about the project. A CREATE facilitator interviewed 24 children and young people using a questionnaire (see Appendix 4). The demographic profile of interview participants is provided in Table 2 below. It should be noted that just more than half of the interviewees identified as Aboriginal or Torres Strait Islander.

Table 2: CREATE survey sample

Gender	Number	Region	Number	Age group	Number
Male	14	Far North Qld	4	8-10	2
Female	10	North Qld	3	11-13	5
		Central Qld	6	14-16	12
		North Coast	1	17-19	5
		Brisbane	3		
		South East	3		
		South West	4		
TOTAL	24		24		24

Semi-structured interviews

Semi-structured interviews were conducted with Magistrates, QCAT Members and legal professionals based in South West Queensland (see Table 3). Interviews were conducted either face-to-face or via telephone, depending on the location of participants. The interviews covered a range of topics, depending on the stakeholder group (see Appendix 5). Interviews were audio recorded with the permission of interviewees and transcribed for analysis.

Table 3: Semi-structured interview sample

Stakeholder group	Inclusion criteria	Respondents
Magistrates	All dedicated Childrens Court Magistrates were invited to participate, in addition to a sample of other Magistrates chosen to represent a mix of regional and rural court locations across Queensland.	8
QCAT Members	QCAT members who hear child protection matters	5
Legal professionals	Legal professionals based in South West Queensland	2
	Total	15

Focus groups

Fifteen focus groups were conducted with legal professionals, foster and kinship carers, parents and non-government organisations (NGOs) in various locations across Queensland, with a focus on the three study regions for the evaluation (see Table 4). A total of 86 participants were consulted through focus groups.

Table 4: Focus group sample

Stakeholder group	Topics for focus group	Number of focus groups and locations	Participants
Legal professionals	Quality of evidence, case management, participation by	Brisbane; Townsville (2)	10

Stakeholder group	Topics for focus group	Number of focus groups and locations	Participants
	service users		
Parents	Experience in court and tribunal processes, ability to participate and understand	Brisbane; Townsville (2)	13
Foster and kinship carers		Brisbane; Townsville; Toowoomba (3)	18
Non-government organisations	The operation of courts and tribunals, whether they believe service users are able to participate	Brisbane; Townsville; Toowoomba; Rockhampton (4)	29
Recognised Entities		Gold Coast; Beenleigh; Townsville; Toowoomba (4)	16
Total			86

Focus group guides are provided in Appendix 6. All focus groups were audio recorded and transcribed for analysis.

Participation file review

A file review was conducted by Deputy Chief Magistrate Leanne O'Shea to audit the extent to which children and young people participated in child protection proceedings in the Childrens Court. The review was conducted on a total of 45 files, 15 matters randomly selected from each of three Magistrates Courts (Toowoomba, Brisbane and Townsville) finalised in the period 1 July 2014 to 30 June 2015.

The review collected basic information about the case and categorised the type of participation by the child or young person, as well as their siblings (where applicable). The reviewer also commented about: the benefits associated with the child's participation, barriers to their involvement, and whether or not there was evidence that the child's views were taken into account in decision-making.

The template used to guide the participation file review is provided in Appendix 7.

Quality of evidence file review

A review of 20 files finalised in the period 1 July 2014 to 30 June 2015 was conducted to generate baseline data about quality of evidence. A Crown Law employee reviewed 10 Crown Law files (contested matters) and a DCCSDS employee reviewed 10 DCCSDS files (uncontested matters) to analyse the quality of material being filed in Court.

As there are no existing measures in the literature for quality of evidence in child protection proceedings, a panel of experts was convened to develop a set of measures and oversee the file review. The panel included representation from the Queensland Magistrates Court, LAQ, DCCSDS, Crown Law, and the Aboriginal and Torres Strait Islander Legal Service.

The sample of files included CPO applications only. The sample of Crown Law files was stratified by number of siblings to ensure that the workload for reviewers was manageable, on the basis that an increase in the number of siblings usually means that large amounts of affidavit material are generated. Only court material was included in the review.

To guide the file review, the panel of experts developed a template with a set of questions relating to the evidence provided in the case (see Appendix 8). Items included on the template were largely based on the requirements of child protection applications set down in the *Child Protection Act 1999* (the Act).

2.4. Implementation

Ethical clearance

The evaluation was reviewed by the University of Southern Queensland Human Research Ethics Committee. Full ethical clearance was granted on 12 January 2016 (reference number: H15REA253)

Recruitment of participants

Participants were recruited through a number of gatekeeper organisations, including peak bodies, NGOs and legal service providers. Gatekeeper organisations also provided in-kind support for the evaluation. Information about the evaluation (including Participant Information Sheets and consent forms) were distributed via gatekeeper organisations prior to the evaluator making contact with participants.

2.5. Data analysis

Qualitative data (including data from focus groups, semi-structured interviews and open-ended questionnaire responses) were analysed using NVivo software. A thematic analysis of the data was conducted using a hybrid inductive and deductive approach,⁷ which involves analysing the data deductively against the key evaluation questions and guiding concepts for the evaluation, as well as allowing for other themes to emerge from the data.

Data from the questionnaire were analysed using Excel. This involved conducting frequency counts, averages and similar descriptive data.

Quantitative administrative data were analysed using Excel. Descriptive data analysis (such as frequency counts and averages) were used and, where possible, the analysis also included basic statistical tests (chi squared, two sample t-test).

2.6. Evaluation limitations

There were several limitations to the evaluation that should be recognised. In particular, only a small number of respondents were drawn from some stakeholder groups, including parents and kinship carers.

As the recruitment of participants was conducted through peak bodies, NGOs and legal service providers, the evaluation team had limited control over the end sample, although inclusion guidelines were provided. In particular, it is acknowledged that these components of the evaluation did not include a representative number of Aboriginal and Torres Strait Islander participants, which means that the views of Aboriginal and Torres Strait Islander parents and kinship carers have not been able to be documented as part of this evaluation. The results of this evaluation, therefore, should not be generalised to the broader population. This aspect of the evaluation, when replicated, may be re-designed to increase the number of overall participants, but in particular to ensure the views of Aboriginal and Torres Strait Islander parents and carers are adequately reflected.

⁷ Fereday, J., & Muir-Cochrane, E. (2006). Demonstrating rigor using thematic analysis: A hybrid approach of inductive and deductive coding and theme development. *International Journal of Qualitative Methods*, 5(1).

3. Court process reforms

Key points from this chapter

- Current case management practices in the Childrens Court were described by respondents as inconsistent, and survey data show that Magistrates do not consistently take an active approach to managing child protection proceedings. Respondents in interviews and focus groups noted that this may change with the introduction of the court case management framework on 1 July 2016.
- Respondents were positive about the appointment of dedicated Childrens Court Magistrates across Queensland. In large part, the knowledge of dedicated Childrens Court Magistrates about child protection proceedings had increased, and these Magistrates were playing an active role in ensuring the least intrusive orders were sought and holding DCCSDS to account for their work with families between mentions. There were also efficiency gains due to Magistrates having had the opportunity to read and become familiar with court material prior to hearing.
- There was one location where the appointment of a dedicated Childrens Court Magistrate had not been implemented as intended. Few stakeholders were aware there had been a dedicated Childrens Court Magistrate appointed in the location, and when interviewed, the Magistrate professed to have a low level of experience in child protection proceedings.
- Data show that the Childrens Court is not seen as a culturally appropriate process for Aboriginal and Torres Strait Islander families, who also face increased socio-economic and historical barriers to participating in child protection proceedings.
- However, Recognised Entities (REs) unanimously reported that they felt their views and knowledge were valued and respected by the court. This finding was reinforced by several Magistrates, who spoke of the importance of the RE role and the cultural input they provide.
- A lack of timeliness in child protection proceedings was raised as an issue by a number of respondents.
- Stakeholders were generally positive about the introduction of the DCPL; however, some concerns were raised in relation to the Brisbane-based model.

3.1. Introduction

In several focus groups and interviews, respondents acknowledged the critical role that the Childrens Court plays in ensuring accountability across the child protection system. As one NGO representative noted:

“For me it’s about the courts absolutely nailing that. They [Magistrates] say, “What have you done between now and when I’m sitting here with the order application? Show me the reunification plan and the progress on that.” (NGO representative)

The Inquiry highlighted the important role that the Childrens Court and QCAT play in the child protection system, noting that the “decisions made ... are of critical importance because they can have far-reaching effects on a child’s life”.⁸ The Inquiry made a number of recommendations to reform the court process, including the appointment of dedicated Childrens Court Magistrates and development of a court case management framework comprising Childrens Court Rules, a bench book and practice directions. Together with the

⁸ Queensland Child Protection Commission of Inquiry 2013, *Taking responsibility: A roadmap for Queensland child protection*, State of Queensland, p.455.

establishment of the DCPL and increased funding for LAQ, these changes to the court process will help ensure that outcomes in the Childrens Court are fair, timely and consistent.

The remainder of this section provides an overview of the current state of child proceedings in the Childrens Court, including court case management and timeliness. It also describes early outcomes associated with the appointment of dedicated Childrens Court Magistrates and outlines stakeholder views about the forthcoming establishment of the DCPL.

3.2. Court case management

Current state of case management: Survey responses

The introduction of a judicially-led court case management framework for child protection is intended to provide Magistrates with the tools they need to take an active case management approach. Key aspects of the court case management framework, such as the remade Childrens Court Rules, came into effect on 1 July 2016.

In a survey of justice stakeholders, respondents were asked to indicate how often, in general, Magistrates currently undertake tasks associated with an active case management approach (see Figure 1 on page 14). It is expected that, with the remake of the Childrens Court Rules and other reforms, these results will improve over time.

Feedback from respondents about the current approach of Magistrates was mixed. Close to half of respondents (n=85) indicated that Magistrates either frequently (22%) or very frequently (20%) have an active role in determining what activities should occur pre-trial and when they should occur (see Figure 1 on page 14). However, over a third (36%) of respondents reported that this was only 'occasionally' the case. Respondents were generally positive about the role of Magistrates in making directions about filing documents to ensure parties are ready for trial, with over two thirds indicating this is 'frequently' (41%) or 'very frequently' (27%) the case (see Figure 1 on page 14).

Close to two thirds of respondents reported that parties are either 'frequently' (39%) or 'very frequently' (24%) encouraged to resolve issues through court-ordered conferencing (see Figure 1). Respondents were also fairly positive about whether court-ordered conferences were ordered at critical points in proceedings, with 36 per cent reporting that this was 'frequently' the case and a further 20 per cent indicating that this occurred 'very frequently' (see Figure 1). However, close to a third of respondents (32%) said that court-ordered conferences only 'occasionally' occurred at critical points in proceedings.

Respondents reported that other actions occurred more rarely. In particular, it was noted that Magistrates 'rarely' (22%) or 'very rarely' (27%) inquire of the applicant what early intervention steps have been taken. Similarly, over a third of respondents reported that Magistrates 'rarely' (28%) or 'very rarely' (12%) give directions to ensure evidence is gathered early (see Figure 1 on page 14). A number of respondents noted that, currently, these actions are largely driven by DCCSDS or legal representatives:

"All of the above [tasks are] currently primarily directed by Child Safety [DCCSDS] staff or the separate representative." (Survey respondent)

"In my experience, the Department [DCCSDS] usually provides direction to the Childrens Court about what needs to happen and within what timeframes (i.e. holding of a Family Group Meeting). The Court generally agrees with what the Department is seeking." (Survey respondent)

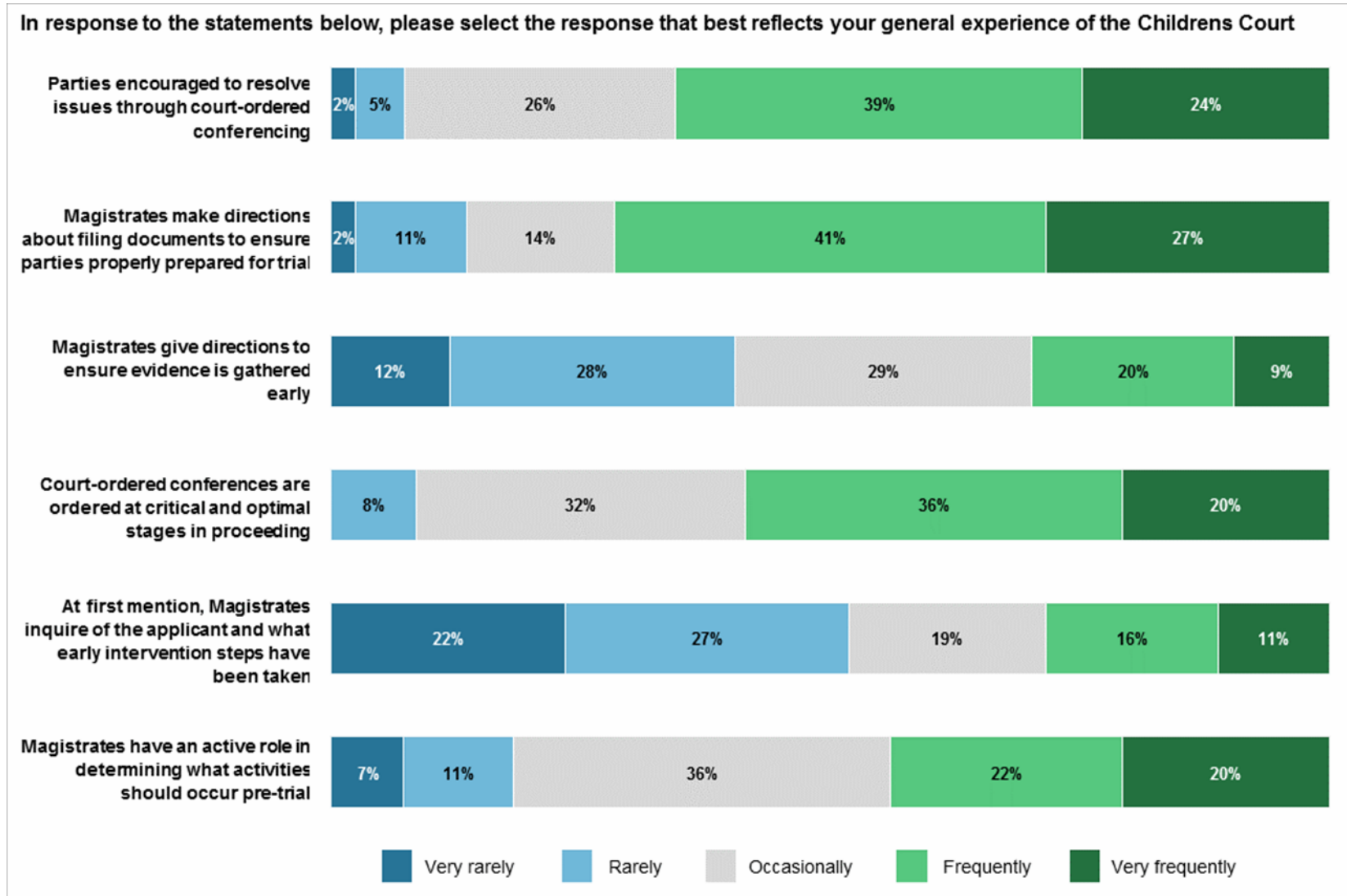


Figure 1: Case management in the Childrens Court
 Source: Survey of justice stakeholders (n=85)



Role of the Magistrate in case management

As the survey results highlight, there are mixed views about the role Magistrates currently play in case management in the Childrens Court. In both the survey and focus groups, respondents noted there is a high degree of variation across courts, as management of proceedings is left to the individual Magistrate to decide. This was noted by several lawyers and REs:

“Some of them [Magistrates] will want to explore the reasons for a parent consenting and make sure the parent understands... Which is important, particularly if the parent is unrepresented but... some of them will say, “Yep, okay.” And that’s it.” (Lawyer)

“I find that some really want to give the parents a go... There’s one Magistrate here that hardly ever gives the Department interim custody... and there’s another Magistrate that will push them through [and] runs them quite quick.” (Recognised Entity)

The individual approach of Magistrates and the impact this has on the consistency of child protection proceedings was recognised even by stakeholders who are not directly involved in court on a regular basis, including NGO representatives and parents:

“My understanding of the courts, at the moment, is that it’s very individually based on who is sitting there in the first place.” (NGO worker)

“It does matter who you have. It does. It shouldn’t, because the decisions that are being made affect the future of every day of that child’s life.” (Parent)

While there is no requirement for Magistrates to case manage proceedings in a consistent way, respondents were positive about the introduction of new case management tools and the impact this may have on the consistency of proceedings across locations. As one lawyer said:

“There’s a lack of consistency between Magistrates and hopefully with the new changes that will come in you’ll get uniformity in terms of case management... You just don’t get that consistent approach [currently], some [Magistrates] will be quite involved and actively case manage, others won’t.” (Lawyer)

Several respondents also commented that they had noticed a change in the way Magistrates managed child protection proceedings since the Inquiry. In one regional location, this trend was described by both lawyers and REs:

“Years ago, like back in 2007, they sort of were just throwing them through and they didn’t seem that interested. I think in the last two to three years the Magistrates... have really become interested in child protection and in what’s going on... You can’t go into court and just hand them a piece of paper and they’ll sign it. That’s not happening.” (Recognised Entity)

“I’ve noticed change in the last probably 18 months... I think they’re more willing to listen to clients” (Lawyer)

3.3. Appointment of dedicated Childrens Court Magistrates

The appointment of existing Magistrates as dedicated Childrens Court Magistrates in key locations throughout Queensland was recommended by the Inquiry to encourage greater specialisation among the judiciary. As a result of this recommendation, an additional eight Childrens Court Magistrates were appointed,⁹ bringing the total number to nine across Queensland.

The intent of the Inquiry was that dedicated Childrens Court Magistrates would be the sole Magistrate hearing both child protection and youth justice matters in a given location. In the

⁹ Six new Childrens Court Magistrates commenced their appointment on 22 August 2014, and two new Childrens Court Magistrates commenced their appointment on 9 October 2015.

majority of locations in which consultation occurred, the recommendation had been implemented as intended. However, in one regional location the dedicated Childrens Court Magistrate heard only youth justice matters and child protection proceedings were treated as part of the normal list and heard by all Magistrates on a rotating basis. Lawyers in this location noted that, although there was no dedicated child protection Magistrate, it would be of value to parties:

“It would be nice to have a sort of parent friendly Magistrate, someone who is not going to appear judgmental... There are some Magistrates up here whose attitude would just make the client shrink to about this size... Seeing it through a parents eyes, they’re already shamed by having to turn up and everybody’s seen the affidavit material and they’re in a courtroom... it’s a very negative experience. Basically you need a Magistrate who’s a people person... And you need one Magistrate... Not a roster.”
(Lawyer)

Magistrates in smaller, rural centres said the appointment of dedicated Childrens Court Magistrates had little effect on the way proceedings were run in single-Magistrate centres. However, they also noted that as the sole presiding Magistrate they shared some of the advantages of a dedicated Childrens Court Magistrate. As one Magistrate described:

“Because my jurisdiction is so small and I’m the only one that deals with [child protection], I probably have a little bit of the advantage of a dedicated Childrens Court Magistrate in that I see mum and dad in the child protection jurisdiction and depressingly mum and dad are involved generally in other jurisdictions that I have to deal with... I would suggest that living in small communities such as this... at least, in some respects, I would have those advantages as well.” (Magistrate)

Overall, respondents were very positive about the appointment of dedicated Childrens Court Magistrates. The benefits and limitations relating to increased specialisation of the judiciary are described in the following sections.

Benefits of dedicated Childrens Court Magistrates

The benefits of appointing dedicated Childrens Court Magistrates, as described by respondents in interviews and focus groups, are outlined in Table 5.

Table 5: Benefits of appointing dedicated Childrens Court Magistrates

Benefit	Comments	Illustrative quotes from respondents
Increased specialist knowledge of dedicated Childrens Court Magistrates	A benefit of appointing dedicated Childrens Court Magistrates is their knowledge of child protection proceedings, and appreciation of the types of issues this jurisdiction commonly involves. Magistrates themselves acknowledged that their expertise in child protection had grown and other stakeholders also noted the benefits of having Magistrates that understood the issues facing parties.	<i>“You’ve got people familiar with the Act ... If you’re doing it regularly you become, I suppose, “expert” or very, very familiar with it and I think it improves the quality of the work that we do ... The ultimate beneficiaries are the consumers.”</i> (Magistrate) <i>“For me I can say my familiarity with the area obviously has improved with doing it all the time. I feel a sense of ownership.”</i> (Magistrate)
Ensuring orders are the least intrusive	Respondents noted that dedicated Childrens Court Magistrates were taking an active role in questioning the rationale behind the orders requested by DCCSDS. This active case management approach helps ensure the orders made were the least intrusive possible, and in some instances had led to a significant reduction in the level of order sought. Respondents also spoke positively of the way dedicated Childrens Court Magistrates interrogated the evidence provided by DCCSDS to ensure that the appropriate order was made.	<i>“The dedicated Childrens Court Magistrates are influencing the trajectory of matters and the outcome of matters ... We’re seeing matters managed and it’s resulting more often in less intrusive orders. Long term applications turn into PSOs [Parental Supervision Orders].”</i> (Lawyer) <i>“In the specialist Magistrates’ Courts I’m now having instances where they go “Well actually no, I’m not making the order that you all think should be made until you tell me more about this, this and this” ... And that’s what should happen.”</i> (Lawyer)

Familiarity with parties and a respectful approach	As families in the child protection system often come into repeated contact with the court during a proceeding, dedicated Childrens Court Magistrates are able to develop a level of familiarity with them and their circumstances. This was described as a benefit by a range of different stakeholders, including REs, who said that the continuity of the Magistrate helped Aboriginal and Torres Strait Islander families in the court process. The respectful and open approach of Magistrates (whether specialist or not) was also highlighted as a key enabling factor for participation by parents and young people (see Chapters 7 and 8).	<p><i>“People really understand that you are on top of their case, and this has really worked well ... The parents seem to be far more compliant with the Department and the court, because they seemed to realise that you have someone who is listening to them, who is really reading everything.” (Magistrate)</i></p> <p><i>“I think it’s good because [the Magistrate] is able to then follow a case ... right through ... It works wonders in that respect and, being an Aboriginal and Torres Strait Island community as well [the Magistrate] knows the families, which helps” (Recognised Entity)</i></p> <p><i>“I know these people as they come through ... and I make a point of treating them with respect.” (Magistrate)</i></p>
Holding DCCSDS to account for actions taken between mentions	The active case management and more inquisitorial approach of some dedicated Childrens Court Magistrates has increased the level of accountability of DCCSDS, as the Department is increasingly held to account for ensuring that action is taken between court appearances. This benefit was described by Magistrates themselves, and also mentioned by a number of lawyers.	<p><i>“In most individual court appearances, you can really make a difference to the end result ... Because of your active participation, you know each file, you know the parents and between court dates, you can say “Well you told me you were going to go to this and this. Have you done that?”... Over the last nine months or so, we’re not having so many matters get to hearing ... because you’re forcing everybody to be doing the work” (Magistrate)</i></p>
Efficiency due to knowledge of material prior to court events	Although the appointment of dedicated Childrens Court Magistrates was primarily intended by the Inquiry to increase specialisation in the jurisdiction, it also has benefits for efficiency. Several dedicated Childrens Court Magistrates noted that, as they are familiar with matters and have time to read material, there are fewer adjournments.	<p><i>“Being a dedicated Childrens Court Magistrate ... saves so much time.” (Magistrate)</i></p> <p><i>“The obvious observation is that I’ve read the material before the hearing. Before I was doing all the hearings there was a list ... Now the trouble was, the Magistrate would then get a box full of paper ... the morning of the hearing ... [then] they have to read all the affidavit material so it’s stood down. Everybody loses half a day ... things tended to get adjourned.” (Magistrate)</i></p>

Source: Interviews and focus groups

Limitations associated with dedicated Childrens Court Magistrates

While respondents were clear about the benefits of having dedicated Childrens Court Magistrates, several recognised the limitation that, without the case management framework, there has been little consistency across locations. As one lawyer noted:

“We’re definitely getting consistency at each location where there’s a dedicated Court, dedicated Magistrate but at the moment until we have an overarching bench book, new rules and practice directions, the process that’s been implemented is quite different from specialist Court to specialist Court... If you find yourself now in front of a Court where there’s not a designated Magistrate, you really notice the difference.” (Lawyer)

Another respondent highlighted that rural and remote circuit courts, where there are no dedicated Childrens Court Magistrates appointed, can result in differing approaches to case management within the same geographic region:

“In our Cape region we have a dedicated Childrens Court Magistrate in Cairns, but we have different circulating Magistrates on circuit in our remote rural areas and you get different approaches to case management when you’re on circuit... so there are divergences. So hopefully with the new model that will come in we’ll get that

overarching system but still we're going to have some real delivery gaps in rural and remote areas.” (Lawyer)

The benefit of introducing case management tools to support Magistrates who are not often involved in child protection proceedings was noted by a Magistrate in a regional court location:

“I reckon bench books are fantastic things ... It's okay to have specialists [dedicated Magistrates] but if you can't have specialists being able to preside over all the courts then you are going to get Magistrates who don't have a lot of experience in this area doing the work, so access to [tools] is fantastic.” (Magistrate)

Given the court case management framework has only recently been implemented, it will not be possible to comment about its impact on case management until future evaluations.

A second limitation is the extent to which dedicated Childrens Court Magistrates are able to share their knowledge and expertise across the state. In the program logic for Work Package 36 (WP36), an intended outcome of appointing dedicated Childrens Court Magistrates is “improved leadership and expertise in the Childrens Court” (see Appendix 1). This outcome assumes that appointing dedicated Childrens Court Magistrates will have an effect on the Childrens Court as a whole, even in locations where there is no specialisation. Interviews with Magistrates seem to indicate there have been few opportunities for non-dedicated Childrens Court Magistrates to access the expertise and experience of those Magistrates who regularly hear child protection proceedings, although one respondent had a different view, indicating that Childrens Court Magistrates shared their expertise informally over the phone with their colleagues. To some degree, regional and statewide Magistrates conferences have provided an avenue for this to take place more formally; however, there has been a limited focus on child protection to date.

3.4. Cultural competency and the role of the Recognised Entity

A central focus of the child protection reforms is reducing overrepresentation of Aboriginal and Torres Strait Islander families and children. Although there are no specific recommendations in the court reforms targeting this issue, it is an important cross-cutting theme of the reforms that must be reflected in all work undertaken to strengthen the child protection system.

For this reason, survey respondents were asked to rate the performance of the Childrens Court against a range of domains. Respondents were most positive about the extent to which the Childrens Court upholds the general principle that Aboriginal or Torres Strait Islander children should be cared for within their own community, with over a third of respondents indicating that performance was either ‘good’ (28%) or ‘very good’ (17%) (see Figure 2). A quarter of respondents believed performance was ‘fair’ in this domain. Respondents gave similar ratings to the performance of the Childrens Court in giving adequate weight and attention to the cultural needs of Aboriginal and Torres Strait Islander children, although in this domain over a quarter of respondents (27%) reported that the performance of the Childrens Court was ‘poor’ (20%) or ‘very poor’ (7%). The least favourable ratings were given to whether the Childrens Court demonstrates culturally appropriate mechanisms and processes (see Figure 2). Although close to a third rated the performance of the court as ‘good’ (24%) or ‘very good’ (8%), close to a third indicated that the Childrens Court was performing poorly (21%) or very poorly (7%) in this domain.

How would you rate the performance of the Childrens Court in:

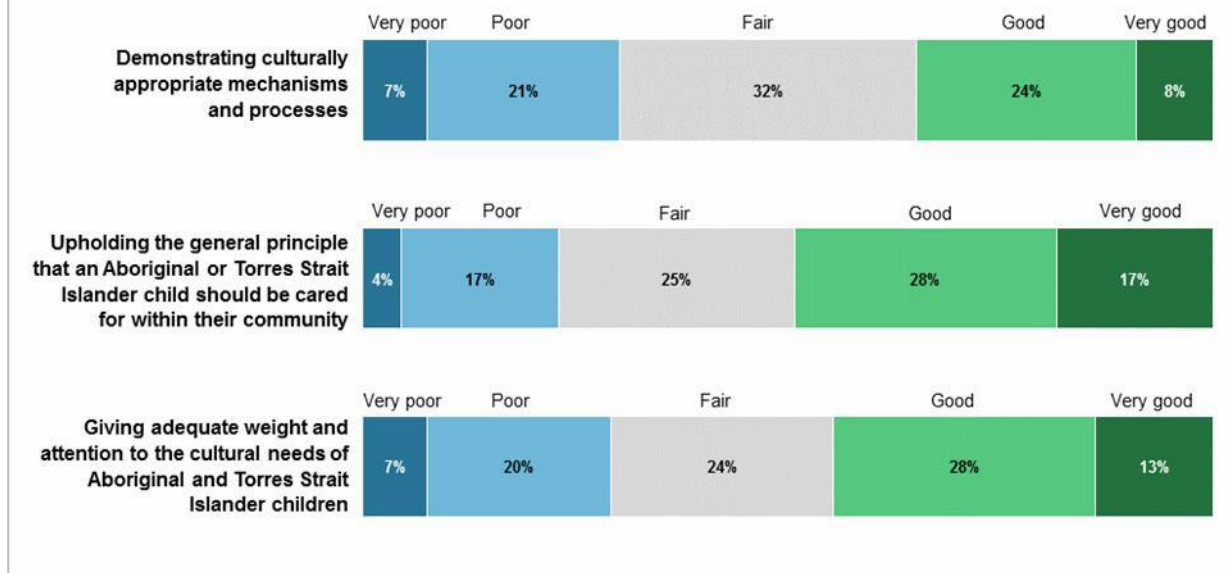


Figure 2: Justice stakeholder perceptions of the cultural competency of the court

Source: Survey of justice stakeholders (n=71)

During focus groups and interviews, respondents identified a number of barriers specific to Aboriginal and Torres Strait Islander children and families. One key issue was the lack of trust Aboriginal and Torres Strait Islander families have in the child protection system. In many cases, historical events, combined with contemporary overrepresentation in the criminal justice system, has resulted in a fear of courts and tribunals.

Another issue raised in relation to participation by Aboriginal and Torres Strait Islander families in child protection proceedings is the importance of extended family and their role in courts and tribunals. The Inquiry made a recommendation that changes be made to legislation to enable participation by non-parties under section 113 of the Act. In its report, the Inquiry made specific mention of the cultural notion of 'family' in Aboriginal and Torres Strait Islander communities and the potential value of their role in courts and tribunals.

A number of respondents in focus groups raised the changes to section 113, highlighting in line with the Inquiry that this has been a barrier to participation by extended family members. As one RE described:

"Section 113 non-parties for, say family members from the community that want to have their say about their grannies or whatever - they can't cross-examine witnesses because they're non-parties... Those family members, being grandparents, are just as important in our communities [as] anyone else. And they should be heard in the Court in relation to those children." (Recognised Entity)

Respondents were positive about the changes to section 113 of the Act (which commenced 25 May 2016), and the potential role that extended family may play in court proceedings in the future.

Role of the Recognised Entity in court proceedings

REs play an important role informing the Childrens Court about cultural considerations in child protection proceedings. Under section 6 of the Act, the chief executive or authorised officer must give an opportunity to an RE for the child to participate in decision-making when a significant decision about an Aboriginal or Torres Strait Islander child is made. When making a decision other than a significant decision, the Act requires that the RE be consulted prior to a decision being made. Section 6(4) stipulates that, if the Childrens Court exercises a power

under the Act in relation to an Aboriginal or Torres Strait Islander child, the court must have regard to the views of the RE (or a member of the child's community if this is not practicable) about the child and about Aboriginal tradition and Island custom.

An RE may be an individual or organisation that is appropriate to be consulted about the child's protection and care under an agreement with DCCSDS. There are a number of requirements that must be met depending on whether the RE is an individual or organisation, and DCCSDS must keep a list of REs with whom to consult about the protection and care of Aboriginal or Torres Strait Islander children. The majority of REs in Queensland are member organisations of the Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP).

Several RE agencies consulted during the evaluation had recently created dedicated Court Officer positions responsible for liaising with other REs and attending court on behalf of the organisation. This was described as a positive change, as Court Officers were able to develop a knowledge of the court system and familiarity with the court process. As one RE commented:

"It's great that we now have this new position; someone with court experience who knows that language because it's a completely different language ... That was a barrier as well. You know sort of standing there, feeling intimidated, you've got no idea what anyone's talking about. And then trying to put forward a view that needs to be heard but you're not quite sure how you're saying it."

The quality of evidence file review provided an opportunity to assess the involvement of the RE at court in a small number of matters. Of the 20 files reviewed, six related to Aboriginal and Torres Strait Islander children. Evidence on the files of these six matters showed that in four matters the RE was given an opportunity to participate in significant decisions. However, it was unclear whether the court had considered the views of the RE in these six matters.

When surveyed about the level of regard the Childrens Court gives to the views of the RE, justice stakeholders were generally positive, with close to half rating performance as 'good' (23%) or 'very good' (21%) (see Figure 3). However, close to a third (29%) also rated

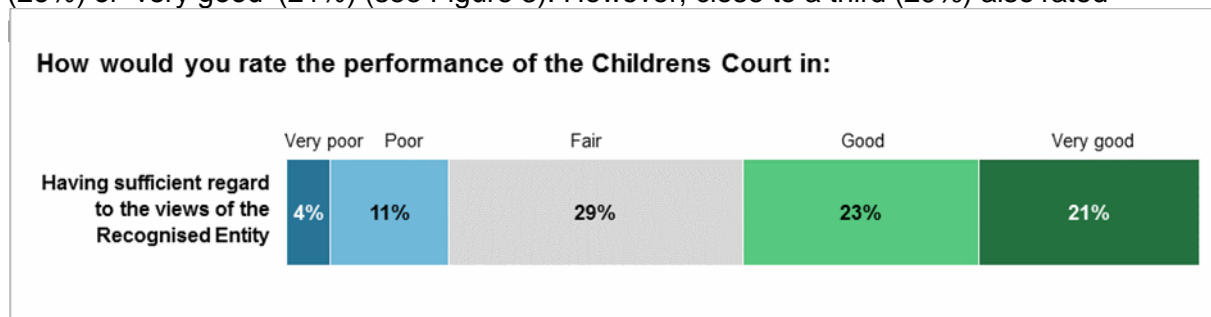


Figure 3: Justice stakeholder perceptions about the regard paid by the court to the RE
Source: Survey of justice stakeholders (n=70)

The Magistrates consulted as part of the evaluation spoke about the importance of the RE role and the weight they placed on their advice during the court proceedings. As two Magistrates commented:

"I will not progress the matter until I've heard from the Recognised Entity... I will not progress an application until I know they've spoken with mum and dad... I understand the Act requires of us to really take note of what the Recognised Entity requires. Particularly in remote areas where there's a high Indigenous population. I think it's important that more than lip service be given to those provisions." (Magistrate)

"The Recognised Entity is good... and I really take a great deal of notice of what they say and I think they've started to realise that... I think they're realising that they do

have a voice in my court ... they've actually changed my mind [about some orders]."
(Magistrate)

All the REs consulted as part of the evaluation reported they felt heard and respected by the Magistrates. A number of REs commented about the value they felt the court placed on their views:

"We do have a very good Magistrate in that regard... If we have something to say, [the Magistrate] will allow that opportunity. For sure. She's quite open." (Recognised Entity)

"I think we recognise that we're very fortunate to have the Magistrates that we do. I think that they place great weight on the Recognised Entity in terms of what the Act allows. I believe that we have a real voice pursuant to the Act... They listen to us and they take it into account. We're not disregarded in any of the matters I've advocated for." (Recognised Entity)

"They listen to us... Usually in the Magistrate's summation [in a contested hearing] reference is made to the Recognised Entity and our input is reflected... So it means that the Magistrates listen... They really want to know verbally from us if we have been involved, if we have all the information and what our view is... The Magistrate wants to hear what we've got to say." (Recognised Entity)

"It's fantastic [being at court]. It shows that we're respected for our views and that our views mean something... I feel that we're being classed as equals... I do feel we're valued in the courtroom." (Recognised Entity)

The comments made by REs underscore the importance of the Magistrate in encouraging participation and ensuring REs feel their voice is heard in proceedings.

While REs were positive about their role in the court process, they also identified a number of issues and limitations (summarised in Table 6 below). Although many of these are not directly within the control of the Childrens Court it is important to recognise the constraints faced by REs in their work.

Table 6: Issues faced by Recognised Entities

Issue	Comments	Illustrative quotes from respondents
Status of the RE in proceedings	Several REs raised their lack of party status in proceedings as an issue. Although they recognised that changing this aspect of their mandate would necessitate changes to procedure and protocol, REs also described situations where their status had caused them to feel 'shut out' by DCCSDS. This was particularly important when they were in opposition to an order, as they felt their status in proceedings could be questioned and their influence limited as a result.	<i>"There is an issue around the Recognised Entity being a party to the proceedings ... I know that it causes probably a whole lot more protocols and procedures for the Recognised Entity ... If we're disagreeing with a child protection order that Child Safety is putting across ... they'll let us talk and have our say and then step forward and say "But they're not a party to the proceedings" ... shut you down."</i> (Recognised Entity)
Access to information and materials from DCCSDS	REs noted that they occasionally had difficulty accessing information and materials from DCCSDS. They felt this limited their ability to make independent and informed assessments about the appropriateness of the orders sought by DCCSDS.	<i>"I guess the main challenge is getting ... accurate information from the Department, in a timely manner. Even though the legislation states that they're supposed to be consulting with a RE, we are forever having to chase them going, "What's the update for this family? Where's the paperwork for this?" It's been an ongoing barrier for many years."</i> (RE)

Definition of 'significant decision' for the purposes of RE involvement	One RE noted that the issue of what constituted a 'significant decision' under the Act should be clarified. In his/her perspective, this would help ensure that the RE is consulted on all significant decisions, not only when invited to do so by DCCSDS.	<i>"That really does need to be clarified, as to what a 'significant decision' is, because I know many times the Department will go ahead and do something. We might find out about it two, three, four weeks later. And they'll go, "Oh well we didn't think it was a significant decision, we didn't consult you". " (Recognised Entity)</i>
Difficulty resolving the role as RE with a desire to advocate for families	A difficulty discussed by a number of REs was the challenge of resolving their position as linked to DCCSDS with their role as a community member. Several REs spoke of their desire to assist and advocate for families from their community, but felt unable to do so because of their relationship to DCCSDS.	<i>"The other thing they've stopped for us is that we're not allowed to advocate for the families to I suppose – once upon a time in the old days, we used to be able to direct our families to a solicitor or legal people, that sort of thing. We're no longer able to do that." (Recognised Entity)</i>

Source: RE focus groups

3.5. **Timeliness and efficiency**

The long-term goal of WP36 includes reference to the timeliness of outcomes in the Childrens Court. The Inquiry made a number of comments about the efficiency of courts and tribunals, underscoring the need to provide children and families with decisions as quickly as practicable.

Timeliness is an important measure in judging the success of child protection reforms. As the Inquiry report stated:

"...avoidable and undue delay are unacceptable in child protection... In child protection proceedings time is of the essence, because a child ages fast through the process and may be disadvantaged by delay." (p.456)

However, delay in child protection proceedings is not always easy to pin down. There are many reasons for adjournments in these proceedings, including the need to arrange specialist reports, the need to secure legal representation and for legal representatives to take proper instructions, and the need to coordinate the attendance of all parties that must be present. The data presented here do not necessarily provide the level of detail to enable an accurate picture of how delay is caused, and therefore how to reduce it. In fact, with the introduction of the reforms contained in WP36, delay may well be compounded in the short term until new processes are streamlined and courts have accommodated the wide range of changes that were envisaged by the Inquiry. These matters will be further explored when the study is replicated.

In terms of the baseline measures of timeliness, this report presents timeliness arising from several data sources:

- the quality of evidence file review
- perceptions of legal stakeholders taking part in the survey of justice stakeholders
- Magistrates Court data
- QCAT data.

These data are further illustrated by comments provided by interviewees and focus group participants.

Information from the quality of evidence file review provides a small snapshot of timeliness in 20 matters reviewed as part of the exercise. Table 7 below shows that in about half of the matters, the duration between the first and last court dates was six months or less, but for nine matters the duration of the court involvement was greater than six months. In three of these matters, the court involvement was greater than 12 months.

Table 7: Time elapsed between first and last court events

Up to 12 weeks	3
13 to 26 weeks	5
27 to 40 weeks	4
41-52 weeks	4
More than one year	3
Missing	1
TOTAL	20

Source: Quality of evidence file review

Opinions of justice stakeholders surveyed about timeliness were mixed (see Figure 4). Over 40 per cent of respondents (n=85) felt the performance of the Childrens Court in making timely decisions was either 'good' (30%) or 'very good' (11%). A third of respondents rated performance as 'fair' (33%) and a quarter (25%) rated performance as 'poor' or 'very poor' (see Figure 4).

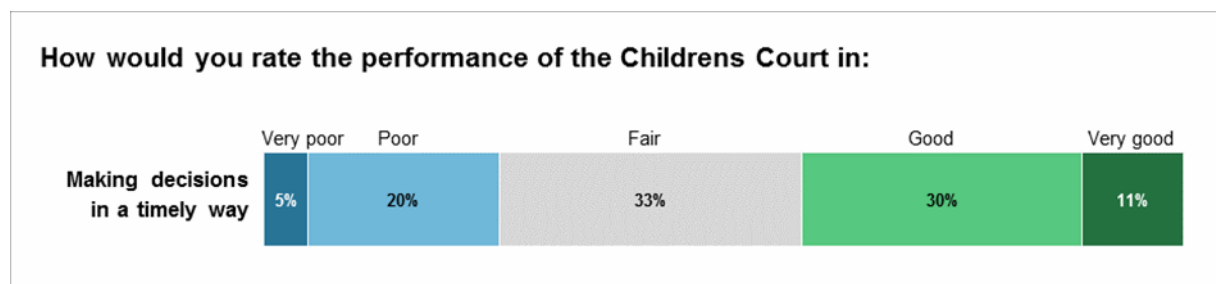


Figure 4: Justice stakeholder perceptions about the timeliness of decisions in the court

Source: Survey of justice stakeholders (n=83)

Data from the Magistrates Court presented in Table 8 show that, over the previous four financial years, the clearance rate for child protection matters has been between 94 and 103 per cent. The proportion of pending applications older than six months from the date of lodgement was, in general, approximately a third. Pending applications older than 12 months varied between 8.6 and 11.3 per cent.

Table 8: Child protection lodgments, finalisations, clearance rate and backlog

Year	Lodgments ¹	Finalisations ²	Clearance Rate ³	Backlog ⁴ over 6 months to 12 months	Backlog over 12 months	% > 6 months	% >12 months
2011-12	3,776	3,549	94.0%	248	111	34.6%	10.7%
2012-13	3,951	3,921	99.2%	244	92	31.3%	8.6%
2013-14	3,499	3,609	103.1%	230	91	33.0%	9.3%
2014-15	3,570	3,514	98.4%	234	117	33.9%	11.3%
2015-16	3,979	3,910	98.3%	277	132	36.6%	11.8%

Source: Queensland Wide Inter-linked Courts (QWIC) database

Notes:

1. Lodgments are counted based on the first originating application lodged on each case file within the financial year in accordance with Report on Government Services (RoGS) counting rules. It is not a count of children.
2. Finalisations are counted based on RoGS counting rules. The application is finalised when it ceases to be a unit of work before the court
3. Clearance rate is derived by dividing finalisations into lodgments. It is an indication of the courts ability to meet workloads.
4. Backlog is derived by identifying the number of pending (active) applications that are older than 6 or 12 months from date of lodgement.

The time taken to finalise applications (by application type) is shown in Table 9. As the data show, the average time taken to finalise a CPO grew from 128 days on average in 2011–12 to 156 days in both 2013–14 and 2014–15. In general, time to finalise Court Assessment Order applications, Temporary Assessment Order applications and Temporary Custody applications remained relatively constant.

Table 9: Time to finalisation by application type in average number of days

Year	Child Protection Order	Court Assessment Order	Temporary Assessment Order	Temporary Custody Application
2011-12	128	9	0	0
2012-13	150	10	0	0
2013-14	156	11	0	0
2014-15	156	9	0	0
2015-16	156	11	0	0

Source: QWIC database

Respondents in interviews and focus groups unanimously recognised the importance of timely outcomes. As one interviewee commented:

“The child protection applications can just go through court so slowly and I understand that there’s no one real solution to solve that – just as an example I had – you know children were removed, going for a short term order. It sat in Court for 18 months before the order was made for two years. So technically those children were in care for about three and a half years under a two year order.” (Recognised Entity)

Despite widespread agreement about the importance of avoiding delays, a number of respondents pointed to the difficulty of achieving fast outcomes in practice. Lawyers described the process as follows:

“It just takes so long ... The process of having a mention, adjourning it off for an FGM [family group meeting], adjourning it off to get the sep rep [separate representative] involved, adjourning it off to get the social assessment report, which can take months

... You adjourn it off to get the COC [court-ordered conference], you adjourn it off because something else might have happened, and you adjourn it off to maybe have a trial in six months time.” (Lawyer)

“Generally the Department can seek, what, half a dozen adjournments, which is not uncommon and the minute you seek one adjournment – that person’s fault there.” (Lawyer)

“The other issue that you have in terms of the length of the delays and more often than not the Department will refuse to disclose to you certain material or you’ll get disclosure on the day of a court-ordered conference.” (Lawyer)

Magistrates also noted that, currently, their ability to curtail the length of proceedings is limited as they are required to follow the process laid out in the Act and are dependent on the applicant and parties to undertake certain steps. One Magistrate did comment that, if the circumstances permit, they are able to dispense with the court-ordered conference and reduce the time to reach a decision by several months. However, it was noted that this only occurs rarely.

Several other Magistrates were positive about the potential impact that the establishment of the DCPL could have on the timeliness of proceedings:

“If it [DCPL] works to its full potential then I would expect that most matters would be resolved much, much, much more quickly ... there’d be less paperwork ... less adjournments, less affidavits ... potentially more informed views at an earlier stage.” (Magistrate)

“The process is normally not a swift one and it’s not until very close to the date of the hearing that that dispassionate assessment of the application is made by the various parties ... I can certainly see great merit in [DCPL] that will deal with applications ... My major wish item would simply be that so much work that’s done at the end of the process should be done far earlier in the process.” (Magistrate)

Stakeholder views about the establishment of the DCPL are discussed further in Section 3.6.

3.6. Views of stakeholders about establishment of DCPL

The Inquiry recommended that an independent officer be created to act as the litigant in child protection proceedings. The DCPL is intended to provide greater accountability and oversight for CPO applications that are being sought by the chief executive, by ensuring that applications filed in court are supported by good quality evidence, promoting efficiency and evidence-based decision making.

In general, stakeholders such as lawyers and Magistrates were very positive about the potential of the DCPL and the intended benefits it would bring to the court process:

I have high hopes for the Director of Child Protection Litigation.” (Magistrate)

“I think whilst the Court Coordinators do an absolutely sterling job, I couldn’t agree more that perhaps someone that’s a little bit more independent and can cast a little bit more objective eye over the material and the evidence on both sides, I think that can really only help the process.” (Magistrate)

Despite the general sense of optimism about the establishment of the DCPL and the benefits it could bring for the court process, there were a number of concerns raised by various stakeholders (summarised in Table 10 below).



Table 10: Concerns about the DCPL model

Concern	Comments	Illustrative quotes from respondents
Brisbane-based model and lack of 'on the ground' presence	<p>Several respondents raised concerns about the Brisbane-based model, especially in relation to whether this would meet the needs of regional and remote centres. Concerns were raised about the technological implications of joining several parties to a proceeding by teleconference. A particular concern raised by one Magistrate was the impact this may have on Aboriginal or Torres Strait Islander clients, who may be reluctant to speak during proceedings.</p> <p>Some respondents were concerned that the lack of 'on the ground' presence due to the Brisbane-based model would negatively impact on what currently occurs before and after court events. Several respondents described the importance of meeting face-to-face with DCCSDS, legal representatives and the RE (if applicable) prior to mentions or hearings occurring. There were concerns that this would no longer be possible with a centralised DCPL team.</p>	<p><i>I thought it [the Brisbane-based model] was the most ridiculous idea I had ever heard. It was going to further impact on these very disadvantaged families ... I don't think the DCPL fully understood that, how I could deal with that with them remote. Sometimes at least one parent is remote and appearing by phone or video. You add into that, language issues, and just the general reluctance of many Indigenous people to speak out, and it just becomes a huge problem." (Magistrate)</i></p> <p><i>"What happens on our court mention dates is integral to a lot of things. You have the respondent's legal reps, you have the sep reps [separate representatives] appointed by the court, you have your RE and you have your Court Coordinator. And usually before court we have a scrum and we decide what's going to happen ... There's a lot of that interaction – that was my concern I won't have that opportunity with the JAG [DCPL] solicitor." (Recognised Entity)</i></p>
Potential negative experience for parties	<p>A central concern of some Magistrates and a number of NGO representatives was the potential impact of the DCPL on parties, especially vulnerable parents. As Magistrates described, parents need encouragement to participate in court proceedings. Some respondents were worried that parents and other parties would be less willing to put forward their views once the DCPL was established, due to feeling intimidated by the presence of an unknown legal professional. One Magistrate also noted the potential for parents and other parties to react negatively to appearances made via telephone.</p>	<p><i>"Parents, at the moment, are willing to stand up in court ... But whether they would be intimidated by someone who's a lawyer from the Department and be a little bit bullied, I'm hoping that's not going to happen." (Magistrate)</i></p> <p><i>"It's going to be very difficult if the parents do appear in person to have the applicant appearing by phone, because they're not going to be talking to the parents beforehand or after. They're perhaps not going to have any contact with the parents at all. They're going to be this disembodied voice in the courtroom. And you know how people react to somebody who they've never seen or heard before, talking about their kids ... In some sort of semi-informed way, without having ever spoken to them." (Magistrate)</i></p>

Source: Interviews and focus groups

As the DCPL was established on 1 July 2016, it is not possible to assess its effectiveness or the appropriateness of the Brisbane-based model until future evaluations. However, it is important to recognise the current perceptions of stakeholders about its establishment and potential impacts, both intended and unintended.

4. QCAT process improvements

Key points from this chapter

- There has been a statistically significant reduction in the case length (in weeks) for child protection matters at QCAT. The data also show a substantial reduction in variation, meaning that case length is generally more consistent.
- There was no significant reduction in time to compulsory conference (a second measure of timeliness) pre- and post-Inquiry.
- Qualitative evidence suggests that participation by children and young people in QCAT proceedings has improved. This was unanimously attributed to the introduction of OPG CAs, rather than any action taken by QCAT.
- Children and young people still face barriers to participation at QCAT. In particular, respondents raised a concern that children and young people may not be aware of their right to review.¹⁰
- A number of specific barriers were raised in relation to participation by Aboriginal and Torres Strait Islander children and families, including the difficulty in conducting hearings remotely for rural locations. Respondents also identified the small number of Aboriginal or Torres Strait Islander Members in the QCAT child protection jurisdiction as an ongoing challenge.
- A particular barrier for parents' participation at QCAT was the long and complex Statement of Reasons provided by DCCSDS, which can make it difficult for parents to engage with the material under review.
- In response to the Inquiry recommendation about the publication of outcomes, QCAT has commenced collecting data on key themes raised at compulsory conferences and is now providing all parties to a matter with a written record of what has been agreed during the review process.

4.1. Introduction

The Inquiry was critical of time delays at QCAT, which were raised in a number of submissions that cited case studies of matters taking six months or more from point of hearing to final decision.¹¹ In its final report, the Inquiry also found that QCAT was less willing to encourage the participation of children in proceedings and conferences than its predecessor the Children Services Tribunal. In response to these issues, the Inquiry recommended that QCAT consider improved practices for child-inclusive processes and timely consideration of matters. In addition, the Inquiry recommended QCAT ensure the publication of outcomes of matters being resolved as part of the compulsory conference process. These three areas of reform comprise recommendation 13.27.

4.2. Timeliness

Data on the timeliness of matters at QCAT were drawn from the agency's administrative database. The 2011–12 and 2012–13 financial years were used as a comparison point for post-Inquiry data from the 2013–14 to 2015–16 financial years.

¹⁰ It is the responsibility of DCCSDS to inform children and young people of their right to review a DCCSDS decision.

¹¹ Queensland Child Protection Commission of Inquiry 2013, *Taking responsibility: A roadmap for Queensland child protection*, State of Queensland, p.495.

Findings from the analysis of QCAT administrative data show there has been a statistically significant change in case length since the Inquiry. There has also been an improvement in the number of weeks to compulsory conference since the Inquiry.

As Table 11 shows, the mean case length was over 20 weeks prior to the Inquiry and dropped to below 20 weeks post-Inquiry. The standard deviation, which is a measure used to quantify the amount of variation in a dataset, also decreased.

An independent t-test was conducted to ascertain whether the decrease in the case length in weeks was statistically significant. A t-test is used to compare two groups and to understand whether the difference between them is due to random chance or a real difference. A t-test for case length compared the pre-Inquiry mean case length of 25.47 weeks to the post-Inquiry mean of 18.33 weeks. The t-test found that the difference was statistically significant, which means we can be confident that the reduction in case length is a real difference and not generated by random chance.¹²

Table 11: QCAT case length in weeks by financial year finalised

Financial year	Mean (weeks)	Standard deviation	Interquartile range	Median (weeks)
2011–12 (n=194)	27.47	28.85	24.28	19.21
2012–13 (n=178)	23.28	23.80	24.14	14.50
2013–14 (n=159)	18.60	17.83	15.71	12.29
2014–15 (n=149)	18.46	17.05	17.14	12.71
2015–16 (n=153)	17.93	14.28	14.00	13.14

Source: QCAT administrative database

These trends in the data are shown in the boxplot below (see Figure 5).

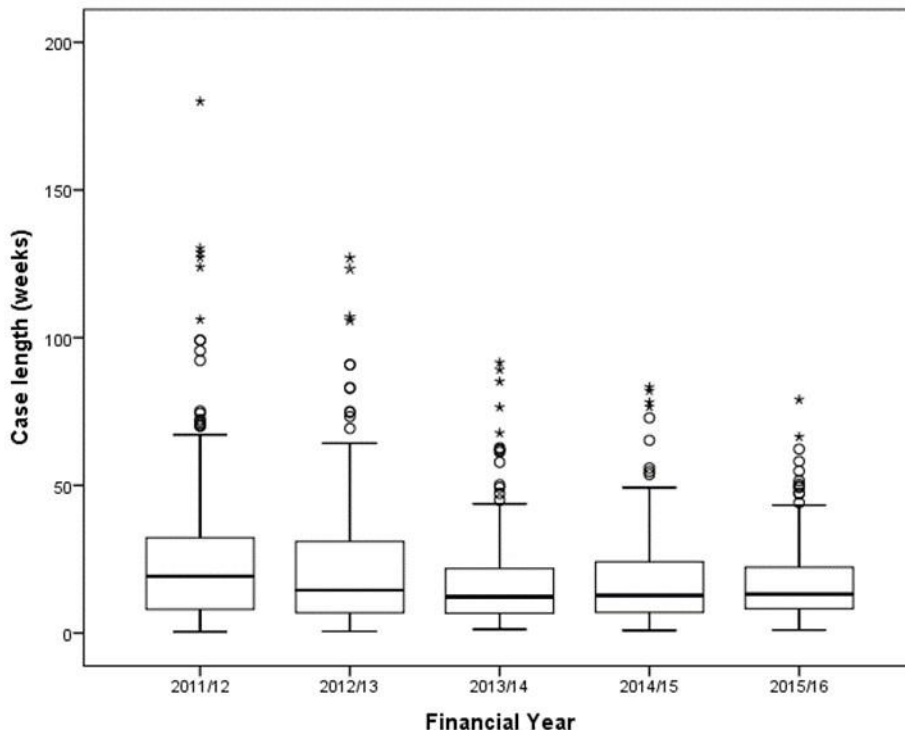


Figure 5: Case length in weeks, 2011–12 to 2015–16

Source: QCAT administrative data

¹² $t(831)=4.74, p<0.0001$

Table 12 shows the time to first compulsory conference in weeks for child protection matters at QCAT. As the data show, the average time to first compulsory conference in weeks has generally decreased since the 2011–12 financial year, although the averages in 2014–15 and 2015–16 show an increase from the year prior. The standard deviation shows a similar pattern. Table 12 also shows a substantial decline in the interquartile range in the data for time to first compulsory conference, though an increase was observed in 2015–16. The interquartile range decreased from 8.71 in 2011–12 to 4.43 in 2015–16.

Table 12: QCAT time to first compulsory conference in weeks by financial year finalised

Financial year	Mean (weeks)	Standard deviation	Interquartile range	Median (weeks)
2011–12 (n=194)	8.97	9.42	8.71	5.93
2012–13 (n=178)	7.05	4.82	5.71	5.86
2013–14 (n=159)	6.78	4.28	3.86	5.71
2014–15 (n=149)	7.46	4.66	3.71	6.57
2015–16 (n=153)	8.78	6.06	4.43	7.43

Source: QCAT administrative database

These trends in the data are shown in the boxplot below (see Figure 6).

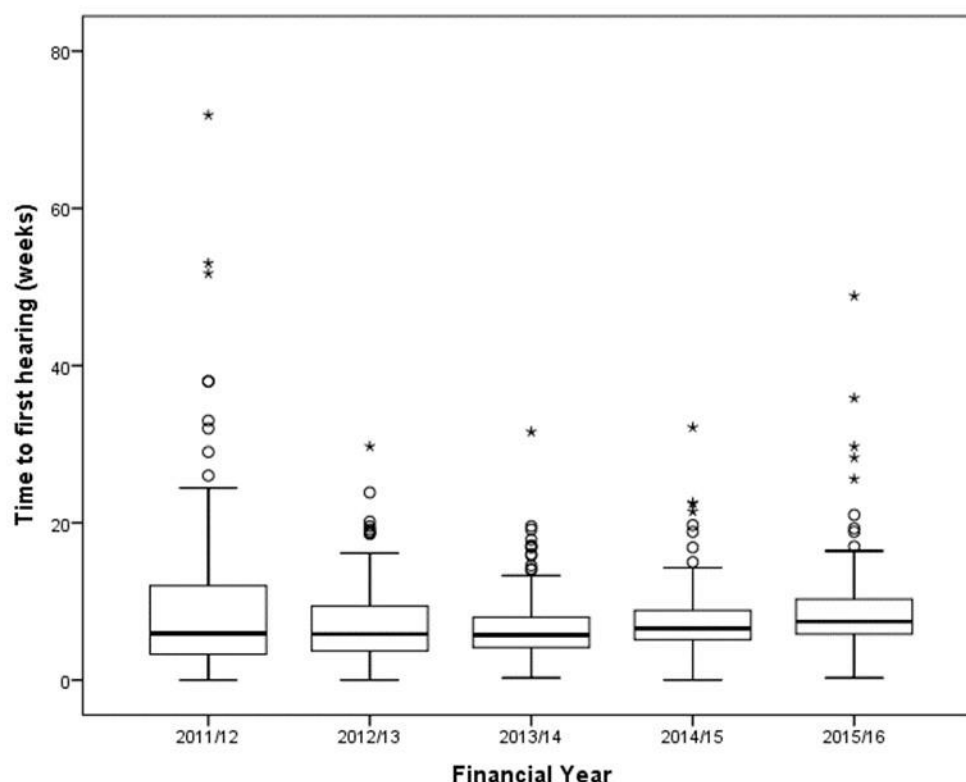


Figure 6: QCAT time to compulsory conference in weeks, 2011–12 to 2015–16

Source: QCAT administrative data

An independent t-test conducted to compare the mean (average) time to compulsory conference in weeks pre- and post-Inquiry did not generate a statistically significant result.¹³ This means we cannot be confident that the difference observed in the data was generated by random chance.

¹³ $t(831) = -0.875$, $p = 0.382$

Although the data show some positive trends in timeliness, one interview respondent identified the Tribunal's lack of resources as a constraint to timely decision-making, saying that the volume of applications received by QCAT prevented matters from being finalised more quickly than is currently the case:

"Our real challenge is not from the Carmody recommendations; it's the lack of resources generally the Tribunal has... We're flooded with reviews of child protection decisions... We just don't have the resources or the ability to have more hearings or more conferences... So you'll probably find that our ability to respond quickly is quite limited, and... non-urgent applications that don't ask for stays [stay hearings], they will not touch the Tribunal for at least two months after they're received." (QCAT Member)

It will be important that QCAT continue to monitor the timeliness of matters in child protection proceedings, and to take any possible steps within existing resources to improve case length and time to first compulsory conference.

4.3. Participation

This section outlines evaluation findings that relate specifically to participation at QCAT. Findings about participation in courts and tribunals more generally are presented in Chapters 7 to 9.

Participation by children and young people

In response to the Inquiry recommendation that QCAT make its processes more child friendly, QCAT has published a practice direction outlining the ways in which children and young people are able to participate in QCAT hearings.

The clear finding from interviews conducted with QCAT Members was that the introduction of the OPG CA program had brought about the most significant change in young people's participation in Tribunal proceedings since the Inquiry.¹⁴ In fact, the establishment of the CA program was frequently cited by interviewees as being the biggest, or only, change at QCAT overall since the commencement of the reforms. A number of QCAT Members spoke of the impact the program had:

"Even though it's not a direct QCAT reform, it has certainly had the best impact. We find that normally the involvement of the Public Guardian has been really useful." (QCAT Member)

"The most stand out [change] has been the involvement of the Office of the Public Guardian and I think that, if I'm really truthful, that has been the only change." (QCAT Member)

"The most significant thing in terms of participation of children and young people in the Tribunal has been... the Child Advocates." (QCAT Member)

Respondents spoke about the difficulty in accessing the views of children and young people prior to the establishment of the CAs, as their wishes generally had to be inferred from documents unless they were actively taking part. As one interviewee described:

"Unless the child was old enough to actually attend, it had to be gleaned through... any counselling reports or what the Department said. With all due respect, at times what came through was not necessarily a clear description of what the child really wanted, so I think the child's voice was lost unless they were actively taking part... The voice of the children in those cases wouldn't be heard because... it was difficult to get the children involved, and I think it's much better now. Particularly, as I say, with the [Child Advocates] which we think is a great advancement." (QCAT member)

¹⁴ CAs provide children and young people in the child protection system with increased access to legal assistance (including supporting and representing their voice in legal proceedings) and advice, assistance and support with problems or disputes (including access to mediation services).

Since the introduction of CAs, respondents reported that it was easier for them to access the views and wishes of children and young people:

“Certainly I think having the youth advocates has meant that we see an increased opportunity for young people to have their views put to the Tribunal. There’s been some increase in being able to speak directly with young people... I think it’s one of the benefits of having the youth advocates there is that they really can represent, in a very neutral and impartial way... what the young people’s views are... It’s an effective way, of really getting the children or young people’s perspective... into the proceedings and I think that was lost before.” (QCAT Member)

Although respondents were overwhelmingly positive about the CA program, one issue was raised. The Act is prescriptive about what categories of person can be present when a child or young person gives evidence or information to QCAT Members. A number of respondents were concerned that this does not extend to OPG CAs. This means that, even when a CA has provided support to a young person throughout a QCAT proceeding, they may be precluded from being present when that young person is giving their views to QCAT Members. Several respondents expressed a desire that this be clarified in the legislation.

Barriers to participation by children and young people at QCAT

More extensive data about the barriers to children and young people’s participation are provided in Chapter 7. However, respondents also identified some barriers specifically in relation to QCAT, which are outlined in Table 13.

Table 13: Barriers to children and young people's participation at QCAT

Barrier	Comments	Illustrative quotes from respondents
Decision letters and knowledge of right to review	A number of respondents raised the concern that children and young people may not be informed of their right to review at QCAT. This issue has been raised with DCCSDS, who are required to provide children and young people with a decision letter each time a reviewable decision is made. Despite the action that has been taken to mitigate this barrier, it remained a concern for several respondents.	<p><i>“It’s all predicated on whether children and young people receive a decision letter, and if they don’t receive a decision letter when a decision is made about them or for them, are they then informed of their rights of review?” (QCAT Member)</i></p> <p><i>“[What the] CREATE [Foundation] has told us is they [young people] don’t know about QCAT, they don’t know about decision letters. There’s still this systemic thing and it’s not QCAT that can drive that knowledge. It has to come from the Department as well as those people who support them.” (QCAT Member)</i></p>
The QCAT process is daunting for young people	Several NGO representatives questioned whether QCAT processes were child friendly. A number of respondents had received feedback from the young people they support that the Tribunal was an intimidating environment and the review process was too complex.	<p><i>“[The QCAT process] became too big, too many barriers ... We were able to have a discussion and a review by the Department internally ... we were kind of able to bypass QCAT through our own advocacy. I know [the young person] wanted to go down that path but it was too daunting.” (NGO representative)</i></p> <p><i>“For young people - that pathway needs to be simplified ... because [the young person] had to have the placement letter, and had to submit the forms in the timeframe ... So for him it was, “oh, this is all too hard”. We advocated a different way... I think one of the reform strands is about making QCAT more friendly - you know, I don’t know what they’ve done in that space.” (NGO representative)</i></p>

Source: Interviews and focus groups

Participation by Aboriginal and Torres Strait Islander families

As Aboriginal and Torres Strait Islander children and families are a focus for the reforms, interviewees were asked about the barriers facing this cohort in accessing courts and tribunals.

Similarly to the court process, respondents pointed to historical factors that can result in a deep mistrust of the child protection system among Aboriginal and Torres Strait Islander communities:

"I think that engagement with Aboriginal and Torres Strait Islander people [is] deep rooted. I don't think they trust the system." (QCAT Member)

"There are a whole range of reasons why Indigenous parents may or may not come to the Tribunal. It might be that it's all too hard, or it may be that there's a trust issue ... why would we trust a Tribunal to make a decision in our favour, because our experience [of the child protection system] has been a negative experience?" (QCAT Member)

However, respondents also noted that the tribunal was not geared to operate in a way that was accessible for Aboriginal and Torres Strait Islander clients, particularly those based in remote locations:

"We also know that the whole structure and the way the tribunal operates, probably isn't really conducive to Indigenous ways of resolving disputes. So I think that we try our best to make those as culturally sensitive as you can. But let's be real, you know, if you're sitting in a hearing room in Brisbane and you're talking with applicants by phone ... Making that connection is hard." (QCAT Member)

Several REs also described the QCAT process as intimidating, more so than the court process:

"It's very formal. I mean they say that it's more of an informal process but to me I feel it's more formalised than court because... you have these people that are sitting there at this table and they're just looking at you." (Recognised Entity)

One RE organisation reported that their involvement with QCAT had declined. In their view, the RE should be involved at the Tribunal when appropriate, in order to provide cultural advice and information:

"Previously we had quite a bit of involvement with QCAT as in the Recognised Entity were needed to put in a report, that we would attend the QCAT hearings and obviously address the panel within QCAT. The last couple of years it's been a little bit different ... When an application is made to QCAT, then the Department are informed. We're not informed unless the Department inform us... I feel that as part of the Recognised Entity we should be included in that, part of that decision making... it's important that the Recognised Entity should be involved due to cultural reasons and again the panel should take on the cultural considerations." (Recognised Entity)

A key theme raised by QCAT Members in relation to participation by Aboriginal and Torres Strait Islander children and families was the small number of QCAT Members that identify as Aboriginal or Torres Strait Islander. Respondents were clear about the benefits of having additional Aboriginal or Torres Strait Islander Members, both for applicants and the Tribunal as a whole:

"Even without their being involved on matters specifically, the benefit that we derive from those occasions when we do sit with them... from their input and experience ... [we] get a greater understanding of the... things that we need to do and be aware of when we don't have the benefit of having them with us... We've had that knowledge imparted by them. So that's very good. As to Indigenous applicants, obviously if they walk in and they see that there's an Indigenous Member on the panel, I'm sure that is greatly reassuring to them, so that there is somebody there who understands from their perspective a lot of the issues that they have, a lot of the concerns that they have." (QCAT Member)

However, a number of respondents recognised that it was often difficult for QCAT to arrange for an Aboriginal or Torres Strait Islander Member to sit on the panel for relevant matters:

"There is a provision within the Child Protection Act for an Indigenous Member to be on the panel if practicable. Regrettably, the practicable part is not so easy for us at the

moment because we only have a couple of Members who are Indigenous. So there are times when we would dearly like to be able to have an Indigenous Member on a panel but it's simply not able to be done because there isn't the availability. We don't have any full-time Indigenous Members.” (QCAT Member)

It was noted by some respondents that QCAT had recently encountered difficulty in recruiting and appointing Members that identify as Aboriginal or Torres Strait Islander, making it challenging to address this issue.

Participation of parents and other parties

A key issue raised in relation to participation by applicants such as parents and carers in QCAT proceedings was the Statement of Reasons provided by DCCSDS. The Department is required to provide this document for each decision that is under review by QCAT, and this is provided to both the Tribunal and the applicant.

Respondents felt that the length and complexity of the Statement of Reasons document prevented applicants from engaging with the material prior to a QCAT review proceeding, hindering their participation. As one interviewee described:

“They [DCCSDS] create this very long decision that has hundreds of pages attached to it. They send that out to not only us but to the applicant, who may be semi-illiterate, has very little trust in the Department, and they've got a 300-page document and have to come to QCAT the next day. We don't think that's fair. We've been working on trying to get a scaled-down version... Applicants then think it's all stacked against them. Here's all this official writing, hundreds of pages. “What can I do? It's all stacked against me.”

We've managed through the meetings and through ongoing consultations to try to get I guess a more focused approach to the reasons, rather than starting from year dot of involvement with the Department to now, and all that dirty laundry and bad feeling... It does set up a real barrier to working meaningfully towards an outcome if people are resentful of things that're never solved, and yet they're raised again and again.” (QCAT Member)

As a result of ongoing discussions with DCCSDS, several respondents reported that the clarity and brevity of Statements of Reason had improved, although there was still potential for further refinement.

The difficulty applicants face in understanding Statements of Reason is mirrored in the challenge these parties face accessing and understanding documentation relating to Childrens Court proceedings. These issues, and other barriers to participation by parents, are discussed further in Chapter 8.

4.4. Reporting of outcomes and stakeholder engagement

In response to the recommendation that QCAT publish the outcomes of compulsory conferences, the Tribunal has begun collecting data on key themes and issues that usually emerge. Given the confidentiality constraints under the Act, this was seen as a way to meet the recommendation of the Inquiry while still protecting the privacy of the parties. As one respondent explained:

“We've managed to start a collection of data about essentially what is the dispute about and how it's been resolved. It's really for us to have some data about the outcomes, because each time it's resolved at a conference, there's normally a written ... agreement.” (QCAT Member)

In addition, QCAT is also now providing parties with the written agreement generated through compulsory conferences to parties themselves. This was seen as a positive change that enabled parties to leave a conference with a written record of their undertakings.

Another positive change arising from the Inquiry identified by respondents was a renewed focus on stakeholder engagement:



“At the beginning of QCAT, the stakeholder meetings fell away. There was just so much happening.” (QCAT Member)

“I think that there was a period of time when we may not have had the same level of engagement with stakeholders... That is now back on the table. We have child related stakeholder forums twice a year... We get feedback from the sector about, well what are the issues that we’re not addressing in QCAT? What are new initiatives in your organisation that may have an impact on those people who appear before QCAT? That’s really dynamic and that’s a commitment that will continue.” (QCAT Member)

This continuing commitment to stakeholder engagement was seen as a way of enabling QCAT to respond to issues raised by the sector, helping to ensure that the Tribunal can continue to make changes if necessary.

4.5. Position of the child protection jurisdiction within QCAT

An organisational issue raised during the evaluation was the position of the child protection jurisdiction within QCAT, and the potential effects of any changes to streamline processes at the Tribunal.

A number of QCAT Members recognised the particular skillset and expertise required in the child protection jurisdiction. These respondents were concerned about potential changes within the Tribunal, and felt strongly that the child protection jurisdiction should continue to operate using its current processes. In particular, respondents were wary of moves to standardise Tribunal processes and procedures as they felt this would negatively impact on the jurisdiction:

“There is a drive in QCAT towards uniformity and towards trying to make the whole system less complex... I have a concern that that doesn’t really work with people handling child protection matters. Child protection matters are different.” (QCAT Member)

“A huge concern for me about QCAT, is the push, if you like, to make very legalistic proceedings... I hope that it doesn’t, to try and standardise proceedings across all of the jurisdictions and I maintain very clearly that procedures that might work in other jurisdictions don’t work in the child protection jurisdiction. And there are very good reasons why they don’t and they shouldn’t be implemented. Because in the child protection jurisdiction, we really need to be focusing on ways of maintaining the relationships of all of the parties involved, so that they can actually protect children. So we need to make sure that the QCAT processes don’t divide those parties.” (QCAT Member)

Although this is not directly related to the implementation of the reform recommendations, it may be an important consideration for QCAT as an agency in the future.



5. Legal representation

Key points from this chapter

- The Inquiry highlighted the central importance of adequate legal representation for parents, children and young people. This also emerged as a key enabling factor to participation in court and tribunal proceedings (see Chapters 7 to 9).
- The benefits of good-quality and timely legal representation were also noted in interviews and focus groups with a range of stakeholder groups.
- Results of the quality of evidence file review show that only a small group of children and their parents were legally represented in the 20 matters reviewed, and that it is often not clear from the file whether parties were made aware of their right to legal representation.
- Currently, court data show that the majority of parties are legally represented during proceedings.
- However, there are a number of caveats to this statement. An important limitation is that parents are often only able to access legal representation during the initial stages of a proceeding. This means that, if a matter proceeds to hearing, there is often inadequate legal aid funding to provide legal representation.
- Respondents in interviews and focus groups also acknowledged the importance of Aboriginal and Torres Strait Islander legal services and the introduction of the child protection duty lawyer scheme.

5.1. Introduction

The Inquiry recognised the central importance of adequate legal representation for parents, children and young people, noting that it is a “critical requirement for effective case management.”¹⁵ In its report the Inquiry highlighted that, without sufficient funding, parties are left to navigate a highly complex and adversarial system on their own. As a result, the Inquiry recommended that the State Government review the priority funding it provides to LAQ with a view to ensuring that increased funding is applied for child protection proceedings (recommendation 13.11) and that LAQ review the use of Australian Government funding received to identify where funding can be used for child protection (recommendation 13.12).

5.2. Current state of legal representation

Respondents universally recognised the importance of legal representation to the court process, particularly as it relates to ensuring procedural fairness and affording children and parents a voice in proceedings. As one Magistrate described:

“[Parents] don’t particularly understand in full why their children are being removed and are probably very defensive. With a legal practitioner, obviously that assists the process by getting to the real issues and speeds up the process as to whether or not separate representatives have got to be appointed and really gets to the nub of the issues and also helps in the negotiating with child protection authorities as well... Without representation, it prolongs the proceedings, the court’s job has to be a lot more exacting - explaining to [parents] but having to bear in mind the court’s function to act equally between the parties to not have to tell them what they should be doing, but just simply explaining their options. The benefit of competent legal advice certainly assists the process.” (Magistrate)

¹⁵ Queensland Child Protection Commission of Inquiry 2013, *Taking responsibility: A roadmap for Queensland child protection*, State of Queensland, p.470.

Findings about the current state of legal representation are outlined below.

File review data

The quality of evidence file review enabled a closer assessment of the involvement of legal representation for children and parents in relation to the 20 matters examined. Table 14 shows that it was rarely clear from the file whether children and their parents had been made aware they had a right to legal representation, and Table 15 shows that only a small number of children and parents had legal representation in court.

Table 14: Evidence that children and parents were aware of their right to legal representation in 20 matters

Yes	-	3
No	17	9
N/A	3	-
Unclear	-	8
TOTAL	20	20

Source: Quality of evidence file review

Table 15: Whether children and their parents were legally represented in 20 matters

Yes	4	8
No	12	-
N/A	-	-
Unclear	3	11
Missing	1	1
TOTAL	20	20

Source: Quality of evidence file review

Magistrates Court data

Data from the Magistrates Court show that the proportion of parties that are legally represented at some point in child protection proceedings across Queensland is relatively high (see Table 16). The percentage of parties legally represented grew each financial year between 2011–12 and 2015–16, with 93 per cent of parties legally represented in 2015–16 (see Table 16).

Table 16: Proportion of parties legally represented at some point in child protection proceedings

Year	Parties legally represented ¹	Parties not legally represented ¹
2011–12	84%	16%
2012–13	87%	13%
2013–14	88%	12%
2014–15	90%	10%
2015–16	93%	7%

Source: QWIC database

Notes: 1. Parties legally or not legally represented relate to respondent mothers, respondent fathers and parent / guardians on final events.

Legal representation by Legal Aid Queensland

LAQ supports a large number of parents and children at some point in child protection proceedings before the Childrens Court, in addition to appearing in a small number of QCAT proceedings. Between 2012 and 2016, LAQ represented 4,851 parties, acted as a direct representative for 157 young people, and advocated for the best interests of 4,851 children as a separate representative (see Table 17).

Table 17: Number of cases and individuals represented by Legal Aid Queensland, 2012–16

Year	Direct representation		Separate representation		Party representation	
	Cases funded	Children represented	Cases funded	Children represented	Cases funded	Parties represented
2012	49	49	456	927	1,183	1,183
2013	48	48	415	842	1,121	1,121
2014	35	35	377	765	845	845
2015	13	13	435	867	899	899
2016	12	12	480	988	803	803
Total	157	157	2,177	4,416	4,851	4,851

Source: LAQ database

Note: Sibling groups can be combined in situations when a separate representative is appointed, so the number of children represented exceeds the number of cases funded

For both party representation and separate representation, the proportion of clients that identify as Aboriginal and/or Torres Strait Islander has been below 20 per cent between 2012 and 2016 in most years (see Table 18). For direct representation, the proportion of Aboriginal and/or Torres Strait Islander clients reached 25 per cent in 2013 and 2016, although this is a much smaller sample and therefore subject to fluctuation.

Table 18: Proportion of Aboriginal and/or Torres Strait Islander Legal Aid Queensland clients, 2012–16

	Party representation	Direct representation	Separate representation
2012	21%	16%	14%
2013	18%	25%	14%
2014	18%	17%	16%
2015	17%	23%	23%
2016	17%	25%	13%

Source: LAQ database

It is important to understand, however, that even though high numbers of people are represented at some point in child protection proceedings, it does not mean they have legal representation throughout the proceedings. When determining whether to allocate a grant of aid, an applicant must satisfy the merits test. A key component of the merits test is the Reasonable Prospects of Success test, which is met only if it appears to LAQ that, on the legal and factual merits, the proposed action is more likely than not to succeed.¹⁶ For party representation, due to the application of the merits test, funding for child protection representation is concentrated in the earlier stages of proceedings. Between 2012 and 2016, the most commonly granted instances of aid for party representation are: initial advice, initial Family Group Meeting, court-ordered conference, and representation at mentions (see Table 19). Between 2012 and 2015, these grants of aid constituted between 71 and 75 per cent of

¹⁶ Grants Policy Manual. Legal Aid Queensland. Available at: <http://www.legalaid.qld.gov.au/About-us/Policies-and-procedures/Grants-Policy-Manual/The-Merits-Test>.

the total grants of aid allocated for party representation. This proportion dropped to 69 per cent in 2016.

Table 19: Legal Aid Queensland most commonly granted events of aid 2012–16

Type of aid	2012	2013	2014	2015	2016
Initial advice	1,199	1,152	871	948	437
Family Group Meeting	595	559	491	570	284
Court-ordered conference	441	428	325	344	169
Mention	425	384	304	424	261
Sub-total (most commonly occurring grants)	2,660	2,523	1,991	2,286	1,151
Total events of aid	3,656	3,339	2,796	3,052	1,659
Percentage of total events of aid	73%	76%	71%	75%	69%

Source: LAQ database

In practice, the application of the merits test means that, while many applicants will be able to access some legal assistance, very few will be supported to a hearing should the case be contested. This was recognised as a limitation to legal representation by a number of respondents (see Section 5.3).

Aboriginal and Torres Strait Islander legal services

In addition to LAQ, respondents recognised the importance of Aboriginal and Torres Strait Islander legal services. Some respondents noted that these services are sometimes able to assist families earlier in proceedings as their funding rules can be more flexible than those of LAQ. As one lawyer explained:

"We do go to [the earlier meetings]. We have a very strong philosophy that there's been a history of stolen generations and we don't want it to be repeated, and there does seem to be a bias towards Aboriginal children being taken away... all the options aren't always explored by Departmental workers who don't necessarily understand the Aboriginal community. So... we fight really hard at those early stages and try to get what best outcomes we can." (Lawyer)

Some respondents also recognised that Aboriginal and Torres Strait Islander services are sometimes more able to assist clients through to the final hearing stage.

"If they are [Aboriginal or Torres Strait Islander] they can be assisted to a bit further along the proceedings and the solicitor... seems to be able to appear for them even without a merit test, whereas Legal Aid is so strict on its merit test." (Magistrate)

For this reason, some respondents felt that Aboriginal and Torres Strait Islander families have better access to legal representation, provided they are located in an area serviced by an Aboriginal and Torres Strait Islander service.

Child protection duty lawyer scheme

Several respondents reported that a new child protection duty lawyer scheme initiated by LAQ had improved accessibility to legal assistance:

"It's been terrific that we've had the duty lawyer service. In fact I think that's fantastic, but that can only go so far." (Magistrate)

While they were positive about the value of the scheme, these respondents also noted that it can only provide a limited amount of assistance on the day of a court proceeding.

Services for rural and remote areas

A number of respondents in rural and smaller regional centres noted that it is difficult for children and families in their area to access legal representation. In one case, a Community Legal Centre had lost funding and this had impacted on the timeframe associated with securing legal representation. One respondent commented:

“Unfortunately, as with most rural and remote communities, there’s a battle to keep services and one of the major services have been withdrawn... That’s caused some issues with some of the non-Indigenous families in the child protection system... The lag in applying for and obtaining legal aid seems to be growing.” (Magistrate)

This highlights the barriers faced by rural and remote areas in accessing legal representation and advocacy services, which has important ramifications for procedural fairness and the ability of parties to engage in proceedings.

5.3. Limitations and issues associated with legal representation

Although respondents were unanimous about the importance of legal representation, they also highlighted some limitations. A key theme raised in relation to the limitations of legal representation was the merit test applied by LAQ, which usually means that clients are not supported for hearings. As several lawyers commented:

“The reality is it is difficult to get funding for that final trial... And unless your client has very good merit... [funding] to the trial is very, very difficult.” (Lawyer)

“The state government priorities kick in and child protection is one of those state government priorities [but] they usually fall over on merit.” (Lawyer)

This is consistent with data from LAQ that show the majority of funding is invested in earlier stages of involvement.

A number of stakeholders also commented that the approaches taken by lawyers varied, and some were more client-friendly in the child protection context than others:

“I’ve had kids that have had Legal Aid solicitors before that have just had no clue about child protection, and you try and get them to connect and they’re just focused on their matter and getting that through and moving onto the next.” (NGO worker)

Both these limitations are difficult, if not impossible, to overcome completely. However, it is important to recognise the impact they have on the level and quality of legal representation available to children and families in the child protection system.



6. Quality of evidence

Key points from this chapter

- A review of the evidence contained on the files of 20 finalised applications for CPOs found that some aspects of the evidence that should be presented to the court, and therefore contained on a file, are missing. This was particularly so for information about any established protective factors within families, details about who screened the report to Child Safety and the basis on which they made that decision, the assessed type of abuse or neglect suffered by the child and the resulting detrimental effect of a significant nature
- On the other hand, the file review found that there was a case plan for the subject children on all 20 of the files reviewed, and it appeared that the case plan was, in all but one case, appropriate to meet the child's protective needs.
- File reviewers identified several key evidence gaps or inadequacies in the evidence held on files. These were: insufficient information about the situation of parents and the involvement of relevant agencies; insufficient information to justify the order sought, lack of evidence to back up key assertions, or not tying evidence to the legislative thresholds, and lack of evidence about the capacity of the family to retain care of the child, or to establish that parties could understand proceedings.
- Issues raised by key stakeholders in interviews echoed these themes, but some interviewees reported observing an improvement in the quality of evidence presented to courts since the child protection inquiry had delivered its report.

6.1. Introduction

Improved quality of evidence in child protection proceedings is a key intermediate outcome for WP36. The Inquiry highlighted a “widespread mistrust and concern in relation to the conduct of proceedings by the Department [DCCSDS] and its ability to present material that is sufficiently support by relevant evidence”.¹⁷ In response to this concern, the Inquiry recommended a two-pronged approach: enhancing the in-house legal service provision within DCCSDS through the establishment of the OCFOS and the establishment of an independent statutory agency (the DCPL) to make decisions as to which matters will be the subject of a child protection application and what type of order will be sought.

There was little guidance in the literature about what constitutes ‘quality of evidence’ in child protection proceedings and no existing measures available. For this reason, measures of quality of evidence were developed by a panel of experts, who also provided guidance to the file review for quality of evidence. This section reports data from the file review and the perspectives of focus group and interview participants about quality of evidence.

6.2. Current state of quality of evidence

The data collection template used by the file review officers in undertaking this component of the evaluation was divided into two groups of questions. The first group of questions asked reviewers to check the files for each of the legislated requirements that must be considered by the court when making a CPO (as outlined by the Act current as at 25 May 2016). These questions comprised the majority of the file review. A second, smaller set of questions required the file review officer to make a subjective assessment of the ‘quality of evidence’ on a file based on what was contained on the file and their responses to each of the earlier questions.

¹⁷ Queensland Child Protection Commission of Inquiry 2013, *Taking responsibility: A roadmap for Queensland child protection*, State of Queensland, p.481.

Table 20 shows that most of the 10 Crown Law files were considered by the review officer to be 'good', with the remaining files being considered 'fair' as an overall rating of quality of evidence. In comparison, there was more variation in the ratings given to the DCCSDS files, with the majority being considered by the file review officer to be 'fair'.

Table 20: File review officer ratings of quality of evidence

Very good	-	-
Good	2	6
Fair	6	4
Poor	2	-
Very poor	-	-
TOTAL	10	10

Source: Quality of evidence file review

Some of the positive comments made by the file review officers about the quality of the evidence on the files are outlined in Table 21.

Table 21: File review officer comments associated with files rated low on quality of evidence

Illustrative quotes from file reviewers

"...evidence covered all relevant areas and clearly outlined what the child protection concerns were and why the order was required at the time. Further, it was also clear what was expected of the respondent parents within the timeframe applied for..." (DCCSDS file)

"The affidavit material was clear and easy to read. It was comprehensive... and detailed the clear attempts to work with the family in the lead up to making an application for a CPO and how such attempts, while less intrusive, were no longer appropriate in the circumstances." (DCCSDS file)

"The quality of the evidence included was good, including the exploration of issues and services referred to/engaged for the respondent parents." (DCCSDS file)

"The material would be between fair and good. Well set out, easy to read, provided detailed information in terms of the investigation into the concerns, that is, interviews, discussions with the children, feedback from agencies/services, etc. The child protection concerns were clearly identified and explored as well as service engagement to date... The material supports a custodial order and the timeframe applied for." (DCCSDS file)

"The evidence in this application I would rate as good. The evidence files in support the child's needs was comprehensive." (Crown Law file)

"The affidavit in support of the application clearly outlined the process of their assessment and attached information obtained by police in support (for example, photos of the state of the home)." (Crown Law file)

"The application was supported by the direct evidence provided by affidavits from teachers, counsellors and the maternal grandmother." (Crown Law file)

"I would rate the evidence filed in these proceedings as fair to good. The evidence addresses the section 59 factors and the principals of the Act." (DCCSDS file)

Source: Quality of evidence file review

Comments made by the file review officers to support the more critical ratings can be grouped under four broad themes, which are outlined in Table 22.

Table 22: File review officer comments associated with files rated low on quality of evidence

Issue	Illustrative quotes from file reviewers
Insufficient information about the situation of parents and the involvement of agencies	<p><i>"...the material is severely deficient with regard to the respondent mother's current situation and any attempts to address the child protection concerns and does not seem to follow up with obtaining independent information with regard to the respondent father... I thought the material also lacked a clear picture around the RE and their engagement with the family and the matter." (DCCSDS file)</i></p> <p><i>"There was absolutely no evidence with regard to the respondent father in terms of child protection concerns, engagement with the department, attempts to follow up/contact, information regarding mental health and hospitalisation, etc. It is unclear how the court was satisfied of the department's attempt to contact/assess/work with the respondent father." (DCCSDS file)</i></p> <p><i>"Details lacking with regard to positive progress of respondent parents which resulted in reduction in timeframe of order sought, further, it is unclear what services were engaged to assist the family, and what other options were available." (Crown Law file)</i></p> <p><i>"Better evidence could have been filed to support particular concerns particularly in relation to domestic violence." (Crown Law file)</i></p> <p><i>"Some evidence in relation to the father could have been better addressed." (Crown Law file)</i></p> <p><i>"It did not provide the full picture of departmental involvement and seemed to simply provide a summary of the initial involvement. For a fresh application (and in particular a long-term guardianship application), it should have been more comprehensive." (DCCSDS file)</i></p> <p><i>"Information regarding supports offered to respondents and their engagement or lack of to date was lacking" (DCCSDS file)</i></p>
Insufficient evidence to justify the order sought	<p><i>"I think that the material needs to go further into establishing foreseeable future/emotional stability in order to appropriately meet the threshold for long term guardianship." (DCCSDS file)</i></p> <p><i>"The evidence is lacking in terms of providing a clear/full picture of why such an intrusive order is required... There is no clear distinction provided as to why a short term order would not suffice (particularly when two younger children were reunified to the respondent mother's care and the other half sibling is on a short term order). In trying to convince a magistrate who may not have a child protection background of why such an order was required, it is my view that further evidence should have been included to articulate why such an intrusive order was sought and appropriate in the circumstances." (DCCSDS file)</i></p> <p><i>"The quality of evidence included was lacking... with regard to the impact on the child (which for a long term guardianship application based on long-term stability argument, is imperative), and the significant gaps in casework..." (DCCSDS file)</i></p> <p><i>"The evidence also didn't address whether a less intrusive intervention was considered." (Crown Law file)</i></p>
Lack of evidence for assertions and not tying evidence to legislative threshold	<p><i>"Where the material was lacking was the actual child protection history and concerns which led to the children coming into care." (DCCSDS file)</i></p> <p><i>"Investigation and assessment information was lacking." (DCCSDS file)</i></p> <p><i>"Investigation and assessment conclusions lacking." (DCCSDS file)</i></p> <p><i>"The initial determination of harm could have been made clearer within the first affidavit." (Crown Law file)</i></p>

“The evidence appears incomplete regarding the outcome of the number of family members who expressed interest in being kindship carers.” (Crown Law file)

Lack of evidence about capacity

“The only issue that could have been better explored is X’s capacity to understand the court proceedings and the issue about appointing a guardian. However, it appears that X had legal representation at some point so presumably the lawyer was satisfied she had capacity to instruct.” (Crown Law file)

Source: Quality of evidence file review

The remaining sections focus on key components of the evidence presented to the court to support the application for a CPO, all of which should be present on a file as having been presented to the court for consideration. The remainder of this chapter does not identify the two agencies whose files were reviewed.

Evidence to identify the parties

Before making a CPO, the court must be satisfied that the application relates to a child. The definition of a child is an individual under 18 years (s 8). The Act also defines a parent (s 52) for the purposes of a CPO. Prior to 1 July 2016, section 54(1) of the Act provided that an authorised officer may apply to the Childrens Court for a CPO. Finally, section 113 enables a court to allow a non-party to take part in proceedings. Section 113 was amended to enable greater participation of non-parties in child protection proceedings and commenced on 25 May 2016.

The quality of evidence file review sought to determine to what extent the files contained evidence of each of the parties – the child, the parents and the applicant – and of any relevant non-parties. Table 23 shows that the review found that this evidence is not always held on the file, which appears to indicate that this information is not routinely provided to the court.

Table 23: Whether child protection files contain evidence of parties and non-parties

To establish particulars of the subject child	13	7	-	20
To establish the particulars of the parents	7	11	2	20
To establish the particulars of the applicant	18	1	1	20
To establish any related non-parties	13	7	-	20

Source: Quality of evidence file review

Evidence relating to whether the child was in need of protection

One of the key determinations to be made by the Childrens Court is whether an application for a CPO reaches the threshold test – that the child who is the subject of the application is a child in need of protection. To make the order, a court must be satisfied that the subject child has in the past, is currently, or is at unacceptable risk of suffering future significant harm (s 10(a)), and that the child does not have a parent able and willing to protect the child from the harm (s 10(b)). Harm is defined under section 9 of the Act to be any detrimental effect of a significant nature on the child’s physical, psychological or emotional wellbeing.

Table 24 provides file review outcomes relating to evidence on child protection files about the initial report to Child Safety, again showing that files do not demonstrate whether the evidence presented to the court satisfied all the requirements of the Act prior to the making of an order. The most significant area of missing evidence relates to identifying who and on what basis the initial report was screened in for investigation. Not one file made it clear who had screened the report and on what basis their decision was made.

Table 24: Whether child protection files contain evidence of the initial report to Child Safety

That a report was received by Child Safety	16	3	1	-	20
About the specifics of the report	16	4	-	-	20
About when and who received the report	3	12	4	1	20
About the rationale used to screen the report	4	12	4	-	20
About who screened the report and on what basis the decision was made	-	18	2	-	20
About when and to whom the notification was referred for investigation	10	8	1	1	20
About the assessment of the report	8	7	5	-	20

Source: Quality of evidence file review

Table 25 shows that, similar to other evidentiary requirements, information relating to the investigation and determination about the report to Child Safety was missing from many files. This was particularly marked when considering the evidence of protective factors within a family. A second area where evidence was missing in nearly half the files was in the assessed type of abuse, and the nature of the resulting detrimental effect of a significant nature on the child.

Table 25: Whether child protection files contain evidence about the investigation of the initial report

About the positive determination or finding of harm	4	9	4	3	20
That identifies the parental actions, behaviour, motivation and/or intent	9	8	2	1	20
About the assessed type of abuse and/or neglect, actions and/or lack of actions	3	11	3	3	20
About the resulting detrimental effect of a significant nature on the child's physical, psychological or emotional wellbeing	5	10	2	3	20
About the determination of future harm	11	4	5	-	20
About the parental actions, behaviour, motivation and/or intent regarding future harm	16	3	1	-	20
The assessed type of abuse and/or neglect, actions and/or lack of actions regarding future harm	11	6	3	-	20
About established risk factors	9	9	2	-	20
About established protective factors	1	18	1	-	20
About the resulting detrimental effect of a significant nature on the child's physical, psychological or emotional wellbeing	7	9	4	-	20

Source: Quality of evidence file review

Evidence relating to the determination of whether the parents were able and willing to protect the child from harm were evident in more than three-quarters of the files, but evidence of any assessed differences between the parents was less commonly contained on the files (see Table 26). Evidence associated with the principles underpinning the Act (contained in s 5A and 5B) was only present in just over half the files.

Table 26: Whether child protection files contain evidence that the child is in need of protection

About the ability and willingness of each parent to protect the child from harm	16	3	1	20
About whether there are any assessed differences between the parents	12	6	2	20
That addresses the principles for ensuring the safety, wellbeing and best interests of a child	11	5	4	20

Source: Quality of evidence file review

Other considerations the court must make

There are a number of additional matters about which a Childrens Court must be satisfied before it can make a CPO. Table 27 outlines whether evidence of some of these considerations was found on the review files. It is clear that these considerations appear to attract much better compliance than other areas, although evidence about the appropriateness of the order to achieve the protective outcomes was the least evident on files.

Table 27: Whether evidence on child protection files complies with other key issues in section 59 of the Act

That the order sought is appropriate and desirable for the child's protection	16	4	-	20
That the protection sought to be achieved by the order is unlikely to be achieved by a less intrusive order	12	3	5	20
That there was a case plan for the child	20	-	-	20
That the case plan was appropriate for meeting the child's assessed protection and care needs	19	1	-	20

Source: Quality of evidence file review

Section 54 of the Act requires that an application for a CPO must state the grounds on which the application has been made, state the nature of the order sought, and must comply with the applicable rules of court. Table 28 shows that just over half of files contained evidence that suggested the application had complied with section 54.

Table 28: Whether child protection applications complied with section 54 of the Act

States the grounds on which the application was made	11	8	1	20
States the nature of the order sought	12	7	1	20
Complies with the applicable rules of court	12	7	1	20

Source: Quality of evidence file review

6.3. Stakeholder views: Key issues in quality of evidence

During interviews and focus groups, respondents were asked to identify issues in the quality of evidence currently brought before the Childrens Court. Key themes from respondents are summarised in Table 29 below.

Table 29: Stakeholder views about key issues relating to quality of evidence

Issue	Illustrative quotes from respondents
Repetition and inclusion of irrelevant or outdated material in affidavits	<p><i>"I just find that it still can get a lot of that extraneous stuff that we don't necessarily need." (Magistrate)</i></p> <p><i>"They're repetitive in that it's just a regurgitation of every single notification that's led to the here and now, instead of it being a useful summary that notifications were received by the Department ... It seems to be that if you just cut and paste all of the notification details, it somehow might add more weight to the application ... You've got to try and pick the teeth [out] of the matter. It's really difficult." (Magistrate)</i></p> <p><i>"I find these affidavits very lengthy. I thought there was supposed to be more of an effort to reduce it ... I don't think the quality of the affidavits are very good at all really." (Magistrate)</i></p>
Errors and incorrect details	<p><i>"I sometimes can't work out who the people are they're talking about in the application... If they suddenly referred to them as Mr Smith, but also known as Mr Jones and half of it they're referred to as Mr Smith and the other half Mr Jones ... It's just so difficult to follow. The child could be using a nickname or a middle name instead of their given/first name and none of that is explained, you've just got different names being used throughout the application. So attention to detail is pretty poor." (Magistrate)</i></p>
Lack of evidence for assertions and not tying evidence to legislative threshold	<p><i>"When the issue is so important, such as an injury to a child ... and you haven't got any strong medical evidence from a paediatrician to say how that injury might have been caused ... I don't know why we need to put up with hearsay or irrelevancies when the primary evidence is available ... I end up with affidavits that say, I spoke to Doctor X and he said that they thought that it was caused by shaken baby syndrome. It's just not good enough. If you want me to remove the child from a family because of that there really needs to be the report and it's got to be a solid report." (Magistrate)</i></p> <p><i>"At the moment there is really no focus on trying to identify within the evidence that's put before the Court how that fits in with the legislation as to when is a child in need of protection. Often the evidence that's put forward is not in any way set out or analysed for the person who's asserting the child is needing protection." (Lawyer)</i></p>
Lack of evidence to justify length of order	<p><i>"We've got problems with it being tied to the threshold legislative test, and then often the other issue I see routinely is there's very rarely any evidence or rationale given to the duration of an order it's going to be sought, it's always two years ... there's never a rationale ... They just say I'm going to give you all this information and we want a two year order, because it follows I've just given you all this information." (Lawyer)</i></p>
Outcomes of case planning being presented as evidence	<p><i>"They have this thing [three houses] that, you know, they have different sections, 'strengths, weaknesses and worries', or something like that. The worries section really worries me. Number one is that worry is a very ambiguous term, it's not a term that can be used in a legal sense ... I do have concerns about the language they use ... Factual you can deal with because you can always say, "Yep, there's this, this and this but not that." But with worries you can include anything you like really". (Lawyer)</i></p> <p><i>"There is some blurring of lines there. The case plan as a formal document should absolutely be given to the court, but the tools used in order to formulate that case plan, the evidentiary tool is [used for] the discussion at the round table about the family group meeting, it's not what the kid did with CSO drafting 'my three houses' after school one afternoon, or over a cup of coffee or however they've done that." (Lawyer)</i></p>

Source: Interviews and focus groups

6.4. Changes to quality of evidence since the Inquiry

Although some respondents reported they had seen no change in the quality of evidence since the Inquiry, others said they had noticed some positive trends. Some related this to improvements in the format the DCCSDS is using to present affidavit material, as one lawyer commented:

"[Quality of evidence is] much better than it used to be. The affidavits that we get from Child Safety now, the new format that they're using... The applications are worded better, they're more succinct ... It's taken 15 years to get to the point where the affidavits are structured the way they are now, and the way it's structured now is much better." (Lawyer)

Some Magistrates have also taken an active role instructing DCCSDS and other parties about the way they want to receive evidence. As one Magistrate recounted:

"The presentation of the evidence is the problem ... Up until about 18 months-2 years ago it was poor, very poor, in the sense that it was unduly repetitive. A lot of unnecessary material was provided to us ... To give you an example 18 months ago I did a trial where we started the first day and the affidavit from the applicant was 150 pages long, quite apart from exhibits ... We adjourned part-heard, for six to eight weeks and I said, "When you came back next time I want that reduced to 25 pages," and [DCCSDS] did it ... [Another Magistrate and I] did a presentation at a Magistrates conference a couple of years ago where we put forward a protocol whereby ... affidavits are to be reduced to 25 pages, and that's working. It's improved significantly. Twenty-five pages plus exhibits and they now have to give us a sheet, an exhibit sheet, and index sheet which they never used to do." (Magistrate)

This anecdotal evidence points to some positive shifts in the way evidence is presented to the court, even though these may be location-specific and driven by individuals.



7. Participation of children and young people

Key points from this chapter

- Children and young people are able to put forward their views and wishes to the Childrens Court and QCAT in a range of ways.
- Interviews with children and young people conducted by the CREATE Foundation highlighted that, while respondents generally had some understanding of why a court or tribunal proceeding was taking place, they had very little knowledge of the process or what to expect. In addition, there was a lack of understanding about the decisions made by the Childrens Court and QCAT.
- Children and young people did not feel they had adequate opportunities to put forward their views and wishes, but often felt heard by decision-makers to some degree when they did have the chance to do so.
- A number of young people interviewed wanted greater opportunities to participate directly in proceedings, although others preferred to participate via a legal representative or support person. This highlights the need for the Childrens Court and QCAT to facilitate diverse forms of participation that meet the individual needs of children and young people.
- Factors that enabled participation included access to legal representation or advocacy, support from a Child Safety Officer (CSO) and an enabling approach by Magistrates and QCAT Members.
- Factors that hindered or limited the ability for children and young people to express their views included age, awareness of their right to participate, the intimidating environments in which court and tribunal proceedings take place and lack of access to child-friendly information.

7.1. Introduction

Australia's first National Framework for Child Protection explicitly recognises the right of children and young people to participate in decisions that affect their lives.¹⁸ This right is embedded in the Framework as a principle that underpins all child protection initiatives. The Framework states that 'upholding children's right to participate in decisions that affect them is a key signal of valuing and supporting children'.¹⁹ Under Supporting Outcome 1 of the Framework, states and territories are required to develop and implement effective mechanisms for involving children and young people in decision-making.

The Inquiry also highlighted the importance of children's participation in child protection proceedings. The report stated that "there needs to be appropriate avenues for the voice of children and young people to be heard in child protection proceedings. Their views are not consistently being heard."²⁰

The PMP for the child protection reforms lists 'greater opportunities for children and young people to be heard in decision-making' as a program benefit (program benefit 4). This is also a key intermediate outcome of the WP36 program logic (see Appendix 1).

¹⁸ *Protecting Children is Everyone's Business: National Framework for Protecting Australia's Children 2009 – 2020*. 2009. Canberra, Commonwealth of Australia.

¹⁹ *Ibid*, page 15

²⁰ *Taking Responsibility: A Roadmap for Queensland Child Protection*. 2013. Brisbane, Queensland Child Protection Commission of Inquiry.

7.2. The current state of participation

How do children and young people participate?

Under section 59(1)(d) of the Act, the Childrens Court may make a CPO only if it is satisfied that the child's wishes or views, if able to be ascertained, have been made known to the court. The Act is not prescriptive about the ways in which children and young people are able to put forward their views.

Section 99U(2) of the Act also provides that a child has the right to express his or her views to QCAT about matters relevant to a review. Chapter 2A of the Act contains a number of sections that guide the ways in which childrens' views can be heard in a QCAT proceeding. Section 99V(2) of the Act lists those that can be present while the child gives evidence or expresses their views, while section 99V(3) also provides that the child may elect to express their views in the presence of the parties if that child is over 12 years of age and legally represented.

In practice, there are a number of ways children can present their views to the Childrens Court and QCAT, including:

- appearing directly and speaking to the Magistrate or QCAT Members, either privately or in front of the parties;
- instructing a direct representative to present their views; and/or
- providing their views to an OPG CA who can present these to the court or QCAT on behalf of the child.

As well as these avenues, which enable children to provide their views in a fairly direct manner, there are a range of other methods for the court and QCAT to ascertain a child or young person's views, including through:

- the presentation of affidavit material presented by DCCSDS, carers, family members or other support workers to the Childrens Court;
- the preparation of a social assessment report;
- the appointment of a separate representative, who advocates for the child's best interests; and/or
- the provision of written documents or drawings from the child to the Childrens Court or QCAT.

These categories are not exclusive, as children and young people can participate in multiple ways during any one Childrens Court or QCAT proceeding.

Data on the ways in which children and young people participate in court and tribunal proceedings were drawn from several sources. Children and young people were asked to self-report how they put forward their views in court and tribunal proceedings, and similar categories of participation were used in a file review for participation.

In addition, the quality of evidence file review enabled an examination of whether evidence is presented to a court about the child's views and wishes in 20 matters. The results of this component of the evaluation found that in only half of the files was there evidence that the views and wishes of the children or young people had been presented to the court (although in six matters it was considered that the children were too young for anyone to ascertain their views and wishes). When the files were examined to see how these views and wishes were presented to the court, however, in only three of these matters the child's views and wishes were presented in person via a legal representative or advocate (two cases) or the young person themselves (one case). In the remaining matters, the views were presented via affidavit material or through drawings or writing from the child.

The most common form of participation across the file review and interviews was for children and young people to put forward their views through a CSO. Of the young people interviewed, 31 per cent (n=13) had told their CSO their wishes (see Table 29). This is mirrored in the file review, in which children and young people's views were put forward in CSO affidavit material in 39 per cent (n=24) of matters (see Table 29). Legal representation was also a key avenue through which children and young people expressed their views, as 17 per cent (n=7) of those interviewed reported telling a lawyer their wishes, with similar results reflected in the file review (see Table 30).

Of the children and young people interviewed, 17 per cent indicated they had not put forward their views (see Table 30). Similarly in the participation file review, there was no participation recorded in a fifth of matters (12 of the 45 files reviewed). In each of these cases in the file review, the child was aged between zero and four years, with the age of the child cited as a major constraint on the ability of the Childrens Court to ascertain their views and wishes. In contrast, the young people surveyed who reported not having had the opportunity to put forward their views were significantly older. The seven young people to which this applied were aged between eight and 17, with a median age of 15 years and average age of 14.2 years.

Table 30: Forms of children and young people's participation

A. Survey of children and young people		
Means of presenting views	Count	Per cent
Told my CSO	13	31%
Told a lawyer	7	17%
No participation	7	17%
Told a member of my family	5	12%
Wrote or drew something	5	12%
Told an OPG Child Advocate	2	5%
Told my foster carer	1	2%
Told a Worker	1	2%
Other	1	2%
Told a Magistrate or QCAT member	0	0%
Told a specialist	0	0%
Told a Recognised Entity	0	0%
TOTAL	42	100%
B. Participation file review		
Means of presenting views	Count	Per cent
Contained in CSO affidavit material	24	39%
None	12	20%
Advocated by separate representative	8	13%
Contained in social assessment report	6	10%
Provided written material or drawings to court	4	7%
Provided via Child Advocate	4	7%
Appeared directly at court proceeding	1	2%
Spoke to Magistrate	1	2%
Instructed direct representative	1	2%
Provided via Recognised Entity	0	0%
TOTAL	61	100%

Sources: A: CREATE interviewed (n=24) B: Participation file review (n=45)

Note: As children and young people can participate in multiple ways in one proceeding, counts are based on participation 'events' rather than on matters or individuals. For this reason, count totals do not equal respondent numbers.

Across the self-reported data and file review, there were few instances of young people attending a court or tribunal process to participate directly in the proceeding (see Table 30). Three young people interviewed by CREATE reported attending a QCAT hearing and one had attended a Childrens Court matter. These data correspond to the file review, in which only one matter out of 45 involved a young person appearing directly.

Although this form of participation was low, particularly in the Childrens Court, a number of Magistrates spoke of the benefits of hearing from young people directly:

"It is unusual [for young people to attend], and I wish that there were more sometimes that did come, because it's really good to hear it from their point of view." (Magistrate)

"This is ... so important and this is really the turning point ... These teenagers need to feel they have a voice ... I've had some really lovely success, really lovely kids come and tell me how they feel." (Magistrate)

A common theme among the young people interviewed was that they wanted the opportunity to attend court and tribunal proceedings in person to put forward their views:

"I would like the courts to talk to me." (Young person)

"Have the young person come to the hearing in person so they have a clear idea of what is happening instead of someone telling them." (Young person)

"Let us talk to the court." (Young person)

This feedback from both Magistrates and young people points to an opportunity to facilitate greater direct participation of children and young people, when this is based on an appropriate consideration of their capacity to do so.

Although some young people surveyed did request greater opportunities for direct involvement, others indicated they would prefer to express their views through lawyers, or for their CSO to advise the court or tribunal of their wishes. The variance among responses from young people highlights the need for the Childrens Court and QCAT to facilitate diverse forms of participation, based on the wishes and needs of individual children and young people.

How well do children and young people understand the court process and decisions?

In general, children and young people have a lack of understanding about court and tribunal processes and decision-making.

Of the young people interviewed (n=24), three quarters knew at least 'a little bit' about why there was a court or tribunal proceeding taking place, with over a third (37.5%, n=9) indicating they knew either 'a fair bit' or 'a lot'. However, a quarter of the young people surveyed (n=6) reported they knew 'nothing' about why they were involved in a court or tribunal proceeding, and two of the six respondents were not aware there was a proceeding underway until after it had occurred (see Figure 6).



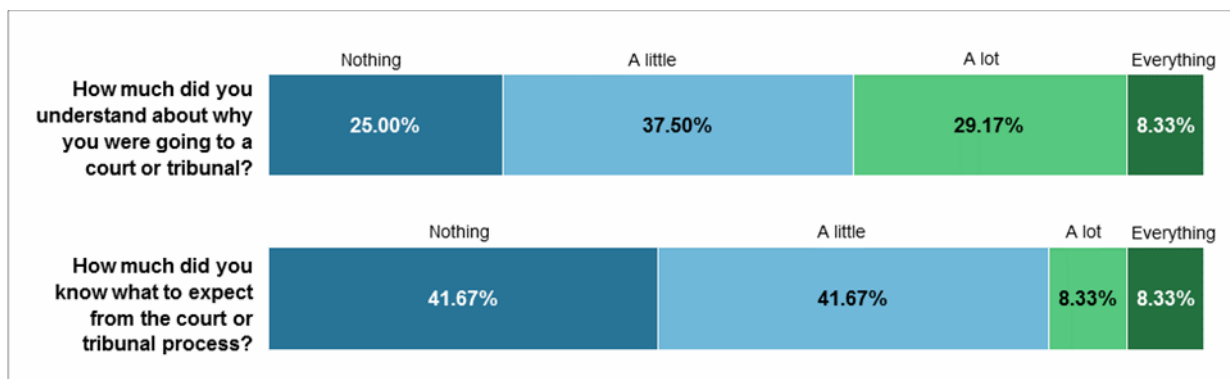


Figure 6: Children and young people's understanding of the court and tribunal process

Source: CREATE interviews with young people (n=24)

While there was some understanding among most of the young people interviewed about why there was a court or tribunal proceeding taking place, there was a poor understanding of the process. Over 40 per cent per cent (n=10) of young people interviewed said they knew 'nothing' about the Childrens Court or QCAT process. Of these 10 young people, only two had been given any information about what to expect. A further 10 young people (41.67%) indicated they understood 'a little' about the process. Only 16 per cent of the young people reported knowing 'a fair bit' (n=2) or understanding 'everything' (n=2) about the process (see Figure 6).

Despite this poor level of understanding about the process, about 60 per cent (n=14) of young people reported they had been told what to expect. Most commonly, young people were informed by their CSO (7 of 24 young people), their lawyer or advocate (5 young people), or family members (3 young people).

The young people interviewed had a mixed level of understanding about the decisions that were made by the Childrens Court or QCAT (see Figure 7). About 40 per cent (n=10) reported they understood 'a little' and about 45 per cent indicated they understood 'reasonably well' (n=6) or 'very well' (n=5). However, a small number (n=3) of respondents said they did not understand the decision at all, and two of the three reported that nobody had explained the decision to them.

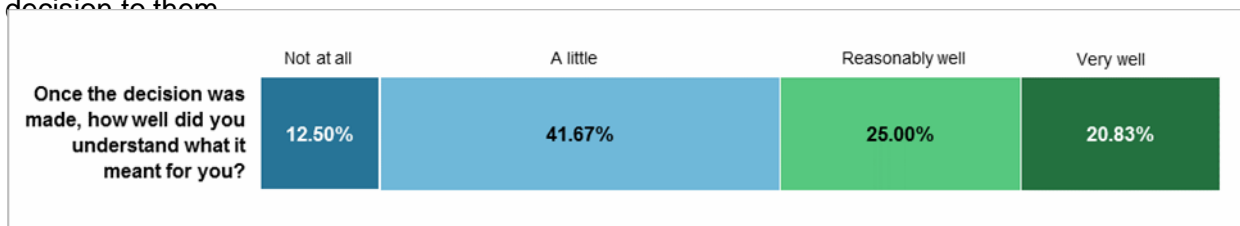


Figure 7: Children and young people's understanding of decisions

Source: CREATE interviews with young people (n=24)

In the survey of justice stakeholders, respondents (n=77) were asked how often, in general, children and young people received sufficient advice about decisions and how decisions will affect them. The most common response was that young people 'occasionally' receive sufficient advice, however close to a third of respondents indicated that this occurred either 'rarely' (22%) or 'very rarely' (10%). The remaining third thought that sufficient advice was received either 'frequently' (18%) or 'very frequently' (4%).

Table 31: Justice stakeholder views about whether children and young people receive advice of decisions

Statement	Very rarely	Rarely	Occasionally	Frequently	Very frequently	Cannot comment
Children and young people receive sufficient advice about decisions and how decisions will affect them	10%	22%	39%	18%	4%	6%

Source: Survey of justice stakeholders (n=77)

Responses from young people surveyed highlight that, even when advice is given, this does not always result in an understanding of the decision:

“My CSO told me about what happened at court but I was not fully aware of what she was saying. She was using big words. I was 12 then. She could use simple language and not legal language.” (Young person)

“Sometimes the decision was explained through [my CSO] which I understood and other times it was explained by the lawyer after the hearing, which made no sense because they used legal terms.” (Young person)

“It could have been explained in another way that is easier to understand.” (Young person)

Feedback from children and young people interviewed by CREATE showed they wanted more support and information provided in a way that is easy for them to understand.

To what extent do children and young people feel heard?

Based on feedback from children and young people, there is room for improvement in the extent to which the Childrens Court and QCAT give opportunities for views to be heard and listened to. When asked how much of an opportunity they were given to express their views, two thirds of the children and young people interviewed indicated ‘not at all’ (29.1%) or ‘a little’ (37.5%).

In general, children and young people gave more positive responses when asked if they felt heard by the court or tribunal. Close to half of the young people interviewed reported they felt their views were heard either ‘reasonably well’ (37.5%) or ‘very well’ (8.33%) by the Childrens Court or QCAT. However, seven of the 24 young people surveyed said they did not feel their views were heard at all. Of these seven young people, six reported they had not had the

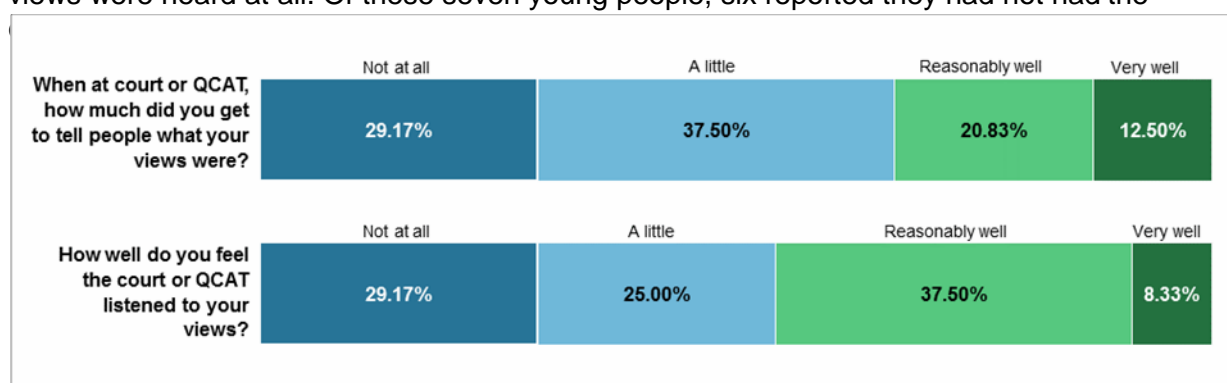


Figure 5: Children and young people's perceptions about whether they were heard

Source: CREATE interviews with young people (n=24)

Comments from children and young people about the reason for their rating show that a positive response about being heard was often linked to their desired outcome occurring. Of the nine young people who reported they felt ‘reasonably’ well heard, seven said they felt this way because the court or tribunal had decided in accordance with their wishes.

However, the young people that reported feeling ‘very well’ heard emphasised the approach of those involved in the proceeding, rather than the outcome:

“They looked like they were understanding me, and they asked questions.” (Young person)

“They took into consideration everything I said.” (Young person)

When young people did not have the chance to put forward their views to the court or tribunal, they felt frustrated and angry. As one young person described:

“I wasn’t asked by anybody. I was angry about not being able to have my say. Even though Mum and I had ups and downs, she still supported me and loves me. I didn’t get the chance to tell the court this.” (Young person)

A survey of justice sector stakeholders uncovered mixed views about the extent to which children and young people are heard in decision-making. When surveyed, 36 per cent of respondents felt that children and young people are listened to ‘occasionally’ and 36 per cent felt this occurred ‘frequently’ (see Table 32). Respondents were generally more positive about the extent to which the views of children and young people were taken into account, with over half of those surveyed indicating their views were ‘frequently’ (39%) or ‘very frequently’ (17%) taken into account (see Table 32).

Table 32: Justice stakeholder perceptions of children and young people's participation

Statement	Very rarely	Rarely	Occasionally	Frequently	Very frequently	Cannot comment
Children and young people are listened to	5%	14%	36%	36%	8%	0%
Children and young people are supported to participate and express their views	6%	17%	34%	30%	12%	1%
Children and young people's views are taken into account	5%	6%	31%	39%	17%	1%
Children and young people are involved in decision-making processes	8%	26%	45%	17%	3%	1%

Source: Survey of justice stakeholders (n=77)

7.3. Benefits and issues associated with participation

All respondents agreed that participation has important benefits, both for children and young people themselves and for decision-makers. The participation file review identified several matters in which the views of a child or young person had had significant impact on the decision, or were of substantial value to the Magistrate (see Table 33).

Table 33: Case studies on the benefits of children and young people's participation based on file review

Background to case	Means of understanding child's wishes	Outcome and benefits of participation
The case concerned an eight year old child, whose parents had issues with drug abuse and domestic violence.	Views contained in affidavit material submitted by CSO.	There was substantial detail in the affidavit material about the child's views and wishes. As a result of the child's requests, the CSO had continued to find out the whereabouts of the child's parents so that contact could continue.
The case concerned a 14 year old Aboriginal or Torres Strait Islander child, whose parents had issues with drug abuse and domestic violence.	Young person appeared directly at the proceeding and spoke to the Magistrate. Young person's views were also contained in CSO affidavit material.	By speaking to the Magistrate, the young person was able to clearly articulate his/her views and wishes about placement. On the file, the Magistrate noted that the young person's views had a significant influence on the order made for Long Term Guardianship.
The case concerned an 11 year old child. The child's parents faced substance abuse and mental health issues. The parents were in a domestic violence relationship and there was a long history of involvement with the child protection system.	The child provided written material to the court. His/her views were also contained in CSO affidavit material. The child was represented by a separate representative.	During the proceeding, the possibility of Long Term Guardianship was raised, as the child had asked what would happen after a two year order had expired. The child expressed his/her views to live with foster carers until the age of 18, but expressed a desire to maintain contact with his/her parents. As a result, the application was amended to Long Term Guardianship and all parties consented.

Source: Participation file review (n=45)

However, stakeholders also raised several issues associated with participation. A key theme was the challenge of providing children with an opportunity to participate that reflects their capacity, but also ensures they understand the ramifications of their involvement. A number of stakeholders commented on this topic:

"Children ... shouldn't be placed in a situation of having to make decisions about their lives to say, "Yeah, I never want to see Mum again." Or, "Yes, I want to see my mother again." They don't always understand the full implications of that and I think that's putting a hell of a responsibility on kids ...having a voice, yes I agree but it's the weight that's given to that that concerns me." (Lawyer)

"Across the board really if you're going to consider the child's wishes, you need to know the context in which they're being expressed and what information the child has when they're giving them...I think [legal representation] has to be [the main vehicle for participation] at the moment." (Magistrate)

This highlights a clear need to ensure that children and young people understand the nature of their participation and involvement. A number of stakeholders raised concerns that children and young people do not always fully comprehend the complexity of court and tribunal proceedings even when there is a concerted effort made to explain it to them. As NGO workers reflected:

Even when you see Magistrates really trying to say, "Do you understand what I'm saying to you?" The Magistrate is still up here and the young person is just like, "Yep". They walk out of court and go, "What was all that about? What did they say?" (NGO)

I was present with [a young person] while his Child Safety officer was telling him about what was going on with court ... It was really interesting to see how he saw the whole process, because it was ... off to court next Thursday. His view, "oh I'm going home next Thursday" ... How they [young people] perceive what's going on with the court process ... is a really interesting thing.... This was a really nice CSO trying to be open and honest with the young person, trying to do good work. The young person's schema of what was going to happen was totally different to reality, unfortunately. (NGO worker)

This underscores the complex nature of children and young people's participation in court and tribunal proceedings. While it is imperative that they fully comprehend the nature of their

involvement, a number of respondents that work directly with young people noted how difficult this is in practice.

7.4. Factors that enable or hinder participation by children and young people

Respondents in interviews and focus groups identified a number of factors that enable or hinder children and young people's participation in the court and QCAT. These are summarised in Table 34 below.

Table 34: Factors that enable or hinder children and young people's participation

Enabling factors	Comments	Illustrative quotes from respondents
Legal representation and advocacy	Legal representation and/or advocacy from an OPG CAs enables children and young people to put forward their views in a way that is appropriate for the context. Lawyers and advocates also play an important role informing children and young people about the process and decisions. However, this is predicated on the skills and approach of the lawyer/ advocate. A number of stakeholders commented in particular that separate representatives rarely speak to the child or young person to ascertain their views.	<p><i>"The Child Advocate told me everything about the process, who would be there, and what the likely outcome would be. There was nothing that happened that I didn't expect."</i> (Young person)</p> <p><i>"A lawyer worked well [to help have my voice heard]. It was the best option I had – I didn't want my CSO talking on my behalf."</i> (Young person)</p> <p><i>"Sep reps... don't actually interview the kids, by and large."</i> (Magistrate)</p>
Support from CSO	The feedback from children and young people emphasised that CSOs play a central role in informing children and young people of their rights to participate, supporting them through the process and explaining decisions. Where casework is done effectively, stakeholders noted that this has an enormous benefit to a child or young person. Casework was described as variable, and based on the skills and approach of individuals. However, a number of stakeholders commented that new tools, such as the 'three houses' assisted CSOs to effectively put forward the wishes of children and young people.	<p><i>"If there's good casework happening you know from a CSO... then everything runs more smoothly ... Certainly they would be obtaining the views of the child, talking to the child thoroughly in that process."</i> (Lawyer)</p> <p><i>"The new models that they're bringing in [like] the Three Houses [are] encouraging a lot more engagement and discussion with the child."</i> (NGO worker)</p> <p><i>"How [the CSO] explained it was confusing, but when I got to do the house thing, write my feelings and stuff, I [understood] it a bit more."</i> (Young person)</p> <p><i>"My CSO was with me the whole time during the hearing."</i> (Young person)</p>
Active role and encouraging approach from Magistrate or QCAT Member	The role of Magistrates and QCAT Members in encouraging participation was highlighted by a number of stakeholders. In particular, stakeholders were very positive about instances where Magistrates had taken a more informal approach to discuss something with a child or young person (e.g. by removing their robes and coming down from the bench). It was noted that the approach of some Magistrates is more child-friendly than others.	<p><i>"We had another Magistrate the other day that after they granted orders for a hearing, they let the child in court - he was only 12 I think. She actually came down from the [bench] ...she took all her robe and everything off and she came and sat with him in a room and explained it all to him. And I just thought, "Wow." It was really good. I've never seen any of them do it before."</i> (Recognised Entity)</p>

Barriers	Comments	Illustrative quotes from respondents
<p>Awareness of the right to participate and options for doing so</p>	<p>A critical precursor to participation for children and young people is their awareness that a court or tribunal proceeding is taking place, and knowledge of their options for expressing their views. A number of young people surveyed indicated they were not aware a proceeding was taking place, and therefore had not been able to express their views. Support people (including lawyers and CSOs) were acknowledged as playing a critical role in informing young people of their options to participate.</p>	<p><i>"I really don't think they know that if they wanted to come, that they could come along ... They can talk to you [the Magistrate], and they have a say ... They don't know that they can come to court. I'm sure they don't. Some do."</i> (Magistrate)</p> <p><i>"No one told me about the hearing."</i> (Young person)</p> <p><i>"I was not asked what I wanted and didn't know about the hearing. I found out about the hearing from my Dad afterwards."</i> (Young person)</p>
<p>Age of child</p>	<p>A common constraint on participation that emerged from the file review was age. Stakeholders recognised the challenge of ascertaining a child's views or wishes when they are very young. Magistrates commonly viewed the age of the child as central to whether or not they were able to participate, and generally only considered teenage children as able to be involved directly.</p>	<p><i>"I understand that younger children, that's a complex process but family law court gives voice to young people at an age and I think the child protection system should be no different"</i> (NGO representative)</p> <p><i>"... [but] they're our most vulnerable kids so if we can't advocate for our zero to three or four or five-year olds, who is going to advocate for them?"</i> (NGO representative)</p>
<p>Intimidating setting and non-child friendly processes of courts and tribunals</p>	<p>Court and tribunal settings and processes were described as non-child friendly by children and young people, as well as other stakeholders. A number of people raised issues with the way in which proceedings are run in the Childrens Court, saying that unpredictable and often lengthy waiting times hinder effective participation. The physical setting of courts and tribunals was also described as intimidating.</p>	<p><i>"It would be difficult to think of an environment that would more disable a child to present their best self. You make them wait for a long time; they're not sure where the loos are; they're not sure who's going to walk past. It is scary. It really isolates them."</i> (NGO representative)</p> <p><i>"[Hearings] take forever. I would like it not to take so long. My legs were going numb and my eyes were playing up. I could not sit still."</i> (Young person)</p>
<p>Lack of child-friendly support and information</p>	<p>Although access to support and advocacy (when available) are factors that enable participation, the overall lack of child-friendly information and support remains a barrier to participation. This theme emerged consistently from children and young people themselves, as well as stakeholders that play a key role in directly supporting them such as non-government service providers.</p>	<p><i>"I'm a bit loathe to ask for a child to come in unless they're already expressing a view that they want to ... Because I know that nine times out of ten they're not really being supported in that particular task by anybody who knows what it's going to be like."</i> (Magistrate)</p>

Source: Interviews and focus groups

8. Participation by parents

Key points from this chapter

- Although only a small number of parents were consulted as part of the evaluation, those that were had an overwhelmingly negative view of the child protection system. For many parents, the experience of the Childrens Court or QCAT was overwhelming, traumatic and disempowering.
- A number of parents expressed the view that courts and tribunals relied too heavily on untested evidence presented by DCCSDS, which they often held to be inaccurate.
- Data from the survey of justice stakeholders indicated this group held less negative views about parent participation.
- Factors that enable parents' engagement in courts and tribunals included access to adequate and high-quality legal representation or advocacy. A minority of parents had undertaken to inform themselves about the legislation and decision-making process, which enabled them to question the evidence in their case. Magistrates were also recognised as playing an important part in engaging parents during the Childrens Court process, if they took an inquisitorial and active approach.
- A raft of factors hinder parents' participation, including the socio-economic barriers and other challenges they face in their daily lives. The data from the file review support this, showing high incidences of mental health issues, domestic violence, and drug or alcohol abuse among parents.
- Specifically in relation to courts and tribunals, parents reported significant difficulties accessing information or documents relating to their case. The size and complexity of court and tribunal documents was also a barrier to parents' engagement. In addition, the court and tribunal environments were described as intimidating.

8.1. Introduction

The Inquiry noted that, in reality, most parents are unrepresented in proceedings and often receive “too little [assistance], too late”.²¹ In its report, the Inquiry also raised concerns about the proportion of orders made by consent, questioning whether parents were fully informed as to their rights and the quality of evidence before them.

A key outcome of WP36 is that the voices of children, families and carers are heard in decisions that impact them. This section reports on the current state of participation by parents in child protection proceedings in the Childrens Court and QCAT, highlighting factors that enable and hinder their engagement.

8.2. Current state of participation

The quality of evidence file review recorded information about whether the file contained evidence filed to enable the court to be satisfied that the child's parents and other parties understood the nature, purpose and legal implications of the proceedings (as required by section 106 of the Act). Table 35 below shows that files rarely contain this evidence. In addition, the file review identified that there were three matters where it was suspected that the parent was an impaired person, but in none of these matters was there evidence on the file of any attempt made to find out whether a guardian had been appointed (as required by

²¹ Queensland Child Protection Commission of Inquiry 2013, *Taking responsibility: A roadmap for Queensland child protection*, State of Queensland, p. 475.

section 6B of the *Childrens Court Rules 1997* (repealed), now section 33 of the *Childrens Court Rules 2016*).

Table 35: Whether files contained evidence that the child's parents and other parties understood the nature, purpose and legal implications of proceedings

Yes	1
No	13
Unclear	6
TOTAL	20

Source: Quality of evidence file review

Only a small number of parents were able to be consulted in this evaluation. However, those that were consulted expressed an overwhelmingly negative view about their experiences in the Childrens Court and QCAT.²² For many parents, matters in courts and tribunals were difficult to disentangle from their overall experience of the child protection system, which was often traumatic and disempowering.

The small group of parents consulted generally had a better understanding of the QCAT process and decisions than the Childrens Court (see Tables 36 and 37). Several had received legal assistance and advice prior to their QCAT hearing, which they described as important in helping them to understand the process and outcomes. A number of parents had been legally represented during proceedings in the Childrens Court, but gave varied feedback about whether or not this had helped them in the process (see Table 39 Enabling and hindering factors). Some parents also indicated they were confused about which decisions are the responsibility of the Childrens Court and which fall under the QCAT jurisdiction.

Table 36: Parents' understanding of Childrens Court and QCAT process

Statement	Very poor	Poor	Okay	Good	Very good
My understanding of the Childrens Court process was...	3	2	2	0	0
My understanding of the QCAT process was...	1	0	2	1	1

Source: Parent focus group, Brisbane (n=9)

Table 37: Parents' understanding of Childrens Court and QCAT decisions

Statement	Very poor	Poor	Okay	Good	Very good
My understanding of the decision the Childrens Court made was...	4	2	1	0	0
My understanding of the decision QCAT made was...	0	3	1	0	1

Source: Parent focus group, Brisbane (n=9)

All parents consulted in this evaluation described the court process as disempowering, and felt they were viewed negatively by both DCCSDS and court stakeholders. In some cases, this feeling of powerlessness had led to parents disengaging from the process altogether:

²² It is important to note that the sample who have elected to attend a focus group may have chosen to do so because they have had a particular experience they want to discuss – this presents something of a limitation in that the sample are not randomly selection and it is not possible to determine whether this group of parents is an unbiased sample of all parents who have contact with the child protection system.

"[We] did not have a say in the matter, full stop. And we're trying to work with the courts and work with Child Safety, but at the moment I feel like it's just a waste of time, because we lost all our rights." (Parent)

"There's a lot of shame, you're thrown into a court case and it's a humiliating experience, the whole process is humiliating, the whole from the bottom up, [being] treated in a certain way. And that has a big effect." (Parent)

A number of parents expressed the view that the court relied heavily on information provided by DCCSDS, which they held to be untrue:

"I think what it was down to the courts is that they rely on the Department for the information. We are all seen as lower than basically cockroaches no matter how much intelligence we have, how much money it doesn't matter. Child Safety are always correct and that Child Safety's information is correct." (Parent)

The comments of parents also highlight the impact that DCCSDS casework can have on the court process. One parent described a positive situation, where a strong relationship with her CSO had enabled her to challenge a previous court decision that she felt had been made based on distorted information. In this situation, the CSO played an important role in presenting evidence to the court that the parent was willing and able to take custody of her children.

However, in another situation, a parent spoke of being caught between two Child Safety Service Centres that had a different view regarding his risk assessment. In this situation, the parent left a court-ordered conference with the view that the risk was regarded as 'low'. When the court hearing commenced, however, the parent felt 'blind-sided' by information contained in a Departmental submission that did not support the view taken at the court-ordered conference. The parent received legal advice following the court hearing not to dispute the order made, and to appeal at a later time. When several months passed with no action on the appeal, this compounded the parent's feelings of frustration and disempowerment with the court process:

"We had this court conference, we were told there's no problems ... went to court and the [DCCSDS] people said something completely different. What I think needs to happen with the judge [Magistrate] is she needs to direct a question to the parents "do you agree with this?" Surely [the Magistrate] would see that I was really upset with all sorts of rubbish that just came out in court, but there was never any reference to us if you're ok for this? ... A lot happens behind our backs." (Parent)

In contrast to the views expressed by parents about the court system, over 60 per cent of justice stakeholders surveyed felt that parents were listened to either 'frequently' (40%) or 'very frequently' (see Table 38). Over half felt that parents views are taken into account either 'frequently' (37%) or 'very frequently' (16%), although the most common response category against this statement was 'occasionally' (36%). The findings of the survey indicate that the state of parent participation is not viewed as poorly by other stakeholders.

Table 38: Justice stakeholder perceptions of parent participation

Statement	Very rarely	Rarely	Occasionally	Frequently	Very frequently	Cannot comment
Parents are listened to	0%	9%	27%	40%	21%	3%
Parents receive adequate support to understand the court process and express their views	5%	17%	36%	27%	13%	1%
Parents' views are taken into account	1%	8%	35%	31%	25%	0%
Parents are involved in decision-making processes	3%	15%	29%	37%	16%	0%
Parents receive timely notice of child protection matters	7%	8%	20%	36%	24%	5%
Parents receive adequate advice about orders being made by the court	8%	11%	32%	27%	15%	8%

Source: Survey of justice stakeholders (n=75)

8.3. Factors that enable or hinder participation by parents

Factors that enable and hinder parents' participation and engagement in the court process are outlined in Table 39 below.

Table 39: Factors that enable and hinder parents participation

Enabling factors	Comments	Illustrative quotes from respondents
Legal representation and advocacy	Although some parents did not speak highly of the experience with legal representatives, the overall feedback from respondents is that representation is an important factor that enables participation. Lawyers said they felt their assistance enabled parents to present their views in a way that is appropriate to the court context, and to navigate the system. Several respondents noted that the involvement of legal representatives had a positive impact on the way DCCSDS engaged with parents, ensuring that parents' rights were upheld and enabling parents to respond to allegations in a way that was able to be put forward in a proceeding. Despite the perceived value of legal representation, a number of respondents remain concerned that its availability and coverage is not sufficient.	<p><i>"They treat unrepresented parents differently basically, that's the bottom line and it happens every time."</i> (Lawyer)</p> <p><i>"When they've got a lawyer to speak up ... and to advocate on their behalf, we get a lot more ... I suppose things happening between court dates ... It's actually making the department get off their bottom and start to do things with the parents, do things differently."</i> (Lawyer)</p> <p><i>"There's just that wall that goes up between the parents and Child Safety. It's like a war that starts. A solicitor could assist greatly in breaking down those barriers ... but they [parents] just get no help. So I think that's a huge problem. It's been terrific that we've had the duty lawyer service. In fact I think that's fantastic, but that can only go so far."</i> (Magistrate)</p>

Knowledge and understanding of the child protection system and court/ tribunal processes	While most parents consulted in this evaluation found the court and tribunal system to be complex and difficult to understand, a small number of parents had equipped themselves with enough knowledge to work within it. A number of parents highlighted that parent-friendly information and general education about the legal system would play an important part in providing more parents with an understanding of the court and tribunal system.	<i>"[I've] had to learn along the way, because we've been thrust into a situation where we've had to go to court and that's big and scary thing and it's intimidating. But there is a total lack of education, despite what's on the TV ... none of that is real. We need to have education in the school system where the kids can be educated as to how courts work and why they do what they do. And we want the truth of it, not phony stuff."</i> (Parent)
Active role and encouraging approach from Magistrate or QCAT Member	Respondents were very positive about the appointment of dedicated Childrens Court Magistrates, because they are well-placed to develop an understanding of the issues facing vulnerable children and families (see Chapter 3). Conversely, respondents in areas where the court was not operating with a dedicated Childrens Court Magistrate spoke of the benefits this would bring, particularly for parents.	<i>"It would be nice to have a sort of parent friendly Magistrate, someone who is not going to appear judgmental ... You know, there are some Magistrates up here whose attitude would just make the client shrink ... Most of them are okay but just the same, seeing it through a parents eyes, they're already shamed by having to turn up and everybody's seen the affidavit material and they're in a courtroom... It's a very negative experience ... Even if they don't want to talk to the court at least there's a Magistrate who's asking them their views and I think that would make a difference."</i> (Lawyer)
Barriers	Comments	Illustrative quotes from respondents
Socio-economic and health barriers	Underlying all other barriers in this section is the fact that parents involved in child protection proceedings are a vulnerable group facing a range of socio-economic, health-related and practical constraints to participation. Respondents cited a range of barriers in interviews. Data from the file review for participation also showed that 36% of matters involved parents with a mental health condition, 53% involved drug and alcohol abuse and 47% involved a domestic violence relationship. These issues have a fundamental impact on the extent to which some parents are able to participate, alongside more practical barriers like lack of transport.	<i>"These people are really from very disadvantaged backgrounds, the parents. Usually, they're poorly educated. If it's the mother, they've been often subjected to domestic violence, multiple partners, drug abuse, itinerancy."</i> (Magistrate) <i>"You are dealing with parents who are generally affected by either mental impairment, intellectual disability, drug misuse. So there's all sorts of complex issues there that affect their cognitive abilities along the way as well."</i> (Magistrate)
Difficulty accessing and understanding court and tribunal documents	A key message from parents consulted in the evaluation was that information about their case or history with DCCSDS is extremely difficult to obtain. Parents felt this put them at a disadvantage when it came to participating or engaging in a court or tribunal process. Other respondents also noted that, even when parents do receive information, this can be very complex and difficult to understand. This is especially critical when taking into account low levels of literacy and education, which respondents described as common issues. If parents are unable to understand the process of filing court or tribunal documents, and unable to comprehend the material contained in documents, this is a severe barrier to their engagement.	<i>"There's a culture of non-disclosure."</i> (Parent) <i>"A lot of the clients because of the voluminous material they can't read or write so they're only as good as what Child Safety has told them."</i> (Lawyer) <i>"The difficulty is ... that the parents are being given a copy of the subpoenaed material on the doorstep. They've had access to come to the court to have a look at it, but they never will."</i> (Magistrate)

Lack of understanding of the court process and the implications of this for filing material

Respondents said that parents' lack of understanding of the court process had important implications for their ability to respond to material, particularly as this related to filing affidavits in response to DCCSDS allegations. A number of respondents highlighted that legal representation is critical in mitigating this challenge. Without legal representation, respondents said it was difficult for parents to understand what was taking place in the courtroom and what this meant for their involvement. A number of dedicated Childrens Court Magistrates dealt with this issue by taking a flexible approach, sometimes allowing parents to submit material on the day of a proceeding rather than filing it in advance.

"I really feel for families when they're not represented ... In court, you have all this jargon like ... 'subpoena material is going to be down by this date' ... A lot of the times our families don't even get an affidavit in because they don't know ... Then you have unfortunately parents that probably have got a really good shot and what they're saying in plain English is probably really good but they can't respond to all this court material. Then on the day of hearing they just agree [to the order]." (Recognised Entity)

"It's just such a complex problem because sometimes the parents ... sometimes do not understand the nature of directions by the court, as much as we try to explain that." (Magistrate)

Intimidation and fear of courts and tribunals

A barrier raised by some respondents was the intimidating environment at court, and the fear some parents have of the court process. For some, court is associated with criminal justice matters and this causes fear and disengagement from the process.

"For some of my clients that's particularly an issue - the whole Court process means you're in trouble and that when you turn up your mind has already switched off before you even walk into the courtroom." (Lawyer)

"Walking into a courtroom ... is highly intimidating ... having to deal with a whole bunch of professionals standing around talking their legal speak." (NGO worker)

Source: Interviews and focus groups

9. Participation by foster and kinship carers

Key points from this chapter

- Currently there is limited participation by foster and kinship carers in proceedings before the Childrens Court, although they are more often involved at QCAT in reviews of placement and/or contact decisions.
- With the changes to s113 of the Act (which commenced 25 May 2016), there is a possibility that foster and kinship carers could become more heavily involved in Childrens Court proceedings, at the discretion of the court.
- The majority of foster carers consulted during the evaluation expressed a desire to be more engaged in court and tribunal processes, as they felt they had important information to offer about the children in their care.
- Given that participation by foster and kinship carers in the Childrens Court is rare, there are few processes in place to support carers when they are required to be involved.
- Some foster carers described the court process as a stressful experience, as they had little understanding of what was involved and no support to participate. In contrast, one carer who had been supported by DCCSDS had a positive experience and felt respected by the Magistrate and legal professionals involved in the matter.

9.1. Current state and experiences of participation

Currently, there is limited participation from foster and kinship carers in the court process, although foster and kinship carers are more often involved at QCAT, where review matters involve contact and/or placement.

Prior to 25 May 2016 in the Childrens Court, under section 113 of the Act, the court could hear submissions from non-parties to a proceeding. This could include a member of a child's family, or anyone else the court considered able to inform it on any matter relevant to the proceeding. This section also enabled the court to allow the non-party to view a document or other information before the court, provided the court was satisfied that a number of conditions had been met (s113(3)).

The Inquiry recommended that amendments be made to permit the Childrens Court discretion to allow members of the child's family or another significant person in the child's life to be joined as a party to the proceedings where the court agrees the person has a sufficient interest in the outcome of the proceedings (recommendation 13.9).²³

From 25 May 2016, for applications for party status under section 113, the court will form a view about whether it is appropriate to allow the person applying to participate, and if so to what extent. Although this recommendations is not specifically targeted at foster and kinship carers, they may be able to satisfy the court that an order for party status under section 113 is appropriate, giving them increased rights to participate under the Act.

9.2. Experiences of foster and kinship carers

The majority of foster carers consulted in the evaluation wanted to be more involved in the court process, as they believed they had important insights about the child in their care and would be well-placed to talk about court proceedings with those children:

"I think QCAT and the court process needs to, like you said, involve us. Why can't we sit in the back of the courtroom? Why can't we be involved in what's going on? This is

²³ *Taking responsibility: A roadmap for Queensland Child Protection*. 2013. Brisbane: Queensland Child Protection Commission of Inquiry. Page 486.

the child that we've had maybe for 10 years, 14 years, six years, three years." (Foster carer)

"I think that in some cases foster parents should be allowed to be in court to hear proceedings. Transparency for the child in carer's case needs to improve. Carers have invested a lot into the child. I would even be as bold to say that in some cases their voices as the child's carer should also be heard. ...Some cases I imagine, that involve long term guardianship, would empower carers to speak of proceedings with the child to assist in helping the child feel a part of the family, to belong, to be normal, that they are wanted." (Foster carer)

A number of grandparents were involved in the evaluation as part of consultations with both parents and foster carers. Kinship carers felt strongly that they had a right to participate in proceedings with greater rights afforded to them under the Act, because of the central role they played as a member of the child's family and their carer. Grandparents who did not have guardianship also felt strongly that they had not been heard.

Some foster carers who had experienced a court or tribunal process said they had little warning of the upcoming proceedings, and/or were given no information afterwards:

On a Friday afternoon, I got a knock on the door, and it was someone from Child Safety. I was in the kitchen. They've come running in and said, "You're subpoenaed". They chucked [the information] at me and took off back to the front door. Then I had to go to court ... There were 10 other professionals there giving evidence. I had to write my own affidavit and everything – never written one in my life ... No one could check it. No one could help me ... I got in there. I was called up first ... I honestly did not know what to do. I got called up in there, and I was a mental mess." (Foster carer)

"I didn't know what had happened, what the results of the court case [were] until a week later." (Foster carer)

Given that foster carers are not often required to participate in a proceeding, except at the discretion of the court, there are few formal support structures in place to assist them in doing so. Despite this, one foster carer had a positive experience of court:

"We had to do affidavits and be put on the stand and be questioned by mum's lawyer, the sep rep, the Department's lawyer, and dad didn't have any legal representation so he questioned us as well, and then the Magistrate questioned us as well ... But actually, my experience was really good; the Magistrate was fantastic, everyone questioned really respectfully. And apparently, if any of the lawyers go for a foster carer the Magistrates will pull them up ... They're quite respectful to the carers." (Foster carer)

These experiences highlight, again, the important role CSOs can play in providing timely information about court and tribunal proceedings as well as the central role of Magistrates in enabling positive court experiences.

9.3. Barriers to participation

Foster and kinship carers identified two key barriers to their current ability to participate in proceedings, described in Table 40.

Table 40: Barriers to foster and kinship carer participation

Barrier	Comments	Illustrative quotes from respondents
Lack of timely information about proceedings and their outcomes	Several grandparents said they had received no information about the court or tribunal proceeding relating to their grandchildren. Although this is not an obligation of the Childrens Court or QCAT, it did mean they were unable to participate in proceedings and had limited understanding of the outcomes. A number of foster carers also said they rarely receive advice about decisions, which they feel can impact negatively on the children in their care.	<p><i>"We normally hear it through the parent ... you have to chase [the information]. You have to hunt for it." (Foster carer)</i></p> <p><i>"We don't get to go [to court]... Then it takes us weeks to find out what the court result was anyway, because they don't bother to get back to you. So it's not just us that are in limbo, it's the poor children ... They're in limbo, because they don't know what's happening." (Foster carer)</i></p>
Awareness of rights	A number of foster carers said they were unclear about their rights in courts and tribunals. Some had received support and education from peak bodies and support services. However, others had a lower level of awareness and expressed an interest in being told more about the role of the Childrens Court and QCAT as it relates to them.	<p><i>"We can actually ... take things to QCAT ourselves, which I was totally unaware of ... Things could have happened from our point of view for this child rather than just leaving it to them [lawyers and advocates]." (Foster carer)</i></p> <p><i>"Just sit down with us and say this is what we're doing, this is how we're doing it, these are your rights, this is what you can do." (Foster carer)</i></p>

Source: Foster and kinship carer focus groups

10. Conclusion

This baseline evaluation, conducted as it has been on the eve of significant reform to child protection proceedings, provides strong background information to measure the impact of court and tribunal reforms over the next few years.

Key findings that form the baseline evaluation are outlined under a series of headings below.

1. The functioning of courts and tribunals

- In general, it does not appear that Magistrates have engaged in a case management approach in any consistent way, although survey respondents appear to have observed Magistrates engaging in activities which comprise elements of a case management approach. Case management by Magistrates is reported to be occurring naturally, however, in single Magistrate courts.
- Where it has been working as intended, stakeholders welcomed the appointment of the dedicated Childrens Court Magistrates, and thought they brought a range of benefits, including increased specialist knowledge and a more respectful approach, ensuring orders are the least intrusive, holding DCCSDS to account for actions taken between mentions, and increased efficiency due to their better knowledge of filed material. This evaluation has identified there is scope to increase the ability of dedicated Childrens Court Magistrates to share their knowledge and expertise with other Magistrates.
- Over the last four financial years (2011–12 to 2014–15) there have been no clear changes in lodgements (on average 3,699 annually over the period), finalisations (on average 3,648 annually over the period), clearance rates (ranging from 94% to 103%) or backlogs for child protection matters in the Childrens Court, although time to finalisation for CPOs appeared to increase between 2011–12 and 2012–13 (from an average of 128 days to an average of 156 days).
- While QCAT average case length (in weeks) improved (this improvement was statistically significant) between 2011–12 and 2015–16, there was no statistically significant change in time to compulsory conference (a second measure of timeliness) over the same period.
- A number of stakeholders expressed positive anticipation of the reforms about to take place, and the ability of the reforms to improve timeliness of decisions in child protection proceedings, and improve the ability of a more specialised magistracy to case manage matters more closely.
- The very small number of parents who participated in the evaluation expressed overwhelmingly negative views about the Childrens Court and QCAT. They expressed a lack of understanding of processes and decisions, as well as fear, intimidation and disempowerment. Factors that enabled their participation in proceedings included legal representation and advocacy, knowledge and understanding of the system and of processes, and an active, encouraging approach from a Magistrate or QCAT Member.
- Foster and kinship carers expressed a desire for greater involvement in court and tribunal processes, believing they have important insights to share about the child in their care. Kinship carers in particular felt they had a right to participate due to the important role they play. This group expressed a need to be better informed about proceedings both before and after, and it was felt the CSO could play a much stronger role in providing timely information about these events.

2. The legal representation of children and families

- Respondents were unanimous about the importance of legal representation for parents, children and young people.

- The proportion of parties legally represented in child protection proceedings in the Childrens Court increased from 84 per cent in 2011–12 to 90 per cent in 2014–15. The majority of this legal representation was funded by grants of legal aid. Data from LAQ showed that nearly three quarters of funding relating to child protection proceedings was concentrated in the earlier stages such as initial advice, for a Family Group Meeting, a court-ordered conference or a mention. In reality, very few legal aid applicants will be supported through to a hearing, should the case be contested.
- Aboriginal or Torres Strait Islander families are potentially in a better position with regard to legal representation from a recognised Aboriginal and Torres Strait Islander legal service which has the ability to see a matter through to a hearing. This advantage is dependent on access to an Aboriginal and Torres Strait Islander legal service.

3. The cultural competence of courts and tribunals when making decisions about Aboriginal and Torres Strait Islander children and young people

- There were mixed feelings about the cultural competency of courts and tribunals, with some positive responses and some not so positive.
- Respondents in focus groups acknowledged the critical barriers facing Aboriginal and Torres Strait Islander families in their engagement with court and tribunal processes, with a significant lack of trust in the child protection and court systems based on historical and contemporary experiences with these systems. Compounding this lack of trust is the inability for extended family members to participate as parties in child protection proceedings. Given the importance of extended family members within Aboriginal and Torres Strait Islander families, respondents felt that changes to section 113 of the Act (to enable a broader range of people to be joined as parties to child protection proceedings) may have particular importance for Aboriginal and Torres Strait Islander families and potential to facilitate their improved participation in child protection applications.
- This report found that REs in large part feel heard and respected by Magistrates in Childrens Court hearings. Magistrates also voiced an appreciation for the value brought by REs in the court context. However, REs also raised that they lack party status in proceedings which can leave them isolated by DCCSDS, particularly when they oppose an application for an order. REs noted they find it difficult to access materials held by DCCSDS, which limits their ability to provide independent and informed assessments about the appropriateness of the orders sought.
- REs expressed their wish to see a clear definition of 'significant decision' to help guide both them and DCCSDS to understand when their involvement is required.

4. The quality of evidence in child protection proceedings

- The study of 20 files identified a number of deficiencies or gaps in the evidence contained in the files. File reviewers identified that there was insufficient information about the situation of parents and the involvement of relevant agencies, insufficient information to justify the order sought, lack of evidence to back up key assertions, not tying evidence to the legislative thresholds, and lack of evidence about the capacity of the family to regain care of the child, or to establish that parties could understand proceedings.
- On the other hand, almost all files contained evidence that an appropriate case plan was in place for the children whose matters were examined as part of this evaluation.
- Issues raised by key stakeholders in interviews echoed these themes, but some interviewees reported observing an improvement in the quality of evidence presented to courts since the child protection inquiry had delivered its report.

5. The voices of children and young people in decisions that affect them

- While children and young people have a range of options available to them about how their views and wishes might be communicated in court and tribunal processes, many of

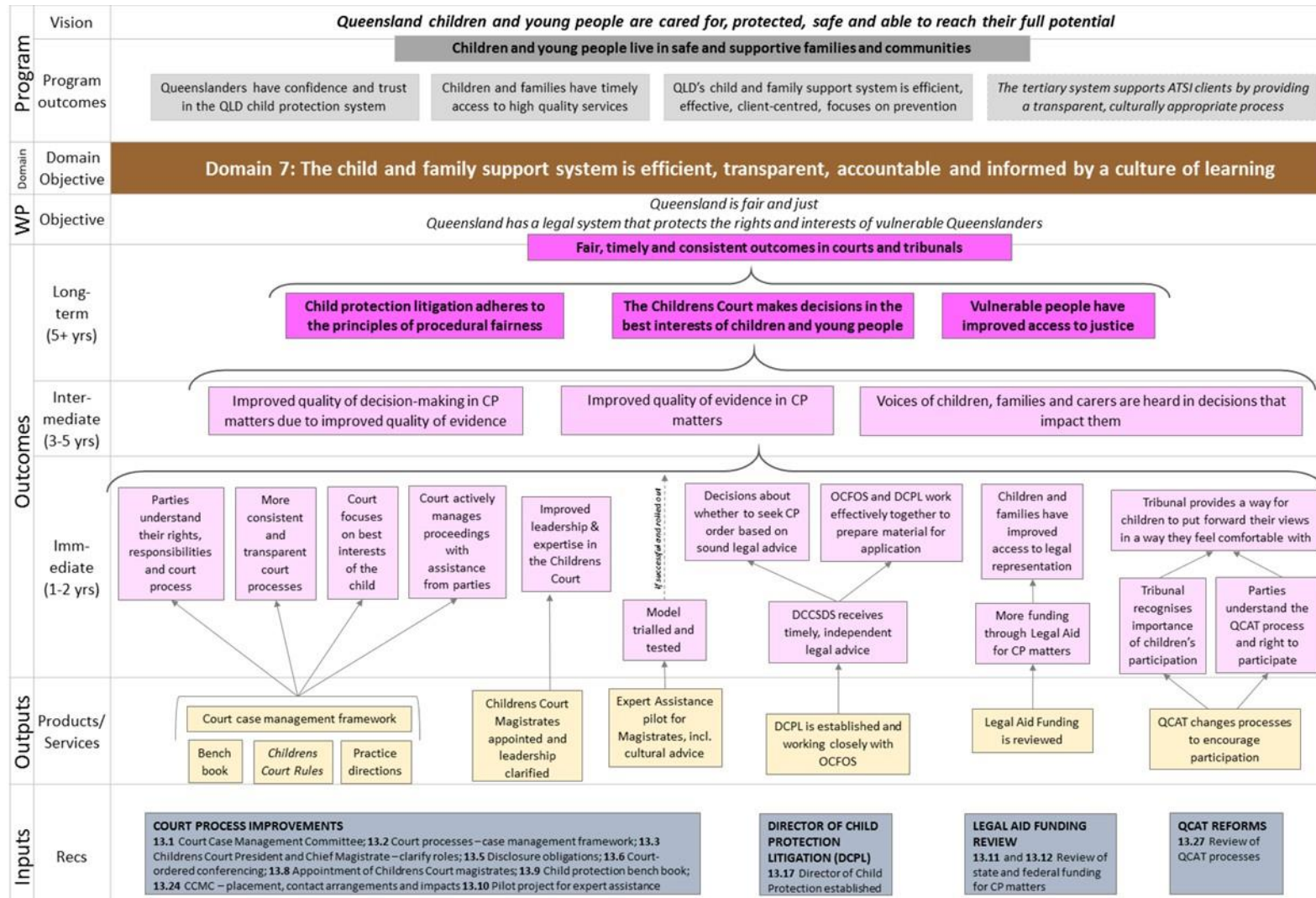
those interviewed by CREATE as part of this study did not feel they had been given adequate information about the proceedings that affect them, and did not feel they were given opportunities to provide input.

- The file review findings revealed that the views of a child or young person sometimes have a significant impact on a Magistrate's decision, or at least appeared to be highly valuable to Magistrates in making their decision about an application.
- In essence, it appears that many children and young people rely on their CSO to inform them they have the right to participate in proceedings, and that their direct appearance at proceedings is one of the options available to them.
- The findings of the study found that legal representation and advocacy, support from a CSO and the active and encouraging approach by a Magistrate or QCAT Member can facilitate children and young people contributing their views and wishes. An awareness of their right to participate, and knowledge about how they can participate appear to be barriers to their involvement in court and tribunal proceedings. In addition, the intimidating nature of courts or tribunals, and lack of child-friendly support and information, are further barriers that could be overcome to facilitate their involvement.

Replicating this evaluation in 2018–19, and again in 2022–23, will enable DJAG to assess the extent to which court and tribunal reforms have achieved the outcomes envisaged by the Inquiry. With the court reforms implemented in July 2016, the child protection jurisdiction has faced significant change since the Inquiry reported in 2013.

With the passage of time, and the embedding of these reforms, it is anticipated that we will see improvements in timeliness, quality of evidence, the participation of all parties, and ultimately the delivery of better decision-making in child protection proceedings.

Appendix 1: Program logic



ACRONYMS - ATSI: Aboriginal and Torres Strait Islander; CP: Child Protection; DCCSDS: Department of Communities Child Safety and Disability Services; DCPL: Director Child Protection Litigation; OCFOS: Office of the Child and Family Official Solicitor; OPG: Office of the Public Guardian; QCAT: Queensland Civil and Administrative Tribunal; WP: Work Package

Appendix 2: Work Package 36 – list of recommendations

No.	Recommendation
13.1	<p>The Department of Justice and Attorney-General establish the Court Case Management Committee to develop a case management framework for child protection matters in the Childrens Court.</p> <p>The committee should be chaired by the Childrens Court President and include the Chief Magistrate and representatives of the Department of Justice and Attorney-General, Legal Aid Queensland and the Queensland Law Society, the proposed Official Solicitor (or other senior officer) of the Department of Communities, Child Safety and Disability Services (see Rec. 13.16) and the proposed Director of Child Protection (see Rec. 13.17)</p>
13.2	<p>The proposed case management framework include:</p> <ul style="list-style-type: none"> • the stages, timeframes and required actions for the progress of matters, including any necessary special provisions to apply to complex matters (for example, those in which there may be multiple children the subject of orders)`` • the ability for the Court to give directions to a parent to undertake testing, treatments or programs or to refrain from living at a particular address. The extent to which the parent complies should be considered by the Court in deciding whether to make a CPO. <p>The Chief Magistrate and the President of the Childrens Court should support the case management framework and develop necessary Practice Directions.</p>
13.3	<p>The Attorney-General and Minister for Justice propose amendments to the Childrens Court Act 1992 and the Magistrates Act 1991 to clarify the respective roles of the President of the Childrens Court and the Chief Magistrate to:</p> <ul style="list-style-type: none"> • give the Chief Magistrate responsibility for the orderly and expeditious exercise of the jurisdiction of the Childrens Court when constituted by Childrens Court magistrates and magistrates and for issuing practice directions with respect to the procedures of the Childrens Court when constituted by magistrates, to the extent that any matter is not provided for by the Childrens Court Rules - this should be done in consultation with the President of the Childrens Court • ensure that the powers and functions of the Chief Magistrate extend to the work of Childrens Court magistrates and magistrates.
13.5	<p>The Court Case Management Committee review the disclosure obligations on the department and propose to the Minister for Communities, Child Safety and Disability Services amendments to the Child Protection Act 1999 to introduce a continuing duty of disclosure on the department with appropriate safeguards.</p>
13.6	<p>The Court Case Management Committee propose to the Minister for Communities, Child Safety and Disability Services amendments to the Child Protection Act 1999 to provide a legislative framework for court-ordered conferencing at critical and optimal stages during child protection proceedings.</p>
13.8	<p>The Attorney-General and Minister for Justice, in consultation with the Chief Magistrate appoint existing magistrates as Childrens Court magistrates in key locations in Queensland (subject to rec. 13.3)</p>
13.9	<p>The Department of Justice and Attorney-General fund the Magistrates Court to finalise the review of the child protection benchbook and make it publicly available.</p>
13.10	<p>The Department of Justice and Attorney-General and the Chief Magistrate collaborate to develop and fund a pilot project in at least two sites, in which the Childrens Court can access expert assistance under s 107 of the Child Protection Act 1999. The pilot project is to be evaluated to determine the extent to which it improves the decision-making of the court and to assess its cost-effectiveness.</p>

13.11 The State Government review the priority funding it provides to Legal Aid Queensland with a view to ensuring that increased funding is applied for the representation of vulnerable children, parents and other parties in child protection court and tribunal proceedings.

13.12 Legal Aid Queensland review the use of Australian Government funding received for legal aid grants to identify where funding can be used for child protection matters.

13.17 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 CPO will be sought, as well as litigate the applications.

Staff from the Director of Child Protection will bring applications for CPOs 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.

13.24 The Court Case Management Committee examine whether the Childrens Court in making a long-term guardianship order can feasibly make an order for the placement and contact arrangements for the child. In this examination, the Committee should take account of the impact of such a proposal on the court case management system and the departmental case management processes.

13.27 The Queensland Civil and Administrative Tribunal consider, as part of its current review, improved practices and processes in the following areas:

- a. child inclusive and age-appropriate processes, for example increased use of child and youth advocates
- b. more timely consideration to reduce unnecessary delays and the dismissal of matters
- c. enable publication of outcomes of matters being resolved as part of the compulsory conference process.

Appendix 3: Justice stakeholder questionnaire

Strategic Policy Stronger Families questionnaire

Participant information and consent

Evaluation of the Stronger Families justice reforms
Participant Information – Online questionnaire

Project details
 Title: Evaluation of the Stronger Families justice reforms
 Human Research Ethics Approval number: H15REA253

About the 'Stronger Families' reforms
 The Queensland Child Protection Commission of Inquiry (the Inquiry) made 121 recommendations to reform the child protection system, of which 116 were accepted and the remaining five accepted in principle. The justice portfolio is responsible for implementing 15 Inquiry recommendations across two areas of work: Court Reforms and the Office of the Public Guardian (OPG).

Key aspects of the court and tribunal reforms include: the introduction of a Court Case Management Framework (Practice Directions, bench book and Childrens Court Rules); appointment of dedicated Childrens Court Magistrates; establishment of the Director of Child Protection Litigation; review of funding to Legal Aid Queensland and changes to processes at the Queensland Civil and Administrative Tribunal (QCAT).

The OPG reforms include: refocussing the Community Visiting program so that it best meets the needs of vulnerable children in out-of-home care; introduction of Child Advocates to assist children in decision-making forums; and the establishment of a model of Advocacy Hubs.

About the evaluation
 The evaluation will enable the Department of Justice and Attorney-General (DJAG) and OPG assess whether or not the reforms were successful in achieving the intended outcomes. A baseline evaluation is being conducted in 2016 and will provide a comparison point for evaluations scheduled in 2017-18 and 2022-23. As some reforms have already been implemented, the evaluation will also identify any emerging outcomes and lessons learnt to date.

What are we asking you to do?
 The purpose of the survey is to collect the views of a broad range of legal and community stakeholders who have direct involvement with courts and tribunals. We are asking you to complete an online questionnaire about topics related to the DJAG and OPG reforms.

The questionnaire will take between fifteen minutes and thirty minutes to complete.

Participation in the evaluation is entirely voluntary. If you do not want to take part, you do not have to.

What are the benefits and risks?
 There is no direct financial or other benefit to you for participating in the study. However, the information you give will help DJAG and OPG understand the impact of the reforms, and identify any issues associated with implementation to date. This may help inform future implementation of the reforms.

There are no anticipated risks beyond normal day-to-day living associated with your participation in the project. You are being asked to give up some of your time to participate, which may cause inconvenience.

What will we do with the information you give?
 Your responses to the questionnaire will be anonymous. We will not ask for any identifying or personal information, beyond asking you to select a stakeholder category and nominating your post code. This is to help us understand who has participated in the survey. Once all responses have been received, they will be analysed as a group.

Due to the anonymous nature of the survey, it will not be possible to withdraw your data once you have completed the questionnaire.

The information you give in this evaluation may be used for future evaluations, which will occur in 2017-18 and 2022-23.

Your consent to participate

By completing this questionnaire, you are indicating that you consent to be involved in the evaluation. If you change your mind about participating and do not complete the questionnaire your data will not be included in the evaluation.

Questions or further information about the project

If you have any questions about the project, please contact Katrina Middlin.

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T: (07) 3225 2168

Susan Masotti (supervisor)

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Concerns or complaints about the project

If you have any concerns or complaints about the ethical conduct of the project, you can contact the University of Southern Queensland Ethics Coordinator on (07) 4631 2690 or email ethics@usq.edu.au. The Ethics Coordinator is not a part of the evaluation team and can talk to you about any concerns you have.

Thank you for taking the time to help with this evaluation.

Strategic Policy Stronger Families questionnaire

Which areas are relevant to you?

* 1. Which areas of the justice system are relevant to your work in child protection?

- Childrens Court
- Queensland Civil and Administrative Tribunal (QCAT)
- Both Childrens Court and QCAT

Strategic Policy Stronger Families questionnaire

Operation of the Childrens Court

A key reform for the Childrens Court is the introduction of a Court Case Management Framework, which will include a bench book, practice directions and Childrens Court Rules. This section asks questions about the current case management and administration of the Childrens Court.

2. In response to the statements below, please select the answer that best reflects your general experience of the Childrens Court.

	Very rarely	Rarely	Occasionally	Frequently	Very Frequently	Cannot comment
Magistrates have an active role in determining what activities should occur pre-trial and when they should occur	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There is incentive or pressure for early preparation and resolution	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
At first mention, Magistrates inquire of the applicant and what early intervention steps have been taken (if any)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Magistrates focus on the most important issues in the case and give directions to parties to ensure these issues are addressed	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
If a child doesn't have a case plan, a family group meeting is ordered by the Magistrate as quickly as practicable	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The issue of representation for children and young people is considered early in proceedings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The issue of representation for parents is considered early in proceedings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
If it is appropriate for a separate representative to be appointed, the Childrens Court makes an order appointing a separate representative at the appropriate time	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
When appropriate, the Childrens Court makes directions to help parents get legal representation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Disputes about disclosure are dealt with as quickly as practicable	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Court-ordered conferences are ordered at critical and optimal stages during the proceeding	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Magistrates give directions to ensure that matters are properly prepared	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Magistrates give directions to ensure that evidence is gathered early	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	Very rarely	Rarely	Occasionally	Frequently	Very Frequently	Cannot comment
Magistrates make directions about filing documents to ensure parties are properly prepared for trial	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Parties are encouraged to resolve issues through court-ordered conferencing	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cases in the Childrens Court are finalised without unnecessary delay	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Magistrates make appropriate provision for children to be involved in court processes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Do you have any other comments about the operation of the Childrens Court?						
<p>3. This question relates specifically to how the Childrens Court manages proceedings involving Aboriginal and Torres Strait Islander children and families. In response to the statements below, please select the answer that best reflects your general experience of the Childrens Court.</p>						
	Very rarely	Rarely	Occasionally	Frequently	Very Frequently	Cannot comment
The court ensures that parties have discussed issues such as the placement of the child and cultural support for the child if not placed with family or community	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The court ensures there is an appropriate cultural support plan in place for Aboriginal and Torres Strait Islander children	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In making orders for Aboriginal and Torres Strait Islander children, the court adequately considers whether the child will have regular contact with their extended family or kin if placed outside their community	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In cases involving an Aboriginal or Torres Strait Islander child, sufficient evidence is available on the child's cultural background and traditional child raising practices specific to the child's community	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Recognised Entities act independently in providing their views to the court	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>4. Do you have any comments about the way proceedings involving Aboriginal and Torres Strait Islander children are managed in the Childrens Court?</p>						

Strategic Policy Stronger Families questionnaire

Quality of evidence

Improved quality of evidence is a key outcome for a number of justice reforms, including the establishment of the Director of Child Protection Litigation. This section asks questions about the current quality of evidence available to the Childrens Court in child protection matters.

5. In response to the statements below, please select the answer that best reflects your general experience of the Childrens Court.

	Very rarely	Rarely	Occasionally	Frequently	Very Frequently	Cannot comment
All relevant material is submitted to the Childrens Court	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The evidence submitted does not include irrelevant material	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The best evidence is available for deciding the matter	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The written material is clear and concise	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Do you have any other comments about quality of evidence?

Strategic Policy Stronger Families questionnaire

Outcomes in child protection matters in the Childrens Court and QCAT

In this section we ask about the outcomes of child protection matters in the Childrens Court and QCAT.

6. In the question below, please select one answer for each box.

How would you rate the performance of the Childrens Court and QCAT in:

	Childrens Court	QCAT
Making decisions in a timely way	<input type="text"/>	<input type="text"/>
Making decisions in a consistent way	<input type="text"/>	<input type="text"/>
Ensuring decisions are procedurally fair	<input type="text"/>	<input type="text"/>
Making decisions in the best interests of the child	<input type="text"/>	<input type="text"/>

Do you have any other comments about outcomes in the Childrens Court and/or QCAT?

Participation by children and young people in decision-making

A key outcome of the justice reforms is increased opportunities for children and young people to have their voices heard in decision-making that impacts their lives. This section includes questions about participation of children and young people in decision-making.

7. In response to the statements below, please select the answer that best reflects your general experience of the Childrens Court and QCAT (choose one answer for each box).

	Childrens Court	QCAT
Children and young people are listened to	<input type="text"/>	<input type="text"/>
Children and young people are supported to participate and express their views	<input type="text"/>	<input type="text"/>
Children and young people's views are taken into account	<input type="text"/>	<input type="text"/>
Children and young people are involved in decision-making processes	<input type="text"/>	<input type="text"/>
Children and young people receive sufficient advice about decisions and how decisions will affect them	<input type="text"/>	<input type="text"/>
Children and young people have explained to them their options about how their views and wishes can be expressed	<input type="text"/>	<input type="text"/>

8. Thinking specifically about Aboriginal and Torres Strait Islander children and young people, please select the answer that best reflects your general experience of the Childrens Court and QCAT (choose one answer for each box).

	Childrens Court	QCAT
Aboriginal and Torres Strait Islander children and young people are listened to	<input type="text"/>	<input type="text"/>
Aboriginal and Torres Strait Islander children and young people receive culturally appropriate support to participate and express their views	<input type="text"/>	<input type="text"/>
Aboriginal and Torres Strait Islander children and young people's views are taken into account	<input type="text"/>	<input type="text"/>
Aboriginal and Torres Strait Islander children and young people are involved in decision-making processes	<input type="text"/>	<input type="text"/>
Aboriginal and Torres Strait Islander children and young people receive culturally appropriate advice about decisions and how decisions will affect them	<input type="text"/>	<input type="text"/>
Aboriginal and Torres Strait Islander children and young people have explained to them their options about how their views and wishes can be expressed	<input type="text"/>	<input type="text"/>

9. This question relates to how the voices of children and young people are heard in the Childrens Court and QCAT. Please select an answer from each box.

In general, children and young people put forward their views by:

	Childrens Court	QCAT
Providing information to a specialist assessor, who provides written material to the court or tribunal	<input type="text"/>	<input type="text"/>
Providing their views to a Child Safety Officer, who presents this in affidavit material	<input type="text"/>	<input type="text"/>
Providing written material (e.g. letters, artwork) to a Child Safety Officer who presents this to a court or tribunal	<input type="text"/>	<input type="text"/>
Having a separate representative advocate for their best interests	<input type="text"/>	<input type="text"/>
Providing their views to a direct representative, who acts on their instructions to provide their perspective	<input type="text"/>	<input type="text"/>
Providing their views to an Office of the Public Guardian Child Advocate, who provides these to the court or tribunal	<input type="text"/>	<input type="text"/>
Appearing directly at a court or tribunal proceeding	<input type="text"/>	<input type="text"/>

10. Bearing in mind the various ways in which children and young people participate, how frequently do the following stakeholders assist them in putting forward their views? Choose one answer for each box.

	Childrens Court	QCAT
Parent	<input type="text"/>	<input type="text"/>
Other family member	<input type="text"/>	<input type="text"/>
Kinship carer	<input type="text"/>	<input type="text"/>
Foster carer	<input type="text"/>	<input type="text"/>
Recognised Entity (when applicable)	<input type="text"/>	<input type="text"/>
Child Safety Officer	<input type="text"/>	<input type="text"/>
Separate Representative	<input type="text"/>	<input type="text"/>
Direct Representative	<input type="text"/>	<input type="text"/>
Magistrate	<input type="text"/>	<input type="text"/>
Youth Worker	<input type="text"/>	<input type="text"/>
Office of the Public Guardian Child Advocate	<input type="text"/>	<input type="text"/>

If you indicated 'other' in the rows above, please specify the type of stakeholder you were referring to

11. Do you have any other comments about the participation of children and young people?

In this section, we ask questions about participation by parents and carers in decision-making processes.

12. Thinking about participation by parents, please select the answer that best reflects your general experience of the Childrens Court and QCAT (choose one answer for each box).

	Childrens Court	QCAT
Parents are listened to	<input type="text"/>	<input type="text"/>
Parents receive adequate support to understand the court process and express their views	<input type="text"/>	<input type="text"/>
Parents' views are taken into account	<input type="text"/>	<input type="text"/>
Parents are involved in decision-making processes	<input type="text"/>	<input type="text"/>
Parents receive timely notice of child protection matters	<input type="text"/>	<input type="text"/>
Parents receive adequate advice about the possible impacts on their rights in relation to orders being made by the court or tribunal	<input type="text"/>	<input type="text"/>

13. Thinking about the participation of foster carers and kinship carers in the Childrens Court and QCAT, select the answer from each column that best reflects your views (choose one answer for each box).

	Childrens Court	QCAT
Carers and kinship carers receive timely information and notice of child protection matters	<input type="text"/>	<input type="text"/>
Carers and kinship carers understand their rights and responsibilities to the court or tribunal	<input type="text"/>	<input type="text"/>
Carers and kinship carers are given information about how to participate in court and tribunal processes, if appropriate	<input type="text"/>	<input type="text"/>
Carers and kinship carers receive adequate support to participate in court and tribunal processes, if appropriate	<input type="text"/>	<input type="text"/>

14. Do you have any other comments about the participation of parents, foster carers or kinship carers?

Strategic Policy Stronger Families questionnaire

Cultural appropriateness and participation by Aboriginal and Torres Strait Islanders

This section relates to the cultural appropriateness of the Childrens Court and QCAT. Participation in this section refers to Aboriginal and Torres Strait Islander adults, including parents, kinship carers, foster carers and other family members.

15. In response to the statements below, please select the answer that best reflects your general experience of the Childrens Court and QCAT (choose one answer for each box).

	Childrens Court	QCAT
Aboriginal and Torres Strait Islander parties/ participants are able to select their own representatives in decision-making and participate through their own institutions and procedures	<input type="text"/>	<input type="text"/>
Good faith negotiations take place with Aboriginal and Torres Strait Islander parties/ participants from the beginning and throughout decision-making with the aim of reaching agreement	<input type="text"/>	<input type="text"/>
Aboriginal and Torres Strait Islander parties/ participants have adequate resources, time and information to reach decisions	<input type="text"/>	<input type="text"/>
Aboriginal and Torres Strait Islander parties/ participants' perspectives and positions are reflected in the outcomes of decision-making processes	<input type="text"/>	<input type="text"/>
Aboriginal and Torres Strait Islander parties/ participants have adequate opportunity to provide input on the nature and importance of culture in decisions	<input type="text"/>	<input type="text"/>

16. How would you rate the performance of the Childrens Court in:

	Very poor	Poor	Fair	Good	Very good	Cannot comment
Demonstrating culturally appropriate mechanisms and processes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Having sufficient regard to the views of the Recognised Entity, or if not available then members of the child's community about Aboriginal tradition and Island custom	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Upholding the general principle that an Aboriginal or Torres Strait Islander child should be cared for within their community	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Giving adequate weight and attention to the cultural needs of Aboriginal and Torres Strait Islander children	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

17. How would you rate the performance of QCAT in:

	Very poor	Poor	Fair	Good	Very good	Cannot comment
Demonstrating culturally appropriate mechanisms and processes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Having sufficient regard to the views of the Recognised Entity, or if not available then members of the child's community about Aboriginal tradition and Island custom	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Upholding the general principle that an Aboriginal or Torres Strait Islander child should be cared for within their community	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Giving adequate weight and attention to the cultural needs of Aboriginal and Torres Strait Islander children	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

18. Do you have any other comments about the participation of Aboriginal and Torres Strait Islanders in decision-making?

19. Do you have any other comments about the cultural appropriateness of the Childrens Court or QCAT?

Strategic Policy Stronger Families questionnaire**Implementation of the Stronger Families reforms**

This section relates to the implementation of the Stronger Families reforms by the Department of Justice and Attorney-General and Office of the Public Guardian to date.

For your information, key activities to date include: appointment of dedicated Childrens Court Magistrates; release of a practice direction for children and young people's participation in QCAT; changes to the Office of the Public Guardians' community visiting program; and introduction of Office of the Public Guardian Child Advocates.

20. What have been the main challenges in implementing the reforms to date?

21. What have been the main achievements of the reforms to date?

22. How could the Department of Justice and Attorney-General and/or Office of the Public Guardian improve the way they are working to implement the reforms?

Strategic Policy Stronger Families questionnaire

Operation of the Childrens Court

A key reform for the Childrens Court is the introduction of a Court Case Management Framework, which will include a bench book, practice directions and Childrens Court Rules. This section asks questions about the current case management and administration of the Childrens Court.

23. In response to the statements below, please select the answer that best reflects your general experience of the Childrens Court.

	Very rarely	Rarely	Occasionally	Frequently	Very Frequently	Cannot comment
Magistrates have an active role in determining what activities should occur pre-trial and when they should occur	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There is incentive or pressure for early preparation and resolution	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
At first mention, Magistrates inquire of the applicant and what early intervention steps have been taken (if any)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Magistrates focus on the most important issues in the case and give directions to parties to ensure these issues are addressed	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
If a child doesn't have a case plan, a family group meeting is ordered by the Magistrate as quickly as practicable	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The issue of representation for children and young people is considered early in proceedings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The issue of representation for parents is considered early in proceedings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
If it is appropriate for a separate representative to be appointed, the Childrens Court makes an order appointing a separate representative at the appropriate time	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
When appropriate, the Childrens Court makes directions to help parents get legal representation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Disputes about disclosure are dealt with as quickly as practicable	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Court-ordered conferences are ordered at critical and optimal stages during the proceeding	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Magistrates give directions to ensure that matters are properly prepared	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Magistrates give directions to ensure that evidence is gathered early	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	Very rarely	Rarely	Occasionally	Frequently	Very Frequently	Cannot comment
Magistrates make directions about filing documents to ensure parties are properly prepared for trial	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Parties are encouraged to resolve issues through court-ordered conferencing	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cases in the Childrens Court are finalised without unnecessary delay	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Magistrates make appropriate provision for children to be involved in court processes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Do you have any other comments about the operation of the Childrens Court?						
<p>24. This question relates specifically to how the Childrens Court manages proceedings involving Aboriginal and Torres Strait Islander children and families. In response to the statements below, please select the answer that best reflects your general experience of the Childrens Court.</p>						
	Very rarely	Rarely	Occasionally	Frequently	Very Frequently	Cannot comment
The court ensures that parties have discussed issues such as the placement of the child and cultural support for the child if not placed with family or community	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The court ensures there is an appropriate cultural support plan in place for Aboriginal and Torres Strait Islander children	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In making orders for Aboriginal and Torres Strait Islander children, the court adequately considers whether the child will have regular contact with their extended family or kin if placed outside their community	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In cases involving an Aboriginal or Torres Strait Islander child, sufficient evidence is available on the child's cultural background and traditional child raising practices specific to the child's community	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Recognised Entities act independently in providing their views to the court	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>25. Do you have any comments about the way proceedings involving Aboriginal and Torres Strait Islander children are managed in the Childrens Court?</p>						

Strategic Policy Stronger Families questionnaire

Outcomes in child protection matters

In this section we ask about the outcomes of child protection matters in the Childrens Court.

27. How would you rate the performance of the Childrens Court in:

	Very poor	Poor	Fair	Good	Very good	Cannot comment
Making decisions in a timely way	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Making decisions in a consistent way	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ensuring decisions are procedurally fair	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Making decisions in the best interests of the child	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Do you have any other comments about outcomes in the Childrens Court?

Strategic Policy Stronger Families questionnaire

Quality of evidence

Improved quality of evidence is a key outcome for a number of justice reforms, including the establishment of the Director of Child Protection Litigation. This section asks questions about the current quality of evidence available to the Childrens Court in child protection matters.

26. In response to the statements below, please select the answer that best reflects your general experience of the Childrens Court.

	Very rarely	Rarely	Occasionally	Frequently	Very frequently	Cannot comment
All relevant material is submitted to the Childrens Court	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The evidence submitted does not include irrelevant material	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The best evidence is available for deciding the matter	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The written material is clear and concise	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Do you have any other comments about quality of evidence?

Strategic Policy Stronger Families questionnaire

Outcomes in child protection matters

In this section we ask about the outcomes of child protection matters in the Childrens Court.

27. How would you rate the performance of the Childrens Court in:

	Very poor	Poor	Fair	Good	Very good	Cannot comment
Making decisions in a timely way	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Making decisions in a consistent way	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ensuring decisions are procedurally fair	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Making decisions in the best interests of the child	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Do you have any other comments about outcomes in the Childrens Court?

Participation by children and young people in decision-making

A key outcome of the justice reforms is increased opportunities for children and young people to have their voices heard in decision-making that impacts their lives. This section includes questions about participation of children and young people in decision-making.

28. In response to the statements below, please select the answer that best reflects your general experience of the Childrens Court.

	Very rarely	Rarely	Occasionally	Frequently	Very frequently	Cannot comment
Children and young people are listened to	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Children and young people are supported to participate and express their views	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Children and young people's views are taken into account	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Children and young people are involved in decision-making processes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Children and young people receive sufficient advice about decisions and how decisions will affect them	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Children and young people have explained to them their options about how their views and wishes can be expressed	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

29. Thinking specifically about Aboriginal and Torres Strait Islander children and young people, please select the answer that best reflects your general experience of the Childrens Court.

	Very rarely	Rarely	Occasionally	Frequently	Very frequently	Cannot comment
Aboriginal and Torres Strait Islander children and young people are listened to	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Aboriginal and Torres Strait Islander children and young people receive culturally appropriate support to participate and express their views	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Aboriginal and Torres Strait Islander children and young people's views are taken into account	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Aboriginal and Torres Strait Islander children and young people are involved in decision-making processes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Aboriginal and Torres Strait Islander children and young people receive culturally appropriate advice about decisions and how decisions will affect them	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Aboriginal and Torres Strait Islander children and young people have explained to them their options about how their views and wishes can be expressed	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

30. This question relates to how the voices of children and young people are heard in the Childrens Court. Please select an answer from each column.

In general, children and young people put forward their views by:

	Very rarely	Rarely	Occasionally	Frequently	Very frequently	Cannot comment
Providing information to a specialist assessor, who provides written material to the court or tribunal	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Providing their views to a Child Safety Officer, who presents this in affidavit material	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Providing written material (e.g. letters, artwork) to a Child Safety Officer who presents this to a court or tribunal	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Having a separate representative advocate for their best interests	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Providing their views to a direct representative, who acts on their instructions to provide their perspective	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Providing their views to an Office of the Public Guardian Child Advocate, who provides these to the court or tribunal	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Appearing directly at a court or tribunal proceeding	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

31. Bearing in mind the various ways in which children and young people participate, how frequently do the following stakeholders assist them in putting forward their views?

	Very rarely	Rarely	Occasionally	Frequently	Very frequently	Cannot comment
Parent	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other family member	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Kinship carer	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Foster carer	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Recognised Entity (when applicable)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Child Safety Officer	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Separate Representative	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Direct Representative	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Magistrate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Youth Worker	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Office of the Public Guardian Child Advocate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If you indicated 'other' in the rows above, please specify the type of stakeholder you were referring to

32. Do you have any other comments about the participation of children and young people?

Strategic Policy Stronger Families questionnaire

Participation by parents, foster carers and kinship carers

In this section, we ask questions about participation by parents and carers in decision-making processes.

33. Thinking about participation by parents, please select the answer that best reflects your general experience of the Childrens Court.

	Very rarely	Rarely	Occasionally	Frequently	Very frequently	Cannot comment
Parents are listened to	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Parents receive adequate support to understand the court process and express their views	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Parents' views are taken into account	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Parents are involved in decision-making processes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Parents receive timely notice of child protection matters	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Parents receive adequate advice about the possible impacts on their rights in relation to orders being made by the court or tribunal	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

34. Thinking about participation by foster carers and kinship carers, please select the answer that best reflects your general experience of the Childrens Court.

	Very rarely	Rarely	Occasionally	Frequently	Very frequently	Cannot comment
Carers and kinship carers receive timely information and notice of child protection matters	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Carers and kinship carers understand their rights and responsibilities to the court or tribunal	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Carers and kinship carers are given information about how to participate in court and tribunal processes, if appropriate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Carers and kinship carers receive adequate support to participate in court and tribunal processes, if appropriate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

35. Do you have any other comments about the participation of parents, foster carers or kinship carers?

Strategic Policy Stronger Families questionnaire

Cultural appropriateness and participation by Aboriginal and Torres Strait Islanders

This section relates to the cultural appropriateness of the Childrens Court. Participation in this section refers to Aboriginal and Torres Strait Islander adults, including parents, kinship carers, foster carers and other family members.

36. In response to the statements below, please select the answer that best reflects your general experience of the Childrens Court.

	Very rarely	Rarely	Occasionally	Frequently	Very frequently	Cannot comment
Aboriginal and Torres Strait Islander parties/ participants are able to select their own representatives in decision-making and participate through their own institutions and procedures	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Good faith negotiations take place with Aboriginal and Torres Strait Islander parties/ participants from the beginning and throughout decision-making with the aim of reaching agreement	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Aboriginal and Torres Strait Islander parties/ participants have adequate resources, time and information to reach decisions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Aboriginal and Torres Strait Islander parties/ participants' perspectives and positions are reflected in the outcomes of decision-making processes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Aboriginal and Torres Strait Islander parties/ participants have adequate opportunity to provide input on the nature and importance of culture in decisions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

37. How would you rate the performance of the Childrens Court in:

	Very poor	Poor	Fair	Good	Very good	Cannot comment
Demonstrating culturally appropriate mechanisms and processes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Having sufficient regard to the views of the Recognised Entity, or if not available then members of the child's community about Aboriginal tradition and Island custom	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Upholding the general principle that an Aboriginal or Torres Strait Islander child should be cared for within their community	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Giving adequate weight and attention to the cultural needs of Aboriginal and Torres Strait Islander children	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

38. Do you have any other comments about the participation of Aboriginal and Torres Strait Islanders in decision-making?

39. Do you have any other comments about the cultural appropriateness of the Childrens Court?

Strategic Policy Stronger Families questionnaire

Implementation of the Stronger Families reforms

This section relates to the implementation of the Stronger Families reforms by the Department of Justice and Attorney-General and Office of the Public Guardian to date.

For your information, key activities to date include: appointment of dedicated Childrens Court Magistrates; release of a practice direction for children and young people's participation in QCAT; changes to the Office of the Public Guardians' community visiting program; and introduction of Office of the Public Guardian Child Advocates.

40. What have been the main challenges in implementing the reforms to date?

41. What have been the main achievements of the reforms to date?

42. How could the Department of Justice and Attorney-General and/or Office of the Public Guardian improve the way they are working to implement the reforms?

Strategic Policy Stronger Families questionnaire

Outcomes in child protection matters

In this section we ask about the outcomes of child protection matters in QCAT.

43. How would you rate the performance of QCAT in:

	Very poor	Poor	Fair	Good	Very good	Cannot comment
Making decisions in a timely way	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Making decisions in a consistent way	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ensuring decisions are procedurally fair	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Making decisions in the best interests of the child	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Do you have any other comments about outcomes at QCAT?

Participation by children and young people in decision-making

A key outcome of the justice reforms is increased opportunities for children and young people to have their voices heard in decision-making that impacts their lives. This section includes questions about participation of children and young people in decision-making.

44. In response to the statements below, please select the answer that best reflects your general experience of QCAT.

	Very rarely	Rarely	Occasionally	Frequently	Very frequently	Cannot comment
Children and young people are listened to	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Children and young people are supported to participate and express their views	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Children and young people's views are taken into account	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Children and young people are involved in decision-making processes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Children and young people receive sufficient advice about decisions and how decisions will affect them	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Children and young people have explained to them their options about how their views and wishes can be expressed	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

45. Thinking specifically about Aboriginal and Torres Strait Islander children and young people, please select the answer that best reflects your general experience of QCAT.

	Very rarely	Rarely	Occasionally	Frequently	Very frequently	Cannot comment
Aboriginal and Torres Strait Islander children and young people are listened to	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Aboriginal and Torres Strait Islander children and young people receive culturally appropriate support to participate and express their views	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Aboriginal and Torres Strait Islander children and young people's views are taken into account	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Aboriginal and Torres Strait Islander children and young people are involved in decision-making processes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Aboriginal and Torres Strait Islander children and young people receive culturally appropriate advice about decisions and how decisions will affect them	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Aboriginal and Torres Strait Islander children and young people have explained to them their options about how their views and wishes can be expressed	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

46. This question relates to how the voices of children and young people are heard in QCAT. In general, children and young people put forward their views by:

	Very rarely	Rarely	Occasionally	Frequently	Very frequently	Cannot comment
Providing information to a specialist assessor, who provides written material to the court or tribunal	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Providing their views to a Child Safety Officer, who presents this in affidavit material	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Providing written material (e.g. letters, artwork) to a Child Safety Officer who presents this to a court or tribunal	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Having a separate representative advocate for their best interests	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Providing their views to a direct representative, who acts on their instructions to provide their perspective	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Providing their views to an Office of the Public Guardian Child Advocate, who provides these to the court or tribunal	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Appearing directly at a court or tribunal proceeding	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

47. Bearing in mind the various ways in which children and young people participate, how frequently do the following stakeholders assist them in putting forward their views?

	Very rarely	Rarely	Occasionally	Frequently	Very frequently	Cannot comment
Parent	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other family member	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Kinship carer	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Foster carer	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Recognised Entity (when applicable)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Child Safety Officer	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Separate Representative	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Direct Representative	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Magistrate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Youth Worker	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Office of the Public Guardian Child Advocate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If you indicated 'other' in the rows above, please specify the type of stakeholder you were referring to

48. Do you have any other comments about the participation of children and young people?

Strategic Policy Stronger Families questionnaire

Participation by parents, foster carers and kinship carers

In this section, we ask questions about participation by parents and carers in decision-making processes.

49. Thinking about participation of parents, please select the answer that best reflects your general experience of QCAT.

	Very rarely	Rarely	Occasionally	Frequently	Very frequently	Cannot comment
Parents are listened to	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Parents receive adequate support to understand the court process and express their views	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Parents' views are taken into account	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Parents are involved in decision-making processes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Parents receive timely notice of child protection matters	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Parents receive adequate advice about the possible impacts on their rights in relation to orders being made by the court or tribunal	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

50. Thinking about the participation of foster carers and kinship carers in QCAT, please select the answer that best reflects your general experience.

	Very rarely	Rarely	Occasionally	Frequently	Very frequently	Cannot comment
Carers and kinship carers receive timely information and notice of child protection matters	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Carers and kinship carers understand their rights and responsibilities to the court or tribunal	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Carers and kinship carers are given information about how to participate in court and tribunal processes, if appropriate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Carers and kinship carers receive adequate support to participate in court and tribunal processes, if appropriate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

51. Do you have any other comments about the participation of parents, foster carers or kinship carers?

Strategic Policy Stronger Families questionnaire

Cultural appropriateness and participation by Aboriginal and Torres Strait Islanders

This section relates to the cultural appropriateness of QCAT. Participation in this section refers to Aboriginal and Torres Strait Islander adults, including parents, kinship carers, foster carers and other family members.

52. Please select the answer that best reflects your general experience of QCAT.

	Very rarely	Rarely	Occasionally	Frequently	Very frequently	Cannot comment
Aboriginal and Torres Strait Islander parties are able to select their own representatives in decision-making and participate through their own institutions and procedures	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Good faith negotiations take place with Aboriginal and Torres Strait Islander parties/ participants from the beginning and throughout decision-making with the aim of reaching agreement	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Aboriginal and Torres Strait Islander parties/ participants have adequate resources, time and information to reach decisions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Aboriginal and Torres Strait Islander parties/ participants' perspectives and positions are reflected in the outcomes of decision-making processes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Aboriginal and Torres Strait Islander parties/ participants have adequate opportunity to provide input on the nature and importance of culture in decisions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

53. How would you rate the performance of QCAT in:

	Very poor	Poor	Fair	Good	Very good	Cannot comment
Demonstrating culturally appropriate mechanisms and processes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Having sufficient regard to the views of the Recognised Entity, or if not available then members of the child's community about Aboriginal tradition and Island custom	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Upholding the general principle that an Aboriginal or Torres Strait Islander child should be cared for within their community	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Giving adequate weight and attention to the cultural needs of Aboriginal and Torres Strait Islander children	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

54. Do you have any other comments about the participation of Aboriginal and Torres Strait Islanders in decision-making?

55. Do you have any other comments about the cultural appropriateness of QCAT?

Strategic Policy Stronger Families questionnaire

Implementation of the Stronger Families reforms

This section relates to the implementation of the Stronger Families reforms by the Department of Justice and Attorney-General and Office of the Public Guardian to date.

For your information, key activities to date include: appointment of dedicated Childrens Court Magistrates; release of a practice direction for children and young people's participation in QCAT; changes to the Office of the Public Guardians' community visiting program; and introduction of Office of the Public Guardian Child Advocates.

56. What have been the main challenges in implementing the reforms to date?

57. What have been the main achievements of the reforms to date?

58. How could the Department of Justice and Attorney-General and/or Office of the Public Guardian improve the way they are working to implement the reforms?

Strategic Policy Stronger Families questionnaire

Office of the Public Guardian Child Advocates

Office of the Public Guardian Child Advocates provide individual advocacy for children and young people in the child protection system. Some of their key functions include supporting a child at, and participating in court and tribunal matters; ensuring their voices are heard in these forums; and providing advice and information to the child about their rights and matters the child is concerned about. Child advocates can also assist a child to seek, or respond to the revocation or variation of a child protection order or to initiate an application to the tribunal for a review of a child protection matter.

* 59. In your work, have you engaged with Office of the Public Guardian Child Advocates?

Yes

No

Strategic Policy Stronger Families questionnaire

Effectiveness of Office of the Public Guardian Child Advocates

Office of the Public Guardian Child Advocates provide individual advocacy for children and young people in the child protection system. Some of their key functions include supporting a child at, and participating in court and tribunal matters; ensuring their voices are heard in these forums; and providing advice and information to the child about their rights and matters the child is concerned about. Child advocates can also assist a child to seek, or respond to the revocation or variation of a child protection order or to initiate an application to the tribunal for a review of a child protection matter.

60. How would you rate the way Child Advocates assist children to put forward their views and wishes in:

	Very poor	Poor	Fair	Good	Very Good	Cannot comment
Court-ordered conferences (Childrens Court)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Family group meetings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Childrens Court hearings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
QCAT conferences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
QCAT hearings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other meetings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

61. How would you rate the way Child Advocates keep children informed about the process and the progress of matters through:

	Very poor	Poor	Fair	Good	Very Good	Cannot comment
The Childrens Court	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
QCAT	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

62. How would you rate the way Child Advocates facilitate a child or young person's participation in decision-making in:

	Very poor	Poor	Fair	Good	Very Good	Cannot comment
The Childrens Court	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
QCAT	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

63. How would you rate the way Child Advocates:

	Very poor	Poor	Fair	Good	Very Good	Cannot comment
Demonstrate cultural awareness in supporting Aboriginal and Torres Strait Islander children through the child protection process in courts and tribunals	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Provide Aboriginal and Torres Strait Islander children with access to culturally appropriate resources and support	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Engage with other service providers and agencies (e.g. legal service providers, court staff) to resolve issues	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Strategic Policy Stronger Families questionnaire

Respondent Information

64. Employment type:

- Queensland Government Office of the Public Guardian
- Queensland Government Department of Justice and Attorney-General
- Queensland Government Department of Communities Child Safety and Disability Services
- Other Queensland Government agency
- Legal professional
- Judicial Officer or Tribunal Member
- Non-government organisation or peak body
- Other (please specify)

65. Do you identify as Aboriginal or Torres Strait Islander?

- Yes
- No
- Prefer not to answer

66. Post code for place of work:

67. Number of years working in or associated with child protection in Queensland:

Appendix 4: CREATE questionnaire

Demographic information

Age:

Gender:

Do you identify as Aboriginal or Torres Strait Islander? Y/N

Postcode for where you live (or name of location):

Courts and Queensland Civil and Administrative Tribunal (QCAT)

1. How often have you been involved with the court or QCAT in the last 24 months?

Not involved at all

Once or twice

Three to five times

More than five times

Can you tell us a bit more about your involvement? What were you there for? Were you at the Children's Court or QCAT?

Prompt: We'd like to know why children and young people were at courts/ tribunals, and how many times although we don't need to know any identifying details or personal information.

2. Thinking about the last time you were involved with the court or QCAT, how much did you understand about why you were there?

Nothing

A little

A fair bit

I knew everything about why I was there

Why did you give that answer? Can you tell us a bit more about what you did and/or didn't understand about why you were there?

3. How much did you know about what to expect from the court or tribunal process? *Prompt: For example, this could be: who will be in the room, what you will need to do in the court or tribunal, how the proceeding will run)*

Nothing

A little

A fair bit

I knew everything about why I was there

4. Did anyone tell you what to expect?

Yes No

If "Yes", who told you?

What types of information did they give you? What was the most useful information they gave you?

If “No”, what information would you have liked to have?

How would you prefer to get this information?

Prompt: Do children and young people have a particular person/ stakeholder who they would trust to explain the court/tribunal experience? If so, who? Would they prefer to go online to find the information?

5. For participants who have been through more than one court or tribunal experience:

If you have been through more than one court or tribunal experience, thinking about what you expected and the information you received, were these experiences similar? If not, how were they different?

6. When you were involved with the court/QCAT, how much did you get the chance to tell people what your views were?

Not at all

A little

Reasonably well

Very well

Explanatory note: It would be good to explain during the interview that this doesn't necessarily mean that the child or young person went to court in person. They could have used any of the means below in Q6.

7.. If “Yes”, how did you put forward your views? *If participants have participated in more than one court or tribunal process, please ask this question for each.*

I told a member of my family

I told my foster carer

I told officers of the court (e.g. a Magistrate) or QCAT directly

I told a lawyer

I told a QPG child advocate

I told a youth worker

I told my Child Safety caseworker

I told a specialist

I wrote or drew something that was given to the court or QCAT

I told a Recognised Entity (for Aboriginal or Torres Strait Islander children)

Other (please give details)

If you told a lawyer, do you know if they acted on your instructions (i.e. do what you asked them to do in court) or did they act on your best interests?

Lawyer acted on my best interests

Lawyer acted on my direct instructions

I don't know what type of legal representation I had

8. Thinking about the way you put forward your views, what were the pros and cons of telling the court/ tribunal this way? *Prompt: If participants have used more than one way of putting forward their views, ask separately about them.*

9 How well do you feel the court or QCAT listened to your views?

Not at all

A little

Reasonably well

Very well

10. What happened that made you think this?

(Give examples of what was done that led you to think your views were understood.)

OR

(Give examples of what was done that led you to think your views were not understood.)

11. *For participants who have been through more than one court or tribunal experience:*

If you have been through more than one court or tribunal experience, did you feel the court or QCAT listened to your views equally each time or were your experiences different? If you had different experiences, can you tell us what made them different?

12. Once the court or tribunal had made its decision, how well did you understand what this meant for you?

Not at all

A little

Reasonably well

Very well

13. Why did you give this response?

(Give examples of what was done to make sure you understood the decision.)

OR

(Give examples of what could have been done to help you understand the decisions better.)

14. *For participants who have been through more than one court or tribunal experience:*

If you have been through more than one court or tribunal experience, did you have the same level of understanding about each decision? If not, how were your experiences different?

15. In general, thinking about all your court and tribunal experiences, how did the way you were treated by the court or QCAT lead you to feel??

Frustrated							Encouraged
Unashamed							Embarrassed
Lucky							Unlucky
Sad							Happy
Clear							Confused
Distressed							Untroubled
Smart							Stupid
Surprised							Unsurprised
Proud							Humiliated
Annoyed							Pleased

Is there anything you'd like to say about why you gave these ratings? What was it about the experience that made you feel this way?

16. Thinking about how you participated, what worked well for you? (What helped you have your voice heard?)

17. Discuss anything that made it difficult for you to participate in the court or QCAT process.

18. Do you have any suggestions about things the court or QCAT could do to make it easier for young people like you to have their voices heard?

19. Is there anything else you would like to say about your experiences at court or with QCAT?

Office of the Public Guardian Services

1. Are you aware of the services that the Office of the Public Guardian provide for children and young people in care? Yes/No

If so, what do you know about them?

If not, prompt:

- Community Visitors?
- Child Advocates/Lawyer advocates?

(Prompt: If the Young person is not aware of the services of the OPG, you may wish to show them an OPG fact sheet about OPG's child services)

Access to OPG services:

2. OPG has an 1800 phone number (a State-wide hotline) that anyone can call to seek advice, information or assistance about matters connected to your time in out-of-home care. When you call this number, the person you will talk to can help also to put you in touch with a Community Visitor or a Child Advocate. Is this something that you think would be helpful for young people? Why/Why not?
3. In some locations, you can talk and meet with a Community Visitor or Child Advocate in an office building called a hub. Do you think being able to go to this hub would be helpful? Why/Why not?
4. If you were aware that OPG had some hubs and a state-wide hotline, how did you hear about this? E.g. from Community Visitor, OPG website, OPG Poster or Fact Sheet, other?
5. If you have visited one of the OPG hubs or used its state-wide hotline, how easy/hard was it to access it? What did you like about it? Do you have any ideas how they could be improved?
6. If you wanted to get help from a Community Visitor or Child Advocate, how would you prefer to access their help?
 - At a scheduled Community Visitor visit
 - By contacting the Community Visitor
 - By contacting the Child Advocate
 - By phoning the Statewide hotline
 - By going to the OPG office/hub
 - Send OPG an email
 - Other (please specify)
 - By asking my carer, child safety officer or youth worker to contact the OPG and request contact or a visit from a Child Advocate

(Prompt: May be more than one response. Clarify the response that relates to a Community Visitor and that which relates to a Child Advocate. Please ask why the young person why they prefer the options selected?)

Re Community Visitors:

7. How often did your Community Visitor visit you in the last 12 months?
 - Never
 - Once or twice (six-monthly or yearly)
 - Three or four times (quarterly)
 - Around 6 times (bi-monthly)
 - Around 12 times (monthly)
 - More than 12 times
8. Do you think your Community Visitor spends enough time talking to you at each visit?
 - Not enough
 - Enough
 - More than enough

(Prompt: Please explore reason(s) for young person's response)

9. As an alternative to a visit, would you feel comfortable talking to your Community Visitor over the phone, via email or text message?

10. Does your Community Visitor give you information about your rights whilst in out-of-home care?
(Prompt: What sort of information is given?)

11. What kind of things do you think your Community Visitor can help you with?

12. What sort of issues have you raised with your Community Visitor in the last 12 months?

13. If you have had a Community Visitor assist you in a matter, how did you access their services?

At a scheduled Community Visitor visit

By contacting the Community Visitor

By contacting the Child Advocate

By phoning the Statewide hotline

By going to the OPG office/hub

By asking my carer, child safety officer or youth worker to contact the OPG and request contact or a visit from a Child Advocate

By sending an email to OPG

Other (please specify)

(Prompt: Could be more than one response. Please ask the young person about the pros and cons of each access method that they used)

14. Can you tell me about the last time you raised an issue with your Community Visitor? How did you raise it e.g. during a visit, via your carer or other? What was the issue? How did you find the experience?

15. How helpful was your Community Visitor in assisting you to resolve issues/problems?

Not at all

A little

A reasonable amount

As much as possible

(Prompt: Please explore reason(s) for young person's response)

16. Have you had your Community Visitor support you in a meeting about your care – for example, a family group meeting, case planning meeting, transition for care meeting etc.? Yes/No
If so, how helpful was your Community Visitor in the meeting?

Not at all

A little

A reasonable amount

As much as possible

(Prompt: Please explore reason(s) for young person's response)

17. Generally, what did your Community Visitor do well?

18. If you have never used a Community Visitor to assist you with an issue, why not?

19. How could the Community Visitor work better for you?

Re Child Advocates:

20. How often has a Child Advocate/Lawyer Advocate assisted you in the last 12 months?

Never

Once or twice

Three to five times

More than five times

21. Did the Child Advocate assist you by dealing directly with you?

22. Are you aware of whether a Community Visitor has sort assistance from a Child Advocate on your behalf?

23. What kind of things do you think a Child Advocate could help you with?

24. If you have had a Child Advocate assist you in a matter, how did you access their services?

At a scheduled Community Visitor visit

By contacting your Community Visitor

By phoning the Statewide hotline

By going to the OPG office/hub

By asking my carer, child safety officer or youth worker to contact the OPG and request contact or a visit from a Child Advocate

By sending an email to OPG

Other (please specify)

(Prompt: Could be more than one response. Please ask the young person about the pros and cons of each access method that they used)

25. What sort of issue/problem did you raise with the Child Advocate?

(Prompt: e.g. Court or Tribunal matter, issue about school, issues around a placement, contact with family)

26. How helpful was the Child Advocate in addressing the issue/problem?

Not at all

A little

A reasonable amount

As much as possible

(Prompt: Please explore reason(s) for young person's response)

27. Have you had a Child Advocate assist you in:

- a family group meeting? Yes/no
- a Childrens Court matter? Yes/no
- a QCAT matter? Yes/no
- another forum? (please specify)

If yes:

Did the Child Advocate represent your views and wishes to the meeting/court/tribunal/other forum? If so, how did they do this?

28. Did the Child Advocate keep you informed about the progress of your matter through the process? If so, how did they do this?

29. Did the Child Advocate provide other assistance – please specify?

30. What did your Child Advocate do well?

(Prompt: e.g. Did the Child Advocate listen to you, talk to you in a way that you understood, helped you to understand things better)

31. If you have never used a Child Advocate to assist you with an issue, why not?

(Prompt: e.g. didn't know what type of matters a child advocate could help me with or how to access assistance from a child advocate)

32. How could the Child Advocate role be improved?

33. What, if any, changes would you make to improve:

- awareness of OPG Community Visitor and/or Child Advocate services?
- access to OPG Community Visitor and/or Child Advocate services?

34. What, if any, changes have you noticed in OPG services in the last 2 years?

Appendix 5: Interview guides

As OPG and DJAG conducted a combined evaluation, these guides relate to both OPG service delivery and the court reforms.

Legal professionals

Introduction

- Before we talk about the reforms, can you tell me about your involvement with child protection proceedings?

Current operation of the Childrens Court

A number of DJAG reforms are focussed on the Children's Court. These next questions are about how the Childrens Court currently operates.

- How would you describe the quality of evidence that is usually brought before the court?
Prompts:
 - *If the evidence is inadequate* - In your view, what factors contribute to inadequate evidence?
 - How do you think the quality of evidence could be improved?
- *A key reform is the introduction of a new court case management framework, which will provide guidance on how child proceedings are managed in the Court.*

In your opinion:

- What is currently working well in terms of judicial administration/ management of child protection proceedings?
- What are the limitations or challenges?
- *A number of dedicated Children's Court Magistrates were appointed as a result of the reforms.*
In your view:
 - What are the benefits of having additional Children's Court Magistrates?
Prompt: Are there opportunities for dedicated Children's Court Magistrates to share their knowledge and expertise?
 - What are the challenges and/or limitations?

Participation by children and young people

A key outcome of the reforms is that children, young people and families have greater opportunities to have their voices heard in decisions that impact them. The next set of questions is focussed on how effectively different stakeholder groups are able to participate in the court/ tribunal process.

- Currently, how effectively are children and young people able to participate in the court process?
Prompts:
 - What are the barriers to their participation?
 - What factors enable children to participate more effectively?
 - What does children's participation mean for decision-making?

Participation by Aboriginal and Torres Strait Islander children and families

A central focus of the reforms is on Aboriginal and Torres Strait Islander children and families, so I'd like to ask specifically about their participation.

- Currently, how well are Aboriginal and Torres Strait Islander families and communities able to participate in court?

Prompts:

- What are the barriers to their participation?
- What factors enable children to participate more effectively?
- What do you think could be done to make the court process more culturally appropriate?

Office of the Public Guardian Child Advocates

The Office of the Public Guardian Child Advocates (also known as Lawyer Advocates) were introduced so that children and young people are supported to put forward their views and wishes.

- In your work, have you engaged with OPG Child Advocates? If yes, what do you know about their role?
- How effective are Child Advocates in performing their role?

Prompts: follow up questions about the various functions of Child Advocates, including:

- How well do Child Advocates assist children to put forward their views and wishes in various forums? (e.g. court, family group meetings)
- To your knowledge, how well do Child Advocates keep children informed about the process and the progress of their matter through the court?
- How well do Child Advocates facilitate a child or young person's participation in decision-making at court?
- Do you think that Child Advocates 'add value' to the court or tribunal process? If so, how? If not, why not?
- What changes, if any, would you make to what Child Advocates do and how they do it?

Implementation of the reforms

Finally, we would like to ask you about the implementation of the reforms to date. In your opinion:

- What have been the main achievements and challenges to date in implementing the reforms? *Prompt: factors influencing achievements/ challenges*
- Looking at the next 3 to 5 years, what do you foresee as the main challenges in implementing the reforms?
- How could DJAG and/or OPG improve the way they are working to implement the reforms (*talk about each agency separately*)
- Do you have any final comments?

Magistrates

Introduction

- Before we talk about the reforms, can you tell me about your involvement with child protection proceedings?

Prompt: Childrens Court only or QCAT as well?

Current operation of the Childrens Court

A number of DJAG reforms are focussed on the Children's Court. These next questions are about how the Childrens Court currently operates.

- How would you describe the quality of evidence that is usually brought before the court?

Prompts:

- *If the evidence is inadequate* - In your view, what factors contribute to inadequate evidence?
- How do you think the quality of evidence could be improved?

- *A key reform is the introduction of a new court case management framework, which will provide guidance on how child proceedings are managed in the Court.*

In your opinion:

- What is currently working well in terms of judicial administration/ management of child protection proceedings?
- What are the limitations or challenges?

- *A number of dedicated Children's Court Magistrates were appointed as a result of the reforms.*

In your view:

- What are the benefits of having additional Children's Court Magistrates?
Prompt: Are there opportunities for dedicated Children's Court Magistrates to share their knowledge and expertise?
- What are the challenges and/or limitations?

Participation by children and young people

A key outcome of the reforms is that children, young people and families have greater opportunities to have their voices heard in decisions that impact them. The next set of questions is focussed on how effectively different stakeholder groups are able to participate in the court/ tribunal process.

- Currently, how effectively are children and young people able to participate in the court. tribunal process?

Prompts:

- What are the barriers to their participation?
- What factors enable children to participate more effectively?
- What does children's participation mean for decision-making?

Participation by Aboriginal and Torres Strait Islander children and families

A central focus of the reforms is on Aboriginal and Torres Strait Islander children and families, so I'd like to ask specifically about their participation.

- Currently, how well are Aboriginal and Torres Strait Islander families and communities able to participate in court/ QCAT?

Prompts:

- What are the barriers to their participation?
- What factors enable children to participate more effectively?
- What do you think could be done to make the court process more culturally appropriate?

Role of the Recognised Entity

- What role does the typically play in your court?
 - *Prompt:* Has this changed over time?
- What do you see as the benefits and limitations of the RE role?

Office of the Public Guardian Child Advocates

The Office of the Public Guardian Child Advocates (also known as Lawyer Advocates) were introduced so that children and young people are supported to put forward their views and wishes.

- In your work, have you engaged with OPG Child Advocates? If yes, what do you know about their role?
- How effective are Child Advocates in performing their role?

Prompts: follow up questions about the various functions of Child Advocates, including:

 - How well do Child Advocates assist children to put forward their views and wishes in various forums? (e.g. court, family group meetings)
 - To your knowledge, how well do Child Advocates keep children informed about the process and the progress of their matter through courts/ QCAT?
 - How well do Child Advocates facilitate a child or young person's participation in decision-making at court/ QCAT?
- Do you think that Child Advocates 'add value' to the court or tribunal process? If so, how? If not, why not?
- What changes, if any, would you make to what Child Advocates do and how they do it?

Implementation of the reforms

Finally, we would like to ask you about the implementation of the reforms to date. In your opinion:

- What have been the main achievements and challenges to date in implementing the reforms? *Prompt: Factors that contributed to achievements/ challenges*
- Looking at the next 3 to 5 years, what do you foresee as the main challenges in implementing the reforms?
- How could DJAG and/or OPG improve the way they are working to implement the reforms (*talk about each agency separately*)
- Do you have any final comments?

QCAT Members

Introduction

- Before we talk about the reforms, can you tell me about your role at QCAT and your involvement in child protection proceedings?

Processes at QCAT

The Inquiry recommended a number of changes at QCAT to improve the process for children and families in child protection matters. I'd like to ask you about what has changed so far.

- Since the reforms commenced, have you noticed any changes to processes at QCAT?
- If yes, what impact have these changes had on:
 - Child inclusiveness and age-appropriate processes?
 - Timeliness?
 - Transparency of QCAT outcomes?

Participation by children and young people

A key outcome of the reforms is that children, young people and families have greater opportunities to have their voices heard in decisions that impact them. The next set of questions is focussed on how effectively different stakeholder groups are able to participate in the court/ tribunal process.

Currently, how effectively are children and young people able to participate in the court/ QCAT process?

- What are the barriers to their participation?
- What factors enable children to participate more effectively?
- What does children's participation mean for decision-making?

Participation by Aboriginal and Torres Strait Islander children and families

A central focus of the reforms is on Aboriginal and Torres Strait Islander children and families, so I'd like to ask specifically about their participation.

Currently, how well are Aboriginal and Torres Strait Islander families and communities able to participate in court/ QCAT proceedings?

- What are the barriers to their participation?
- What factors enable children to participate more effectively?
- What do you think could be done to make the QCAT process more culturally appropriate?

Office of the Public Guardian

The Office of the Public Guardian Child Advocates (also known as Lawyer Advocates) were introduced so that children and young people are supported to put forward their views and wishes.

In your work, have you engaged with OPG Child Advocates? If yes, what do you know about their role?

How well do Child Advocates assist children to put forward their views and wishes in:

- QCAT hearings?
- QCAT compulsory conferences?
- Other child protection forums e.g. case planning or family group meetings (please specify)?

To your knowledge, how well do Child Advocates keep children informed about the process and the progress of their matter through QCAT?

How well do Child Advocates facilitate a child or young person's participation in decision-making in QCAT?

Do you think that Child Advocates 'add value' to the court or tribunal process? If so, how? If not, why not?

What changes, if any, would you make to what Child Advocates do and how they do it?

Implementation of the reforms

Finally, we would like to ask you about the implementation of the reforms to date. In your opinion:

What have been the main achievements and challenges to date in implementing the reforms?

Looking at the next 3 to 5 years, what do you foresee as the main challenges in implementing the reforms?

How could DJAG and/or OPG improve the way they are working to implement the reforms *(talk about each agency separately)*

Do you have any final comments?

Appendix 6: Focus group guides

As OPG and DJAG conducted a combined evaluation, these guides relate to both OPG service delivery and the court reforms.

Foster and kinship carers

1. Office of the Public Guardian

- What do you know about the services that OPG provides?
Prompt: ascertain whether participants know about Community Visitors, Child Advocates or both.

Community Visitors

- What changes have you noticed about the Community Visitor service since the reforms? Are these changes positive or negative, and why?
- What do you see as the main roles of the Community Visitors?
- How well do you think they support children in these ways? Can you give examples to illustrate this? *Prompt: ask about various CV functions, e.g. providing information about rights, keeping them informed about issues.*
- How could Community Visitors work better with children and young people?

Child Advocates

- What would you say are the main roles of the Child Advocate?
- How well do you think they perform these roles (*prompt: ask about all functions of the Child Advocate that participants have experienced*)
- How could Child Advocates work better with children and young people?

Cultural appropriateness

- In your experience, do OPG Community Visitors and Child Advocates demonstrate cultural awareness when engaging with Aboriginal and Torres Strait Islander children and young people?
Prompt: ask follow up questions to ascertain whether cultural awareness is demonstrated to the same extent for Community Visitors and Child Advocates

2. Court process

These questions are about what works and what doesn't work for carers in the current court system.

- What involvement have you had in court/tribunal processes?
- During the court/tribunal process:
 - Did you understand the court process?
 - Did you receive information? If yes, from who?
- Once the decision had been made, did you understand it? If no, what could have been done to help you understand?
- How could the court process be improved for carers?

Legal professionals

1. Court reforms

A number of DJAG reforms are focussed on the Children's Court. First we would like to ask about some key outcomes for the reform program in courts and tribunals.

- What is the quality of evidence generally like before courts and tribunals? How could it be improved?
- How well are cases in courts/ tribunals generally managed? What are the strengths of the current court case management processes? What are the limitations?
- Has the appointment of dedicated Children's Court Magistrates made a difference to the functioning of the courts? If so, how? If not, why not?

2. Participation

A key outcome for both OPG and DJAG is that children, young people and families have greater opportunities to have their voices heard in decisions that impact them. The next set of questions is focussed on how effectively different stakeholder groups are able to participate in the court/ tribunal process.

- Currently, how effectively are children and young people able to participate in the court/ QCAT process?
- Currently, how well are Aboriginal and Torres Strait Islander children and families and able to participate in court/ QCAT proceedings?

3. Office of the Public Guardian Child Advocates

The Office of the Public Guardian Child Advocates were introduced so that children and young people are supported to put forward their views and wishes.

- In your work, have you engaged with OPG Child Advocates? If yes, what do you know about their role?
- How effective are Child Advocates in performing their role?
- Do you think they add value to the court process?
- What changes (if any) would you make to the way Child Advocates work?

4. Implementation of reforms

Finally, we would like to ask you about the implementation of the reforms to date. In your opinion:

- Do you have any comments about how DJAG and/or OPG have been implementing the reforms? What could OPG and/or DJAG do to improve the way they are working?
- Do you have any final comments?

Non-government organisations

1. Court reforms

- In your role, how do you/ how does your organisation interact with the Childrens Court or QCAT?
- What is currently working well in courts and tribunals?
- What isn't working well and how could court and tribunal processes be improved?

Prompt: Ask about the relevant aspects of the court and QCAT depending on what level and type of interaction participants have had, e.g. quality of evidence, management of proceedings.

2. Office of the Public Guardian service delivery

- What do you know about the services that OPG provides?
Prompt: ascertain whether participants know about Community Visitors, Child Advocates or both.

Community Visitors

- How effective do you think the Community Visitors are in performing their role? What are their strengths in terms of the way they perform their role? *Prompt: follow up to ask about the various functions of Community Visitors)*
- How could Community Visitors work better with children and young people?

Child Advocates

- How effective do you think the Child Advocates are in performing their role? What are their strengths in terms of the way they perform their role? *Prompt: follow up to ask about the various forums in which Child Advocates provide support)*
- How could Child Advocates work better with children and young people?

Cultural appropriateness

- In your experience, do OPG Community Visitors and Child Advocates demonstrate cultural awareness when engaging with Aboriginal and Torres Strait Islander children and young people?
Prompt: ask follow up questions to ascertain whether cultural awareness is demonstrated to the same extent for Community Visitors and Child Advocates

3. Participation

A key outcome of the reforms is that children, young people and families have greater opportunities to have their voices heard in decisions that impact them. The next set of questions is focussed on how effectively different stakeholder groups are able to participate in the court/ tribunal process.

- Currently, how effectively are children and young people able to have their voices heard in decisions that impact them?
Prompts: What factors facilitate or enable participation? How could participation be improved? Who helps children and young people share their views?
- Currently, how well are Aboriginal and Torres Strait Islander children and families and able to participate in court/ QCAT proceedings?
Prompts: What factors facilitate or enable participation? How could OPG/ court and tribunal processes be made more culturally appropriate?

4. Implementation

- Do you have any comments about how DJAG and/or OPG have been implementing the reforms? What could OPG and/or DJAG do to improve the way they are working?
- Do you have any final comments?

Parents

PART ONE – parents’ stories: Invite parents to share their story. Each participant can share as much or as little as they like about their experiences.

PART TWO – specific feedback about the courts and QCAT

• Court process

These questions are about what works and what doesn’t work for parents in the current court system.

Thinking about when you went to court for a child protection matter:

- Did you understand the court/ tribunal process?
 - Were you supported by someone at the court/tribunal? If yes, who?
 - Did you receive legal advice? *Prompt: At what points in the court process?*
 - Did you receive information? If yes, from who? Did you understand the information you received?
- Once the decision had been made, did you understand it? *Prompt: Did you understand what the next steps were for you and your family? If no, what could have been done to help you understand?*

• Participation

An important outcome for the reforms is that children and families are heard in decisions that affect them.

NOTE: use a large chart to rate how well parents felt heard from 1 (not at all) to 10 (a lot) and then use this to prompt discussion.

- Were you listened to?
- Were you supported in expressing your views? *Follow up question: what support did you receive? How useful was it?*
- Were your views taken into account? *Follow-up question: what does it mean to you to have your voice heard?*
- Were you involved in decision-making processes?

• What works and what could be improved

We are interested in hearing what currently works, and what could be improved. Based on your experience:

- What works for parents in courts and tribunals?
- What doesn’t work, and how could it be improved?

Recognised Entities

1. Court and QCAT

- To begin, can you tell me a bit about your role and how you are involved in the court/ QCAT?

Prompt: What are the benefits and limitations of the role for you?

These questions are about what works and what doesn't work for Aboriginal and Torres Strait Islander children and families in the current court system

- What works for Aboriginal and Torres Strait Islander children and families in courts and tribunals?
- What doesn't work with the current court and tribunal system and how could this be improved?
- How would a more culturally appropriate court or tribunal be different to what we have now?

2. Participation in courts and tribunals

A key outcome of the reforms is that children and families are better able to have their voices heard.

To what extent are REs:

- Consulted by stakeholders about Aboriginal and Torres Strait Islander children, families and community?
- Listened to by stakeholders?
- Supported to express their views and knowledge?
- Have their views and knowledge taken into account?
- Involved in decision-making processes?

3. Office of the Public Guardian

- What do you know about the services that OPG provides?

Prompt: ascertain whether participants know about Community Visitors, Child Advocates or both.

Community Visitors

- Are you familiar with the OPG Community Visitor role (introductory explanation of their role)? If yes,
- How well do you think the Community Visitors support Aboriginal and Torres Strait Islander children and young people in out-of-home care?
- In your experience, do the Community Visitors demonstrate cultural awareness when engaging with Aboriginal and Torres Strait Islander children and young people?
 - If so, how is this demonstrated?
 - If not, why not?
- How could Community Visitors engage better with Aboriginal and Torres Strait Islander children and young people?

Child Advocates

- Are you familiar with the OPG Child Advocate role (introductory explanation of their role)? What do you see as their main functions?
- How well do you think the Child Advocates work to assist Aboriginal and Torres Strait Islander children and young people in these areas?

Prompt: Role of the Child Advocate to help REs refer a child to the tribunal

- In your experience, do the Child Advocates demonstrate cultural awareness when engaging with Aboriginal and Torres Strait Islander children and young people?
 - If so, how is this demonstrated?
 - If not, why not?
- How could Child Advocates better engage with and support Aboriginal and Torres Strait Islander children and young people in child protection proceedings in courts and tribunals?

Appendix 7: Participation file review template

File information

1. Court location:	
2. Date of first lodgement:	
3. Age of primary child (years): <i>Primary child is defined as the child for which the case file has been created.</i>	
4. Number of siblings and age of siblings: <i>If files for siblings have been attached to the primary child's file, please note the number and age of siblings.</i>	Number of siblings: Ages of siblings:
5. Aboriginal and/or Torres Strait Islander child?	<input type="checkbox"/> Yes <input type="checkbox"/> No
6. Representation of the child:	<input type="checkbox"/> Direct representative <input type="checkbox"/> Separate representative <input type="checkbox"/> None
7. Representation of the parents:	<input type="checkbox"/> Yes <input type="checkbox"/> No
8. Orders made in the case:	<ul style="list-style-type: none"> • • • • • • •
9. Outcome at final hearing: <i>Type and length of order, if applicable</i>	
10. Other comments <i>Please include any other background information you feel is important to contextualise the data on participation.</i>	

Type of participation by the child or young person

How did the child or young person participate in the case? *(tick all that apply)*

- Child appeared directly at a court proceeding.
- Child spoke directly to a Magistrate, but not in court.
- Child provided information to a specialist assessor or expert, who provided a written report to the court.
- Child told their views to a Child Safety Officer, who presented this in affidavit material to the court.
- Child provided written material (e.g. letters, artwork) to their Child Safety Officer, who presented this to the court.
- Child had a separate representative who advocated for their best interests.
- Child provided their views to a direct representative, who acted on their instructions to present their perspective to the court.
- Child provided their views to an Office of the Public Guardian Child Advocate, who presented their perspective to the court.
- Child provided their views to the court through a Recognised Entity.
- Other *(please specify)*:

Participation by siblings (if applicable)

If the case involved more than one child and the files of siblings were attached, please provide comments in the spaces below about how siblings participated.

Did siblings participate in the same way as the primary child?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If not, in what ways did participation by siblings differ?	
If participation differed, what were the reasons for these differences?	

Comments on participation

Please provide comments about the child or young person's participation in response to the questions below:

Is it evident that there were benefits associated with the child or young person's participation in this case? If yes, please describe them.	
Is it evident that there were challenges or limitations associated with the child or young person's participation? (e.g. age of the child, intellectual capacity)	

If yes, how were these addressed by the court?	
Does it appear that the child or young person's views were taken into account during decision-making? If so, in what way? What influence (if applicable) did the child or young person's views have on the outcome of the case?	

Appendix 8: Quality of evidence file review template

1. DCCSDS FILE DETAILS

File number:

Date of review:

Name of person undertaking review:

Date of first court event:

Date of last court event:

Number of child/ren subject to application/s:

Age/s of child/ren:

Do child/ren identify as Aboriginal or Torres Strait Islander? Yes No

Comment:

[Click here to enter text.](#)

OR

1. CROWN LAW FILE DETAILS

File number:

Date of review:

Name of lawyer undertaking review:

Date of first court event:

Date Crown Law engaged:

Date of last court event:

Number of child/ren subject to application/s:

Age/s of child/ren:

Do child/ren identify as Aboriginal or Torres Strait Islander? Yes No

Comment:

[Click here to enter text.](#)

2. PART 1: DETAILS OF MATTER

Application/s for child protection order/s (CPO) – ss59 & 61 of the Act:

Type of order/s sought:

- Directive to do or refrain from doing
- Directive preventing or restricting contact
- Protective Supervision order
- Custody to suitable family member
- Custody to Chief Executive (CE)
- Short-term guardianship
- Long-term guardianship to suitable family member
- Long-term guardianship to another
- Long-term guardianship to the Chief Executive (CE)

Was/were the CPO/s granted? Yes No

Were the duration of CPO/s sought granted? Yes No

Details (including details of the Orders):

[Click here to enter text.](#)

3. PART 2: RECORD OF EVIDENCE FILED IN PROCEEDING/S:

Is it clear from the file what documents were filed in the proceeding/s?

Yes No Unclear

Is there an index of filed documents?

Yes No Unclear

If yes, please attach index

If so, was the index provided to the Court and other parties?

Yes No Unclear N/A

Details (if no index was filed, please provide a brief overview of the documents):

[Click here to enter text.](#)

4. PART 3: BRIEF CHRONOLOGY OF PROCEEDING/S

Instructions: Please provide a brief chronology of the proceedings, e.g. key dates for mentions and appearances. If necessary, please also comment on the chronology or ability to establish chronology.

Date	Event & brief details

5. Comments about chronology of proceedings, or ability to establish chronology:

[Click here to enter text.](#)

6. PART 4: PARTIES (INCLUDING NON-PARTIES) TO THE PROCEEDING/S

Evidence to establish particulars of subject children

Is there relevant evidence filed to establish the particulars of the subject child/ren – s8 of the Act, such as documents e.g. birth certificate, or other relevant evidence that established the full name and date of birth of each subject child?

Yes No Unclear

What was the evidence? Details:

[Click here to enter text.](#)

Evidence to establish parents

Is there relevant evidence filed to establish who was the child/ren's parent/s – ss23, 37,51AA & 52 of the Act, such as documents e.g. birth certificate, or other documents, or other relevant evidence to establish a/any applied parentage presumption/s (paternity - see *Status of Children Act 1978*)?

Yes No Unclear

What was the evidence? Details:

[Click here to enter text.](#)

Evidence to establish applicant

Is there relevant evidence filed to establish who the applicant was (authorised officer) throughout the proceedings, in particular, when there had been changes of applicant?

Yes No Unclear

What was the evidence? Details:

[Click here to enter text.](#)

Evidence to establish Aboriginal or Torres Strait Islander status

If the child and or a parent/s identify as an Aboriginal or Torres Strait Islander person, is there relevant evidence that:

- a. when significant decisions have been made, that a recognised entity for the child has been given an opportunity to participate in the decision making?

Yes No Unclear N/A

Details:

[Click here to enter text.](#)

- b. when the court has exercised a power under the Act, that the court had regard to the views of the child's recognised entity, or if not practicable, the views of members of the community to whom the child belongs?

Yes No Unclear N/A

Details:

[Click here to enter text.](#)

Evidence of related non-parties

Is there relevant evidence filed of any related non-parties to the proceeding, such as siblings, or significant extended family or people?

Yes No

- a. If there are siblings, is there relevant evidence filed of whether they were the subject of intervention – proceedings or orders?
 Yes No Unclear
 What was the evidence? Details, including if any consideration of hearing proceedings together and were any applications made to transfer or join matters (ss114 & 115 of the Act):
[Click here to enter text.](#)
- b. If significant extended family or people were identified, is there relevant filed evidence of whether they were considered as a kinship placement, named custodian or guardian?
 Yes No Unclear
 What was the evidence? Details:
[Click here to enter text.](#)
- c. Is there relevant filed evidence that the significant extended family or people were made aware that they could have applied to make submissions to the Court under s113 of the Act?
 Yes No Unclear
 What was the evidence? Details:
[Click here to enter text.](#)

7. PART 5: EVIDENCE RELATING TO COURT PROCEEDINGS, INCLUDING JURISDICTION, PROCEDURE AND REPRESENTATION

Evidence of parallel or related proceedings

Is there relevant evidence filed in respect of any parallel or related relevant proceedings, such as a criminal proceeding, domestic and family violence proceeding, QCAT proceeding and or a family law proceeding (see s103 of the Act and s43 of the *Domestic and Family Violence Protection Act 2012*)?

Yes No Unclear

Details:

[Click here to enter text.](#)

Evidence that parents and parties understood proceeding

Is there relevant evidence filed for the court to be satisfied that, as far as practicable, the child's parents and other parties (including the child if present) understood the nature, purpose and legal implications of the proceeding and or any order or ruling made by the court (s106 of the Act)?

Yes No Unclear

Details:

[Click here to enter text.](#)

Filed evidence of guardian for impaired parent

If it was known that a parent was an impaired person, or it was reasonably suspected that the parent was an impaired person, is there relevant filed evidence of what attempts had been made to find out whether a guardian had been appointed (s6B of the *Childrens Court Rules 1997*)?

Yes No Unclear N/A

Details:

[Click here to enter text.](#)

Evidence that child was aware of right to be legally represented and assisted to obtain legal representation

Is there relevant evidence filed for the court to be satisfied that any child that wanted to participate in the proceeding, had been made aware of their right to be legally represented (s108 of the Act) and assisted to obtain legal representation?

Yes No Unclear

Details:

[Click here to enter text.](#)

Legal representation of child/ren

Was the child/ were the children legally represented?

Yes No Unclear

If yes:

a. What type of representation did the child/ren obtain?

Direct representative Separate representative

b. Were child/ren represented throughout the entire proceedings?

Yes No Unclear

Details or comments

[Click here to enter text.](#)

Evidence that parent/s had reasonable opportunity to obtain legal representation

Is there relevant evidence filed to satisfy the court that a parent/s had a reasonable opportunity to obtain legal representation (s109 of the Act)?

Yes No Unclear

Details:

[Click here to enter text.](#)

Legal representation of parent/s

Were parent/s legally represented?

Yes No Unclear

If yes were parent/s represented throughout the entire proceedings?

Yes No Unclear

Details or comments

[Click here to enter text.](#)

8. PART 6: EVIDENCE RELATING TO WHETHER CHILD IN NEED OF PROTECTION

A. Notification

Evidence of report/s (allegation/s) received by Child Safety

Is there relevant filed evidence of the report/s (allegation/s) received by Child Safety that the child/ren had been or were being significantly harmed, or were at an unacceptable risk of significant harm?

Yes No Unclear

a. Is there relevant filed evidence of the specifics of the report/s (allegation/s)?

Yes No Unclear

b. Did the evidence include when and who received the report/s?

Yes No Unclear

Details relating to 17 (a) and (b) above:

[Click here to enter text.](#)

Evidence of rationale used to screen and investigate report/s (allegation/s)

Is there relevant filed evidence of the rationale used to screen the report/s (allegation/s) (that is whether the report/s amounted to a reasonable suspicion that the child/ren were in need of protection)?

Yes No Unclear

a. Did the evidence include who screened the report/s and on what basis it was recorded/assessed to be either a general enquiry, child concern report/s or a notification/s?

Yes No Unclear

Details:

[Click here to enter text.](#)

b. If the report/s (allegation/s) were screened/assessed to be a notification/s, is there filed evidence of when and to whom the notification was referred for investigation?

Yes No Unclear

Details, including whether the names of officers undertaking the investigation are clear in the file evidence:

[Click here to enter text.](#)

c. Is there filed evidence about the investigation of the report/s (allegation/s), such as when and what actions were taken to investigate by who, including information gathered and interviews conducted for each separate notification relied on to support the application/s?

Yes No Unclear

Details:

[Click here to enter text.](#)

d. Is there filed evidence about the assessment of report/s (allegation/s – notification/s) undertaken at the end of the investigation, including by who?

Yes No Unclear

Details:

[Click here to enter text.](#)

B. Harm

Evidence filed about positive determination/finding of harm

In respect of the outcome of the investigation (assessment), if it was assessed that there was past or present harm, was there relevant filed evidence about the positive determination/finding of harm

Yes No Unclear

Details:

[Click here to enter text.](#)

Did the filed evidence include:

a. Any identified parental actions, behaviour, motivation and or intent?

Yes No Unclear

b. The assessed type/s of abuse (physical, psychological, emotional and or sexual abuse or exploitation) and/or neglect – action/s and or lack of action/s?

Yes No Unclear

c. The resulting detrimental effect of a significant nature on the child's physical, psychological or emotional wellbeing?

Yes No Unclear

Details relating to 19 (a) through (c):

[Click here to enter text.](#)

Evidence filed about determination/ finding of future harm

In respect of the outcome of the investigation (assessment), if it was assessed that there was an unacceptable risk of future harm, is there relevant filed evidence about the determination/finding of future harm?

Yes No Unclear

Details:

[Click here to enter text.](#)

Did the filed evidence include:

a. Any identified parental actions, behaviour, motivation and or intent

Yes No Unclear

b. The assessed type/s of abuse (physical, psychological, emotional and or sexual abuse or exploitation) and or neglect – action/s and or lack of action/s?

Yes No Unclear

c. Any established risk factors?

Yes No Unclear

d. Any established protective factors?

Yes No Unclear

- e. If the harm (abuse or neglect) was to occur, the resulting detrimental effect of a significant nature on the child's physical, psychological or emotional wellbeing be?
 Yes No Unclear

Details relating to 20 (a) through (e):
[Click here to enter text.](#)

C. Child in need of protection

Evidence filed in respect of each parent's ability and willingness

- a. If it was assessed that the child/ren were in need of protection, is there relevant filed evidence in respect of each parent's ability and willingness?
 Yes No Unclear

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

- b. Were there any assessed differences between the parents?
 Yes No Unclear

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

Evidence to address principles under which the Act is to be administered

Is there relevant evidence filed to address the principles under which the Act is to be administered – ss5A to 5E of the Act?

Yes No Unclear

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

9. PART 7: OTHER EVIDENCE ABOUT THE MAKING OF CHILD PROTECTION ORDER/S

Evidence filed that order was appropriate and desirable for child's protection

Is there relevant filed evidence that the order sought was appropriate and desirable for the child's protection (s59(1)(a) of the Act)?

Yes No Unclear

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

Evidence filed regarding case plan

Under s59(1)(b) of the Act, is there relevant filed evidence that there was a case plan for each child:

- a. that had been developed or revised under part 3A of the Act?
 Yes No Unclear
- b. that was appropriate for meeting the child's assessed protection and care needs?
 Yes No Unclear

Details relating to 24 (a) and (b):
[Click here to enter text.](#)

Evidence of child placement principle

If the child and or a parent/s identify as an Aboriginal or Torres Strait Islander person, is there relevant filed evidence to identify if the child had been placed under the placement principle (s83 of the Act)?

Yes No Unclear N/A

Details:

[Click here to enter text.](#)

Evidence that child's wishes or views were made known

Is there relevant filed evidence that each child's wishes or views, if they were able to be ascertained, were made known to the court (s59(1)(d) of the Act)?

Yes No Unclear

If yes, what method was used to present the views and wishes?

- Separate representative
- Direct representative
- Office of the Public Guardian Child Advocate
- Views presented in affidavits
- Views presented through drawings or written material from the child/ren
- Views provided through specialist report/s
- Views presented directly by child at a proceeding

Details/ other comments about how child/ren's views were heard:

[Click here to enter text.](#)

Evidence that protection order was least intrusive

Is there relevant filed evidence to determine that the protection sought to be achieved by the order was unlikely to be achieved by an order on less intrusive terms (s59(1)(e) of the Act)?

Yes No Unclear

Details, including whether there was relevant evidence to support both the type and length of any orders sought.

[Click here to enter text.](#)

Evidence relating to asserted contravention of the Act

If there was any asserted contravention of the Act, is there relevant evidence filed to support the assertion, and how the court regarded the contravention (s59(2) of the Act)?

Yes No Unclear N/A

Details:

[Click here to enter text.](#)

Evidence of revised case plans

If the child/ren a had revised case plan, was the review report/s (s51X of the Act) filed in the court (s59(4) of the Act)?

Yes No Unclear N/A

Details:

[Click here to enter text.](#)

Evidence about person to whom custody or guardianship was granted (other than the Chief Executive

If the court was asked and or made a child protection order granting custody or guardianship of a child to a person other than the chief executive, is there relevant evidence for the court to have regard to any report given, or recommendation made, to the court by the chief executive about the person, including a report about the person's criminal history, domestic violence history and traffic history (s59(5) of the Act)?

Yes No Unclear N/A

Details:

[Click here to enter text.](#)

Evidence about suitability of long-term guardianship for a child/ren

- a. If the order/s sought and or made granted long-term guardianship of a child/ren, is there relevant evidence for the court to be satisfied—
- there is no parent able and willing to protect the child within the foreseeable future; or
 - the child's need for emotional security will be best met in the long term by making the order (s59(6) of the Act)?

Yes No Unclear N/A

Details:

[Click here to enter text.](#)

- b. If the order/s sought and or made granted long-term guardianship of a child/ren, is there relevant evidence for the court to be satisfied:
- long-term guardianship of a child could be granted to a person who is not a member of the child's family; or
 - long-term guardianship could be granted to the chief executive (s59(7) of the Act)?

Yes No Unclear N/A

Details:

[Click here to enter text.](#)

10. PART 8: OTHER EVIDENCE RELATING TO THE PROCEEDING/S

Evidence all relevant material obtained pursuant to subpoena

Was all relevant material obtained pursuant to subpoena to produce?

Yes No Unclear

Evidence all relevant identified witnesses approached

Were all relevant identified witnesses approached to obtain affidavits, and if required, subpoenaed to give evidence in person?

Yes No Unclear

Evidence filed to support interim orders

Is there relevant filed evidence to support any interim orders (custody, directing of a parent's contact and or authorising an officer to have contact with child) that had been or were sought on adjournment of the proceedings (s67(1) of the Act)?

Yes No Unclear N/A

Details:

[Click here to enter text.](#)

Expert evidence filed in respect of application/s or to support order requiring social assessment report be prepared

Is there relevant expert evidence filed in respect of the application/s, or to support an order requiring a social assessment report be prepared (ss68(1)(a) 68(2) and 98 of the Act)?

Yes No Unclear N/A

Details:

[Click here to enter text.](#)

Evidence filed in respect of application/s or to authorise medical examination or treatment

Is there relevant evidence filed in respect of the application/s to support any application or order to authorise medical examination or treatment (ss68(1)(b) and 97 of the Act)?

Yes No Unclear N/A

Details:

[Click here to enter text.](#)

Evidence filed in respect of asserted domestic and family violence

Is there relevant evidence filed in respect of any asserted domestic and family violence, so as to assist the court to determine whether to make a protection order pursuant to s43(3) of the *Domestic and Family Violence Protection Act 2012*?

Yes No Unclear N/A

Details:

[Click here to enter text.](#)

Evidence to establish whether there was a domestic violence order in force

Is there relevant evidence filed to establish whether there was a domestic violence order in force against a parent of a child for whom a child protection order was sought in the child protection proceeding (the aggrieved is also a parent in the child protection proceeding), which the court must then have considered and whether, in the circumstances, needed to be varied (s43(3) of the *Domestic and Family Violence Protection Act 2012*)?

Yes No Unclear N/A

Details:

[Click here to enter text.](#)

Evidence about support for child/ren's family if the subject of earlier order/s or care agreement/s

If the child/ren the subject of the application/s had been the subject of an earlier order/s or care agreement, is there relevant evidence filed in relation to whether the chief executive had taken steps that were reasonable and practicable to help the child/ren's family meet the child's protection and care needs (s73 of the Act)?

Yes No Unclear N/A

Details:

[Click here to enter text.](#)

11. PART 9: QUALITY OF APPLICATIONS

Quality of filed application/s

Did the filed application/s (including any earlier application if filed in support of the proceedings):

- a. Clearly state the grounds on which it was made?
Yes No Unclear N/A
- b. Clearly state the nature of the order sought?
Yes No Unclear N/A
- c. Comply with the applicable rules?
Yes No Unclear N/A

Details:

[Click here to enter text.](#)

12. PART 10: QUALITY OF AFFIDAVIT EVIDENCE

Instruction: provide an assessment of each affidavit separately.

Who is the affidavit filed for?

[Click here to enter text.](#)

What evidence is provided in the affidavit?

[Click here to enter text.](#)

Is there clear evidence that the parent/s has been directed to do something by the Department?

Yes No Somewhat

Details: Outline what evidence is provided.

[Click here to enter text.](#)

Is there evidence about the outcome of the direction to the parent?

Yes No Somewhat

Details: Outline what evidence is provided.

[Click here to enter text.](#)

Is it clear what the matters in issue are?

Yes No Somewhat

Details: Please explain why you gave this rating.

[Click here to enter text.](#)

Does the affidavit contain evidence relevant to the facts in issue?

Yes No Somewhat

Details: Please explain why you gave this rating.

[Click here to enter text.](#)

Is there extraneous information contained in the affidavit?

Yes No

Details: What is extraneous to the matters in issue?

[Click here to enter text.](#)

Is the affidavit objective in its presentation of evidence (e.g. there should be evidence on the file of the parent's strengths)?

Yes No

Details:

[Click here to enter text.](#)

Please rate the affidavit in terms of being easy to read (considering, for example, length, clarity, grammatical errors)

- Very good
 Good
 Fair
 Poor
 Very poor

Details: Please outline the key reasons why you gave this rating.

[Click here to enter text.](#)

Please rate the affidavit in terms of being succinct

- Very good
 Good
 Fair
 Poor
 Very poor

Details: Please outline the key reasons why you gave this rating.

[Click here to enter text.](#)

Is there any inconsistent information in the affidavit(s)?

Yes No Unclear

Details:

[Click here to enter text.](#)

13. PART 11: OVERALL RATING OF QUALITY OF EVIDENCE

Given your responses to each of the indicators above, please give a rating to the quality of evidence presented to the court in this matter

- Very good
 Good
 Fair
 Poor
 Very poor

Details: Please outline the key reasons why you gave this rating.

[Click here to enter text.](#)

Improving child protection matters
in Queensland courts



Queensland
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