A romp through the FIC Reforms

15 September 2023

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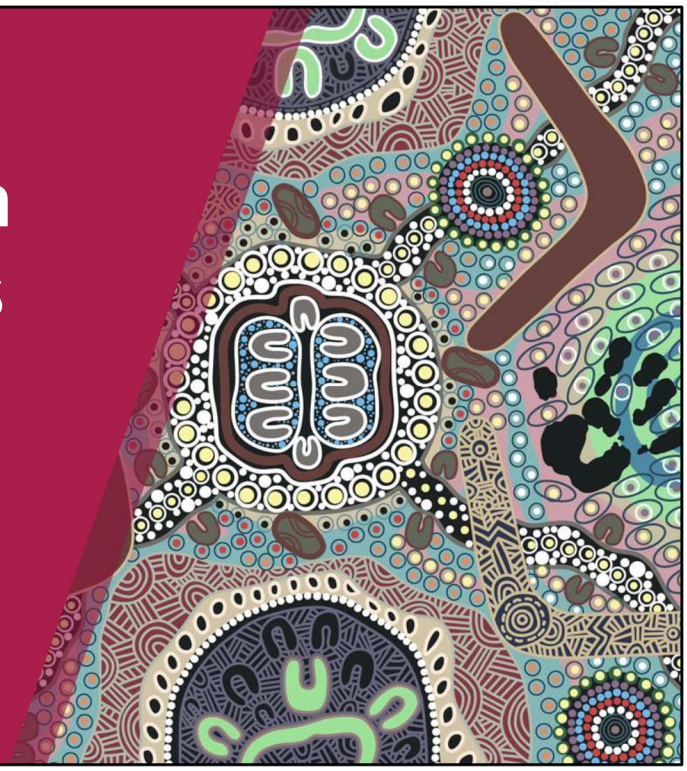

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Agenda

- Mandate and Policy Changes
- Active Efforts
- Legal Assistance for Families: Partnership Agreement ('LAFPA')
- Alternative Dispute Resolution
- Care Plans
- Permanency Planning
- Restoration
- Reviewable Decisions

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Mandate and Policy Changes

Bianca Jarrett, Manager of Change and Transformation

Transforming Aboriginal Outcomes,

Department of Communities and Justice

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FIC Amendments Implemented to date:

The first tranche of amendments brought into effect these changes;

S3 – definitions "**entity**", "**exercise**" "**function**"

S10A (3)(b) –changing the language of placement in accordance with a Guardianship order;
S10A(3)(bi) – creates additional permanent placement of suitable person or person jointly under s79(1)(f);

12A – is the **Aboriginal and Torres Strait Islander Children and Young Person Principle** – consisting of 5 elements.

S87(2A) –allows for the representative/s approved by the Court to be heard to be a relevant Aboriginal or Torres Strait Islander org. or entity for the child or y/p;

S93(3A) – the Court may determine the rules of evidence in relation to a proof of fact;

s106A – removes the presumption in 106A(1) with the exception of a reviewable death of a child or y/p – which remains rebuttable under the new s106A(3).

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Watch The Webinar Here: Care and protection representing children (nsw.gov.au)

S3 – be aware of the definition changes and implications particularly for the new s9A.

S10A includes what can be called a PRR order – being PR to a relative or person significant to the child. And inserts into the permanency principles something other than Guardianship and PR to the Minister until 18.

S12A is not a replacement for the s13 principles but rather an extension to issues beyond placement.
S12A mandates the application of the 5 elements to all actions taken in relation to an Aboriginal child (if relevant).

S87- changes allow representatives from an ACCO entity or organisation to be heard on behalf of a family or community.

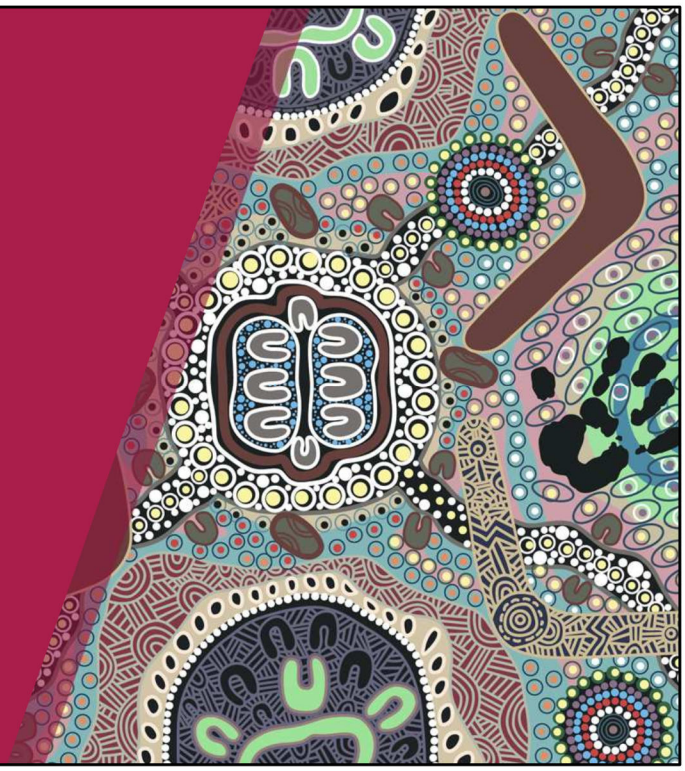
Keep in mind Definition of "entity" – includes an individual - greater choice and agency around who speaks on their behalf

Corresponding changes made to LANSW policies to allow greater scope for grants of aid for s87- include preparation, taking instructions and attendance at defended hearings

See s93 re when the rules of evidence apply – rules or certain rules can apply in relation to proof of a fact AND proof of that fact is or will be significant to theCourts determination/part of the proceedings

S106A – removes presumption that child/young person is in need of C&P if previous child removed and not restored - FIC found unintended consequences for examples, expectant mothers with previous contact with the child protection system reluctant to access prenatal support due to fears baby will be placed in out-of-home care.
Note 106A(1)(b) still applies.

Active Efforts



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Prior Alternative Action- s34 (Current State)	Active Efforts- s9A (Future State)
Section 34 If the Sec. forms the opinion a child or y/p is in need of care and protection – the actions the Secretary **might** take include;	Section 34 remains unchanged but the legislation now includes s9A the principle of making "active efforts" and the Sec. **must** act in accordance with the principle of active efforts
The provision of support services, Offering ADR referred to in s37, Section 37(1A) subject to certain exceptions, the Sec. **must** offer ADR to a family before seeking a care order Developing a care plan to meet the needs of the child s38 Developing a parental responsibility contract s38A-G In deciding what action to take the Sec, is to have regard to s71 – grounds for care order. 6 FIC Reforms	**Active Efforts means:** - For a child who **remains in the care of their family**, making active efforts to prevent out of home care entry, - For a child who has **been removed from parents or family,** making active efforts to restore the child to their parents OR - restored to family, kin or community where a return to parents is not practicable/in the child's best interests.

Currently s34 of the Act sets out what the Sec. might do if of the opinion a child or y/p is in need of care and protection. Includes s37 ADR and offer for ADR – but have not seen good CW in relation to prior alternative action or a demonstration to Court as to why alternative action was not taken.
The section 9A Principle of making active efforts will apply to s34 going forward. Prior alternative actions will be subject to the s9A Principle which requires the Sec. to make active efforts to prevent a child entering out of home care or to restore a child or y/p who has been removed – and to provide evidence.

Some implications for practice are that there will be a greater need to be:

- fully across the requirements of s9A and the 12A principles,
- in a position to weigh and assess the best intervention option/s for your client's circumstances, for example to weigh CC v FCFCoA –
- If a client is already in contact with DCJ, request details of the active efforts made/being made with the client/family/community;
- attuned to and able to assess client needs so as to make appropriate referrals,
- well informed about services and referral pathways and
- know the resources available to you to support and assist your clients to meet child protection concerns.

- For Legal Aid staff - develop working relationships with Aboriginal Field Officers and Case Workers as they are recruited, and with
- the other specialised units available to you FAMAC, DVU and EIU for advice, information and referrals.

Principles of Intervention - s36 (Current State)	Active Efforts- s9A (Future State)
Section 36 Principles of intervention The Sec. **must** may have regard to the following Principles - - The immediate safety of the child and of other children **must** be given paramount consideration, - Any action **must** be appropriate to age, disability, circumstances, language, religious and cultural background, - Removal may occur only where necessary to protect the child or y/p from risk of serious harm. 7 FIC Reforms	S36 remains unchanged. (3) The Sec. **must** ensure active efforts are: - timely - Practicable, thorough and purposeful - Aimed at addressing grounds on which child is considered to be in need of care; - Conducted (to greatest extent possible, in partnership with child or young person, family, kin and community - Culturally appropriate; - In accordance with the Regulations. (4) Active efforts include; - providing, facilitating, assisting with support services and other resources and if not available, consider alternative ways to addressing the needs of the child, y/p family or community and by activities directed to finding and contacting family and the use of PRCS, PCOs, TCAs, ADR and other matters prescribed by the regulations.

Section 36 sets out the Principles of intervention. This Principle now sits together with the Principle of "active efforts."
While consideration of the immediate safety of a child or y/p will not cease to be paramount - any actions taken in relation to a child or y/p must now comply with s9A – which means that when taking actions to safeguard or promote the safety of a child or y/p – such actions go hand in hand with making active efforts to prevent the child or y/p from entering care. And while actions must comply with 36(1)(b), the Sec. must also ensure they also comply with s9A(3) – that is they must be "timely, practicable, thorough…": Consistent with the Principle of intervention at 36(1)(c) – that removal may occur only where necessary to protect from risk of serious harm.

The s36 Principles of intervention are to be applied in priority to the Principles in s9, s36(2).
The s9A Principle of making active efforts is subject to the requirement under s9(1), the Paramountcy Principle s9A(5).

Implications for practice;

Need for a further conversation about what risk is. And how risk can be mitigated by families.

Elements of the making active efforts Principle, can be used to argue for the Sec. to take particular action/s and how those actions should be taken. For example where a relative is at Court, s9A gives significant weight to the argument for a timely, thorough and purposeful assessment of their capacity to care/support the parent/s – as is required by the Act and as necessary to prevent entry into out of home care or to restore.

Relevant to all children – not just Aboriginal and Torres Strait Islander children and y/p but to culturally and linguistically diverse children and families.

Evidence of active efforts

Section 63 (Current State)	Section 63 (Future State)
(1) When making a care app, the Sec. **must** furnish details to the Children's Court of: (a) Support and assistance provided for the safety, welfare and wellbeing of the child/young person and (b) Alternatives to a care order that were considered and reasons why they were rejected	**(1) When** making a care app, the Sec **must** furnish details to the Children's Court of: (a) the active efforts made AND reasons they are unsuccessful (b) alternatives to a care order AND the reasons the alternatives were not considered appropriate.

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The new s63 does the heavy lifting. It requires the Sec. to provide evidence of the active efforts made before making the care application, at the time of making it. And it requires evidence of why the active efforts were unsuccessful.

It also requires evidence of the alternatives that were considered by the Sec. - so the less intrusive interventions, which do not involve Court and the reasons that they were not considered appropriate.

This is an important difference. The Act will contain a mandate not just for the provision of details of what has been done but evidence of the active efforts made before the care application was made. I am not sure I know what this means

Some implications for practice: - Consider a case where 6 months of ROSH reports, then removal of baby due to a DV incident, as Mo considered not protective. Action all taken quickly so baby unlikely to be in a kinship placement (past state). Future state think - what are the alternatives to removal? Fa in custody. Would a safely plan be sufficient? If DV significant, Mo may need to live elsewhere, perhaps support to go to a refuge – number of alternatives including working with Mo any extended family/ supports as alternatives to removal. PR To Minister, most intrusive option.

Also be:

- fully across the case work and legislative intervention available to support clients - page 11;
- informed as to client needs and available services so as to argue the adequacy of the evidence,
- regularly request in writing, details of engagement and active efforts made with clients, family and community;
- issue subpoenas for DCJ's file and to the organisations engaged by DCJ;
- consider what expert or other evidence might be available to assess the adequacy of the active

efforts and/or which might assist to provide further support/services.

- consider adjournments for the provision of further evidence - s63(4).
- Make suggestions and provide ideas about things not considered.

Section 63
(Future State)

(2) **Before** making a care app. active efforts were made to:

Evidence of active efforts

(a) provide, facilitate or assist with support for the child/yp; including support for the parents and

(b) Consider any of the following that are relevant;

i. Parent responsibility contract (PRC)
ii. Parent capacity order (PCO)
iii. Temporary care arrangement under chapter 8, Part 3, Div. 1
iv. Alternative Dispute Resolution under section 37.

S63 (3)

Sections s63 (1) and (2) do not apply in relation to a care app. for an emergency care and protection order (s46).

S63(2) requires evidence of active efforts to provide, facilitate or assist with support not only for the child or y/p but including support for parents –
ss(2) sets out a non-exhaustive list of interventions that the Sec. should have considered.

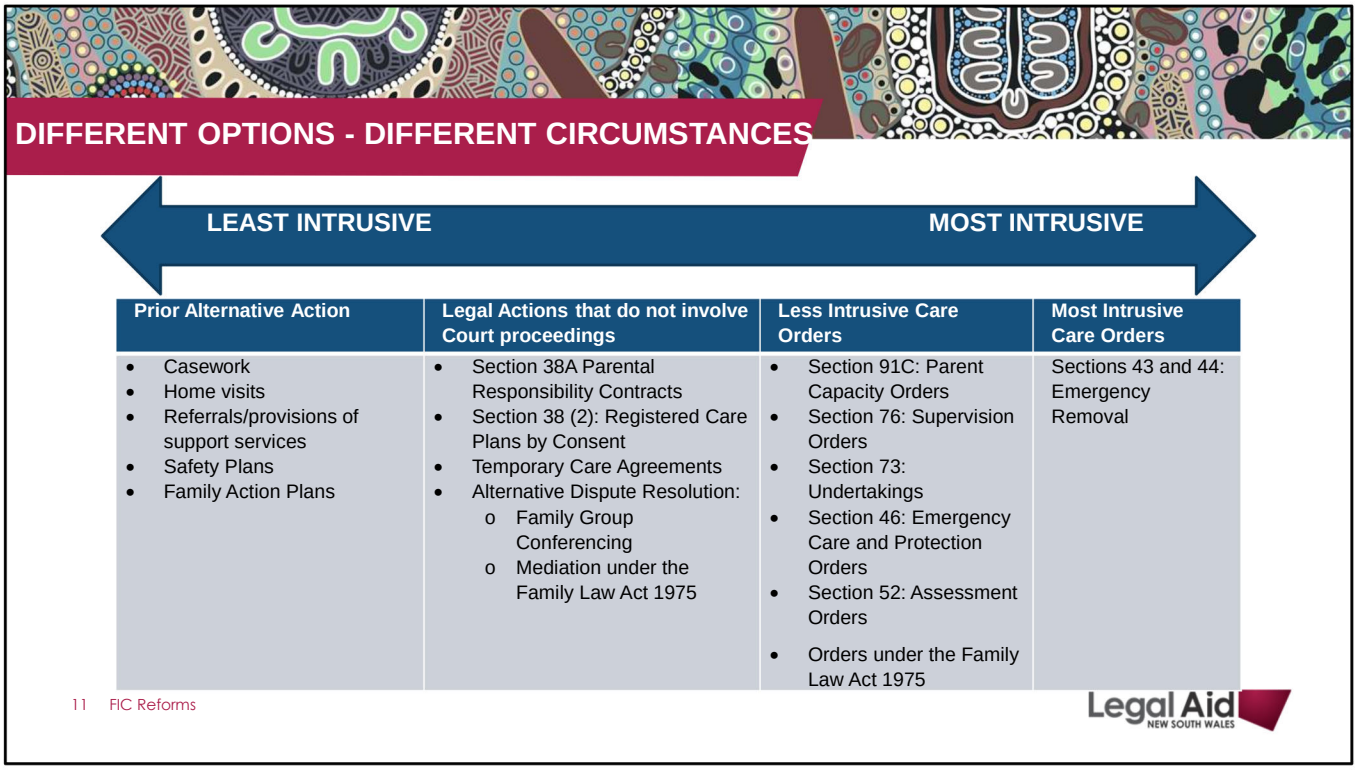
S63(2)(b), specifically makes reference to whether DCJ has considered the early intervention alternatives.

As legal practitioners its really important to be asking the question about active efforts at every mention and in between each mention. Have active efforts at forefront of mind for the duration of the proceedings. Like cultural planning, not a one point in time issue – it is relevant and may change over the various stages of proceedings.

Section 63 Current State cont…	Section 63 Future State cont…
Evidence of active efforts 63(2) The Court must not dismiss a care application or discharge a child who is in the care responsibility of the Sec. by reason only that the Children's Court is of the opinion that appropriate alternative action could have been taken. (3) The section does not prevent the Court from adjourning the proceedings. 10 FIC Reforms	S 63(4) If not satisfied on the evidence under (1) the CC can adjourn the matter. **Note – see s69 and 70 which provide CC may make interim orders, including less intrusive interim orders.** (5) The Children's Court must not unless satisfied action in best interest of child – (a) Dismiss the care app. (b) Discharge the child/yp from the care responsibility for the Secretary (s157).

The Court must not dismiss a care application or discharge a child or y/p from the care responsibility of the Sec. unless it is satisfied that it is in the child or y/p's best interests.
It is currently the case that the Court can adjourn a matter. The language of s63(5) is different, however. It suggests that there may be circumstances where it is in a child's best interests to dismiss an application or discharge a child from the care responsibility of the Minister. It asks the Court to consider whether the child being subject to the application is in the child's best interests.
S63 requires the Sec. to provide evidence to support a care application being the necessary intervention.
If the Court is not satisfied it can make interim orders and they include the less intrusive orders.
It is important to know what those less intrusive options are (slide 11)

This leaves open the possibility that the Court could considers it in a child or y/p's best interests that a care application be dismissed and the Sec. work with the child, y/p, parents and/or family, by way of the less intrusive interventions as required by s9A(4). As is currently the case, this would only happen if the child or y/p was otherwise safe. It is likely to remain the case that the Court will make interim orders/arrangements that ensure a child's immediate safety, while the Sec. provides further evidence or works through the various care arrangement options for the child or y/p.
It is important to know what less intrusive options are available to keep a child or y/p safe while the Sec. does that work and to think about what actions practitioners can take to satisfy the Court as to the adequacy of the early interventions – it might for example require the drafting of an affidavit and or taking of brief evidence at Court. Seek short term orders.



Very helpful to see the scheme of interventions available from least intrusive to removal of a child or y/p.
The new principle at 9A of making "Active efforts" to prevent entry into care and to restore requires all practitioners to be aware of these interventions and be able to assess the suitability of them to their clients' circumstances.
The Sec. should be actively employing these interventions and the Act now requires the Sec. to provide evidence that it has done so when bringing a care application.

Legal Actions that do not involve litigation

- **Parental Responsibility Contracts** ('PRC'- s38A) is a written contract between the Secretary and the primary caregiver(s) or expectant parent which aims to improve parenting skills and encourage them to take greater responsibility for the child. The service you are asking the parents to participate in MUST be available and willing to work with them. Maximum time period 12 months. Contract may be registered with the Children's Court.
- **Registered Care Plan by Consent** can be registered with the Children's Court to firstly, outline the plan for a child/YP (s38(1)), secondly, be filed with an application to seek an order allocating parental responsibility for a child to another person (s38(2)) or thirdly, for other orders (s38(3)). **The Court does not need to be satisfied that the child is in need of care and protection for orders to be made to give effect to a care plan by consent.**

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S38A Parental Responsibility Contracts and S38 Care Plans, are two of a number of tools in the legislation designed to enable parents, families and DCJ to work together in the early stages of engagement. PRCs and S38 Care Plans can only work when parents and often extended family understand the child protection concerns and are involved in the development of solutions or agree to work with the solutions proposed by DCJ.

With early referrals for legal advice, practitioners can seek specifics about the care and protection concerns, reality test them and make sure they are well understood by clients. Practitioners can also assist clients to consider various solutions. Practitioners can advocate for the use of these early intervention tools in the Act, and support clients to understand the benefits of avoiding more intrusive interventions.

Legal Actions – no litigation

- **Temporary Care Arrangement (TCA)- s 151** is an agreement used by the Secretary when a child/YP is assessed to be in need of care and protection. Either the parent(s) consent AND there is a permanency plan involving restoration OR the parent(s) are incapable of consenting. It has a maximum duration of 6 months. Child placed under the care responsibility of the Secretary and must be placed with authorised carers.

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Less Intrusive Care Orders

- **Parent Capacity Order** ('PCO' – s91A-I) is a Children's Court order directing a parent to participate in an identified program or therapy to improve parenting skills. A PCO application can be made by the Secretary or the Children's Court where a prohibition order has been breached. A PCO does not have any breach provisions, however may lead to a care application being made if parent does not comply.

- **Undertakings** (s73) can be obtained from a parent regarding services they will engage with/activities they agree to refrain from.

- A **supervision order** (s76) allows the Secretary to monitor a child's safety, welfare and wellbeing in the home (maximum period 24 months). Breach of undertakings may lead to a care application.

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Less Intrusive Care Orders

- **Emergency care and protection orders** are made when the Children's Court is satisfied that the child or y/p's is at risk of serious harm.
  The ECOP places the child or young person in the care responsibility of the Secretary, or the person specified in the order. It has effect for a maximum of 14 days and can be extended for 14 days.

- **Assessment Orders** an assessment by the Children's Court Clinic of a child or y/p's physical, psychological, psychiatric or other medical
  - needs or a person's capacity for parental responsibility. Can be made independent of any other order but only by the Secretary (s61(1).

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Diversion into the Federal Circuit and Family Court of Australia

- Could this family be better served by the commencement of Family Law proceedings?
- What are the pros and cons of the family law system vs the child protection system?
- Indigenous List vs Indigenous List?
- Should you request a protective parent letter from DCJ?

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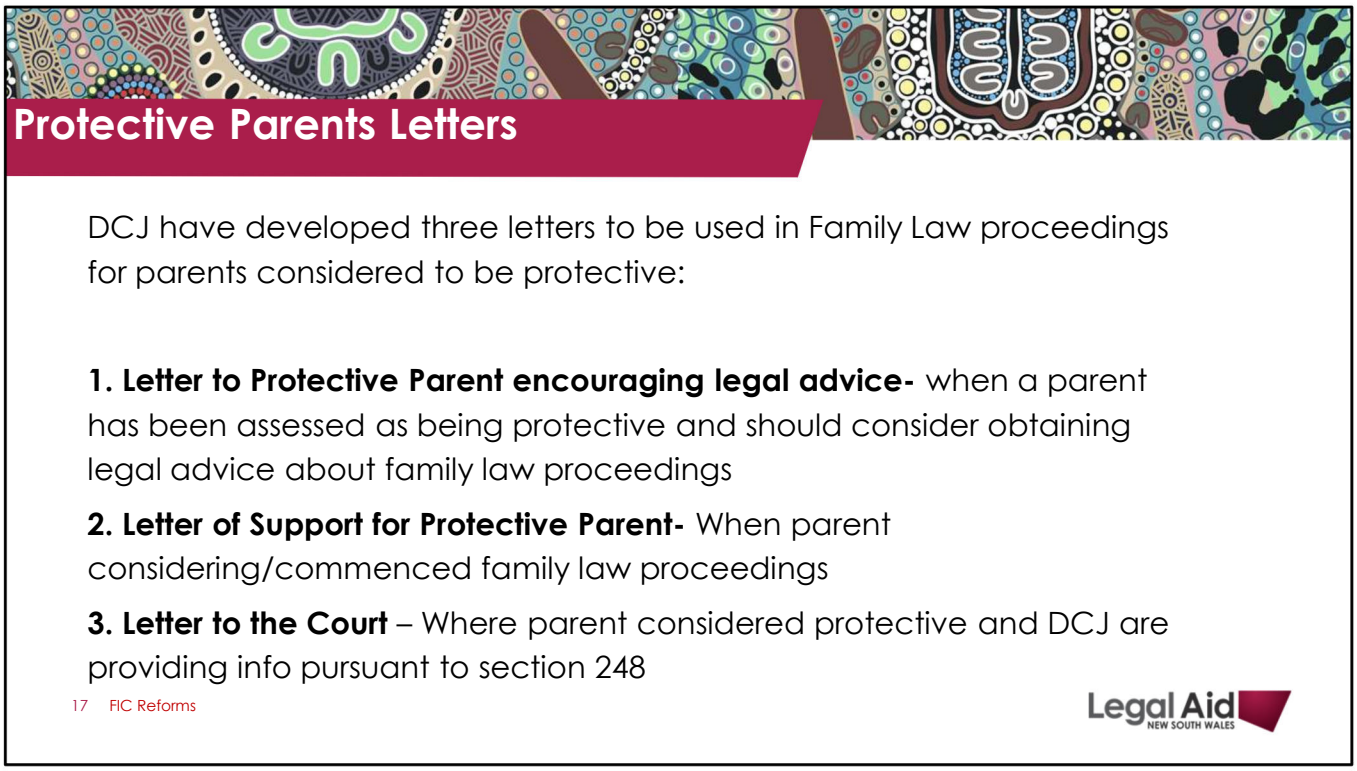
For lots of families this will be an option and a BETTER option for them will be for them to access the FL system -

When thinking about the answers to these questions:

- Consider – is there a family member acting protectively that wants to do this? Are there multiple family members? Or do they want DCJ to support them and commence proceedings in FCFCoA
- Consider different rights of appearance in jurisdictions – applicant vs carer – different roles and experiences
- Limitations of jurisdiction – contact orders limited, injunctive powers, recovery orders
- Considering cultural safety – many families will want to access a specialist list where one is available – Lismore, Sydney, Coffs, Newcastle soon
- Financial aspect as well, support from DCJ may be welcome or really unwelcome
- Might want DCJ in their lives or well out of their lives



Protective Parent Letters

- Part of the work we have been doing with DCJ is around a package of letters for parents to be given when they need to consider accessing the federal jurisdiction and there are child protection concerns
- Often,you , see clients who have been sent to see you to commence FL proceedings, may not be very clear what is going on
- Purpose of these letters is to streamline that process and get protective parents good advice quickly
- You should start to see these letters in practice or you might like to start requesting them for to consider the purposes of Fl proceedings
- See utility of these letters in either matters where proceedings need to be commenced urgently or responded to urgently – matter where Mo had been assisted to leave home due to severe DV into a refuge – app brought by Fa was that didn't know where she was, or children were, seeking to recover children – came on within the day of it being filed – see the benefit of a letter from DCJ in those circumstances to slow that process down and buy yourself some time to file proper material
- Of course remembering that this wont be the case in every case but again considering unique facts of a case

Family Group Conferencing

- Family Group Conferencing (FGC) is a form of alternative dispute resolution. FGC aims to provide an opportunity for families working with DCJ to develop their own plan to keep their children safe.
- Lawyers generally do not attend Family Group Conferences although parties are able to obtain legal advice prior to and during the conference.
- FGC's bring the family together with an impartial facilitator to discuss the concerns for a child, participate in family time and agree to a plan to ensure the safety and wellbeing of a child

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Remembering the Act mandates families being offered ADR – s 37 – where chid/YP considered to be at risk of Significant harm - Note section 37(1B) and consider if the circumstance is exceptional.

Preferred form being FGC – consideration of benefits of this for clients, advantages disadvantages

In an active efforts context – may be circumstances in which might be appropriate to propose some form of ADR as a first step – where it might be that active efforts have not been undertaken, risk issues might be identified, services identified, support given at an early stage – circuit breaker, way to set the agenda

Eg – case where baby removed from my clients care- concerns about Mo's disability affecting PC, failure to thrive, early issue of subpoenas got rid of failure to thrive, contested establishment hearing – resolved by an early DRC and entry into Tresillian with child returning to sole care of fa on interim basis.

Of course, remembering that this won't be the case in every case but again considering unique facts of a case.

What Opportunities do Active Efforts Present?

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This is an opportunity to creatively advocate for your client and influence the development of the law.

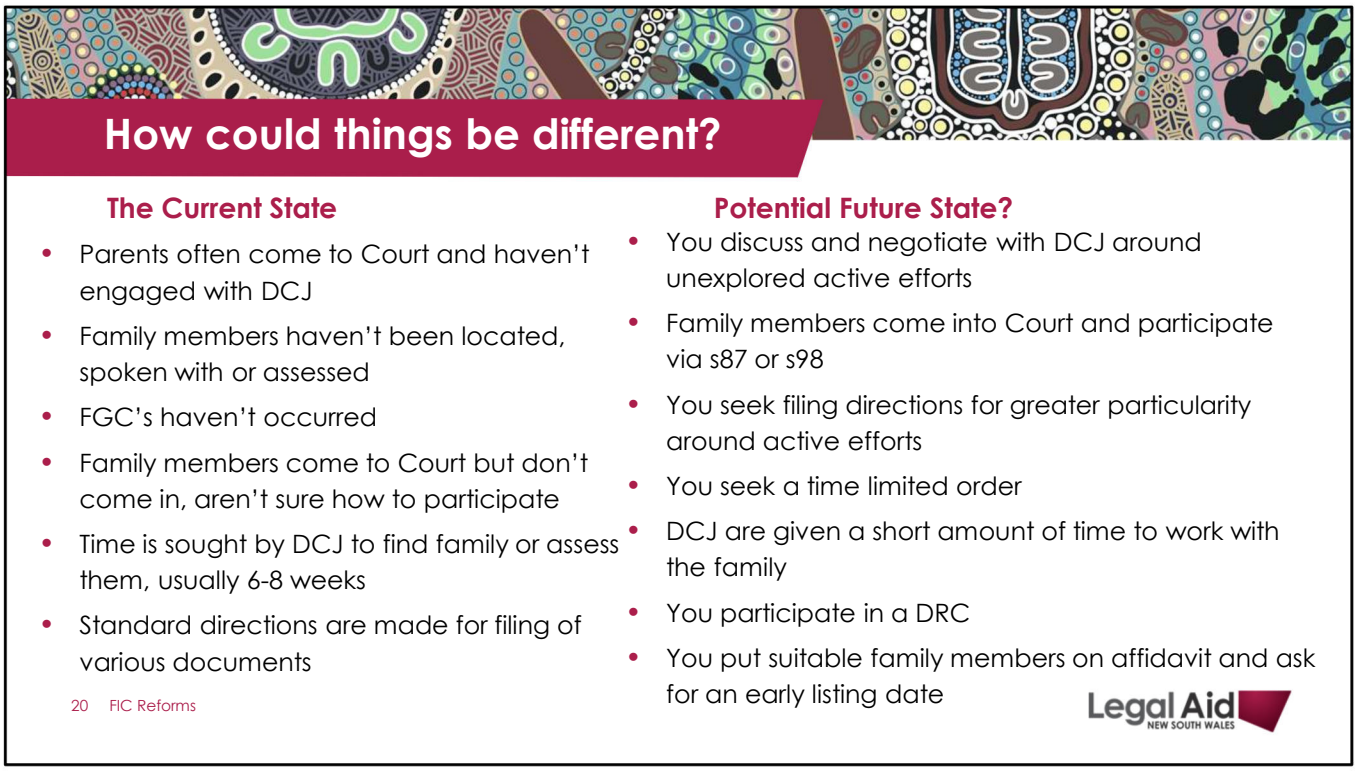
It could be any one of us that is asked to make submissions about what is timely, what is practicable, whether DCJ have done enough

May be wondering – what does actually make this different to prior alternative action?

Is it fundamentally the same or are there real opportunities here?

Yes!!!!

Test some of these out – some ideas about how things might be different



Current State

Questions in session:

Will there be a measure for active efforts – such as assessing a family placement to be streamlined when it has been overlooked?

Yes, we have worked with DCJ and if there is a family member at court, we can ask the court to accept sworn evidence from the family member (preparation will be the key)

We have no knowledge of whether DCJ will streamline their processes and we can't speak for DCJ.

However;

DCJ can get Chapter 16 information really quickly.

Family members can be provisionally authorised.

Need to challenge existing time frames and why things have not been done.

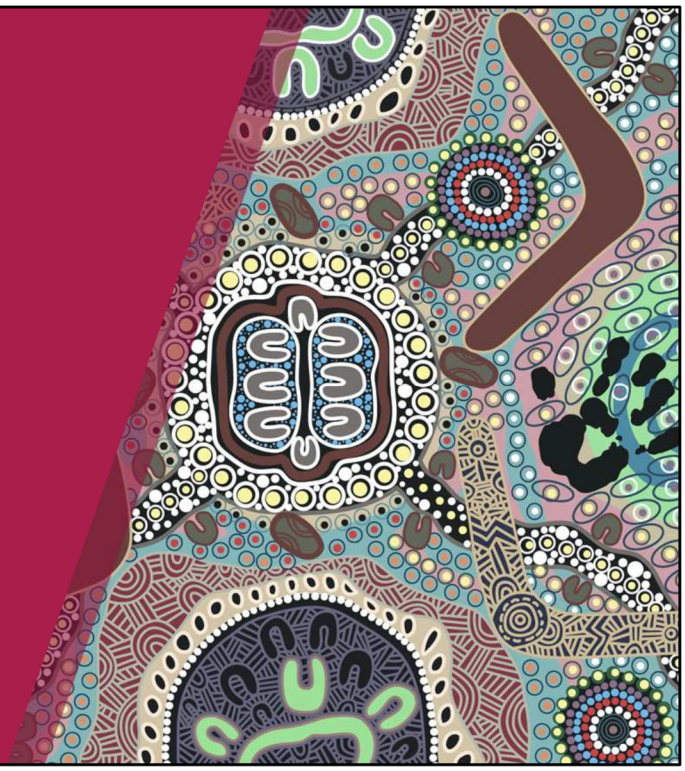
Examples of what active efforts attempts to address – suggest have all probably seen care applications where family has been known to DCJ for a long time, no or some failed attempts to engage with DCJ.

See those applications where family will be listed in app, genogram – but children have still entered OOHC and little is said about family options or might get a response that says it will take six weeks for an assessment.

Family are at court, left outside, can't or don't know how to participate.

Follow the Practice Note to the letter even when these issues are unresolved.

Legal Assistance for Families: Partnership Agreement



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LAFPA

The Legal Assistance for Families: Partnership Agreement

- In 2022, the Department of Communities and Justice, the Aboriginal Legal Service and Legal Aid NSW signed the 'Legal Assistance for Families: Partnership Agreement'
- LAFPA is the first time these three agencies have collaborated and agreed to shared goals and objectives and have put into one document, unpublished protocols between each organisation.
- It heralds the beginning of a new way of working together to achieve better outcomes for families

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This is an agreement that sees parents and families being referred for early legal advice when they come into contact with child protection.

Early referrals will become business as usual after 15 November 2023.

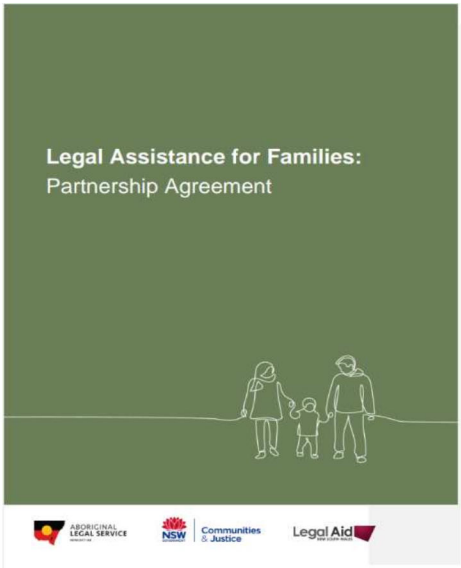
You might start seeing references in DCJ material and that is what is intended.

Early intervention work means – "any pre litigation work" so not only that work before children enter care but before the second set of proceedings.

LAFPA

Key Principles

- Respect for each other and our roles in the system
- Communication
- Early Intervention
- Family led decision making and agency



Early Intervention and FIC

"Increasing early intervention and secondary prevention support for vulnerable families is a way to change the system focus from reactive to proactive support, which is needed to move beyond the current crisis- driven, tertiary intervention focused approach."

- Prof M Davis, Family is Culture Report

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What Do You Need to Know?

Early Referrals for Legal Advice/Early Intervention

- Early Referrals for Legal Advice will be an 'active effort' in the Regulations that accompany the FIC Amendment Bill
- The Early referral pathway has been trialled in Gosford, Newcastle and Tamworth since February 2023 and is being used in the Winha-nga-nha List in Dubbo
- LAFPA may be referenced in care applications post the proclamation date and the early referral pathway will become BAU

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When regulations are made available – we know it's going to contain early referrals for legal advice as an active effort

Policies and mandates for DCJ, child story will reflect this

Really significant

Right now, you might even be hearing about referrals being made or start seeing reference to them in care applications

Post the proclamation date – expect to start seeing them everywhere

What we have seen so far in the trial sites- very slow start, big change to practice for all of us

Shift our thinking and our work into this space

Needing to focus on benefits and outcomes for DCJ of getting us involved early

Context that they deal with us in a litigation context – cross examination, stressful, scrutinising them

Unsurprisingly need some convincing that it's a good idea to bring us in earlier

Early Intervention Work

- Any pre-litigation work

- Aim is to resolve the issues of concern though:
- Education
- Communication
- Collaboration
- Negotiation and
- Balanced persuasion

- Solutions are owned and shared and not imposed.

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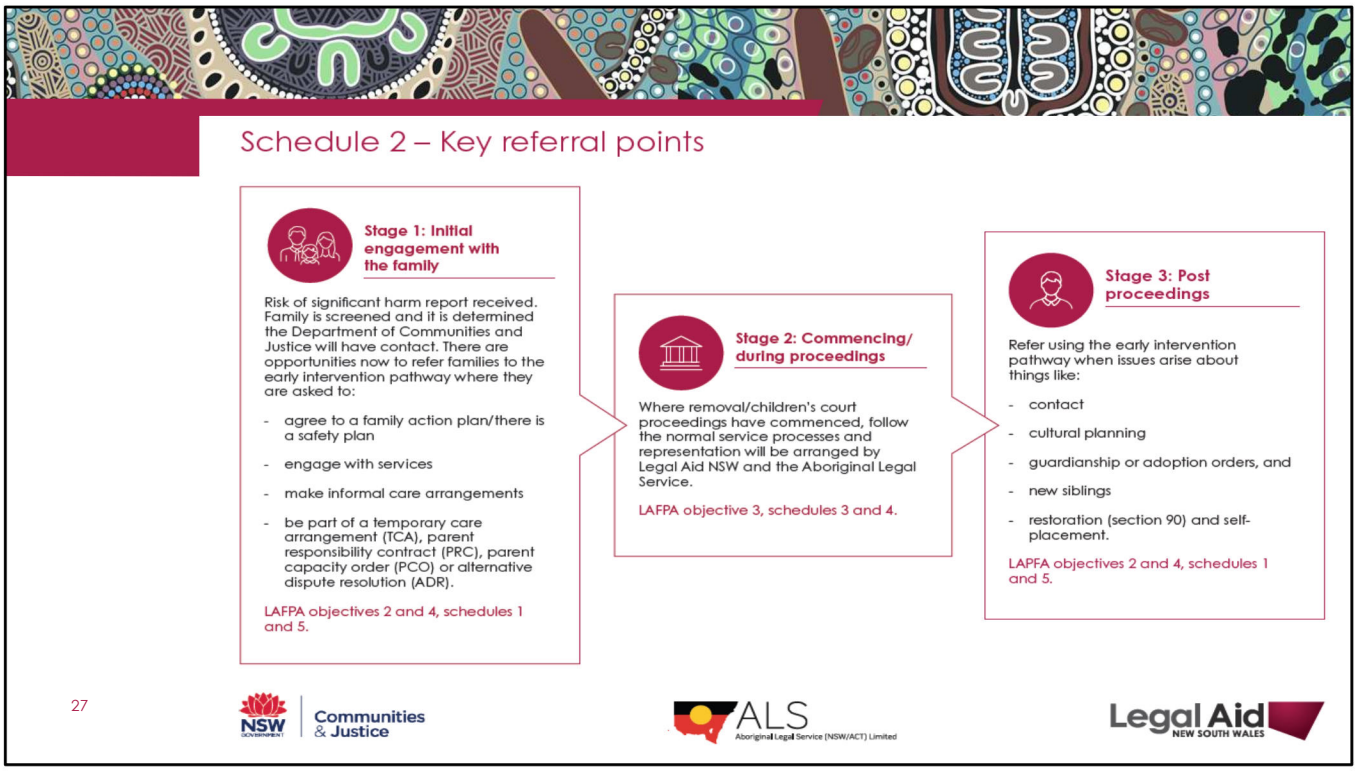
Defining EI – more expansively than DCJ do – anything that comes before litigation- not only before original commencement of proceedings but also pre second set of proceeding – restoration, ADR, contact, adoption, guardianship

Thinking about success differently – children likely to still need to be with someone other than their parents – success – participating in a mediation, agreeing that they live with family, kin or community

Having someone on their side, getting advice, advocating – may be success in some circumstances.

Solutions owned and shared by families - being part of solutions and not having solutions imposed on them by DCJ.



One of the schedules to the doc – doc itself won't change,
schedules can be removed and amended as required

Designed with DCJ, ALS and LA- idea is that it sets out when and how referrals should be made

Can stick it up on caseworkers walls, lawyers office walls, or any way – in one document how it all works

Idea is that referrals can happen at anytime and more than once – sometimes families will not be receptive, but might be later in process.

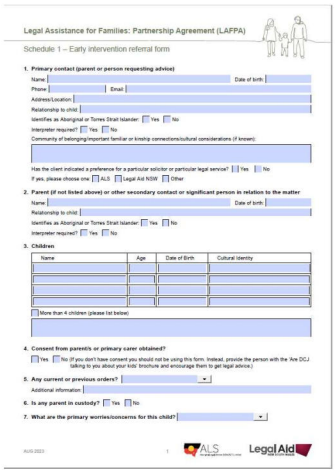
Want to normalise referrals for legal advice and to remind families that it is available as often as they/we can.

The Referral Process

Two ways that clients can obtain advice:

1. DCJ can use the **referral form** to directly refer to the EIU;

2. Clients can contact the EIU when they receive the **brochure** from DCJ.


Legal Assistance for Families: Partnership Agreement (LAFPA)

Schedule 1 – Early intervention referral form

1. Primary contact (parent or person requesting advice)

Name | Date of birth

Phone | Email

Address/Location

Relationship to child

Identifies as Aboriginal or Torres Strait Islander: Yes No

Interpreter required? Yes No

Community of belonging/important familial or kinship connections/cultural considerations (if known)

Has the client indicated a preference for a particular solicitor or particular legal service? Yes No

If yes, please choose one: ALS Legal Aid NSW Other

2. Parent (if not listed above) or other secondary contact or significant person in relation to the matter

Name | Date of birth

Relationship to child

Identifies as Aboriginal or Torres Strait Islander: Yes No

Interpreter required? Yes No

3. Children

Name	Age	Date of Birth	Cultural Identity

More than 4 children (please list below)

4. Consent from parent/s or primary carer obtained?

Yes No If you don't have consent you should not be using this form. Instead, provide the person with the 'Are DCJ talking to you about your kids' brochure and encourage them to get legal advice.)

5. Any current or previous orders?

Additional information

6. Is any parent in custody? Yes No

7. What are the primary worries/concerns for this child?

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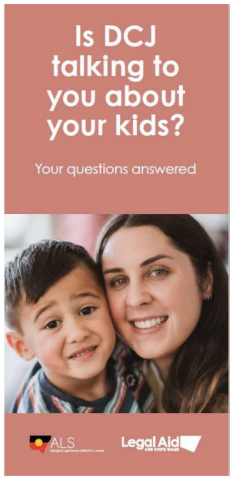

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Two ways can get early legal advice- two ways in recognition of the fact that some families will want to arrange it themselves and some might want some help

First way is DCJ completing a specially developed referral form – only with the whole families consent –that form is then sent to both LA and ALS, where there is no conflict the family's preference will be accommodated

Where clients don't consent – to be given the brochure in case they want to seek it themselves

Idea is that referral is made earliest point of contact and at all appropriate points as they keep working with the family.

Developed a brochure to give out to families whenever they are working with a family so they can use when ready.

Current State

- There is no funding for this project and each agency is undertaking this work within it's existing resources
- Legal Aid NSW will look to utilise panel practitioners where there are conflicts of interest and grants of aid for ADR/FDR are available
- The volume of referrals is likely to increase post proclamation date but it is unclear what this will equate to and what the resource implications will be at this stage
- An evaluation of this project will hopefully consider the viability and benefits of grants for early intervention work being able to be utilised by panel practitioners

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This is a project that all three agencies have been working on for a number of years within our existing resources

It's something we have been trialling within our existing resources and to date volume of referrals has been relatively low, workload has been manageable

Not clear what impacts will be post proclamation date, how quickly it will get taken up, where, and trends will emerge and what the successes and failures will be

Majority of the work will continue to be done in-house, no grants available for this work

capacity to refer out matters/op where ADR is proposed where grants are available

Part of the work we will do in evaluating the project is looking at the volume, work required, need for more practitioners to do the work

Massive culture change.

DCJ familiar with lawyers in litigation process –

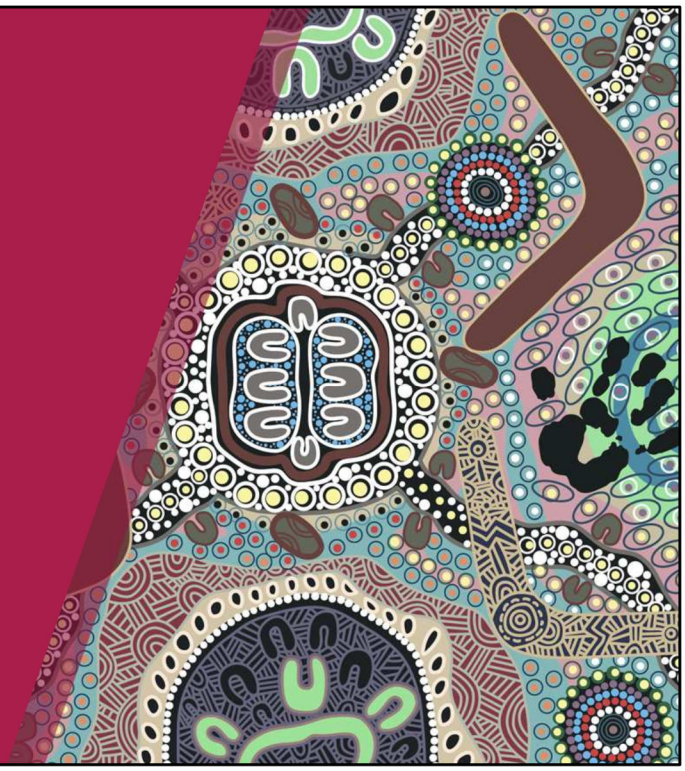
Need to reframe and rebrand that we can add value in the early intervention state. Which circles back to the need for practitioner to be well informed about available early intervention legislative pathways, referral pathways, available supports for clients and being able to assist clients identify what they need and how they can develop, contribute to finding solutions.

Involving family and kin in Court processes, ADR and solution finding.

Alternative Dispute Resolution

Gabriela Nitsolas-Pirc
Corrina Faulkner

Legal Aid NEW SOUTH WALES



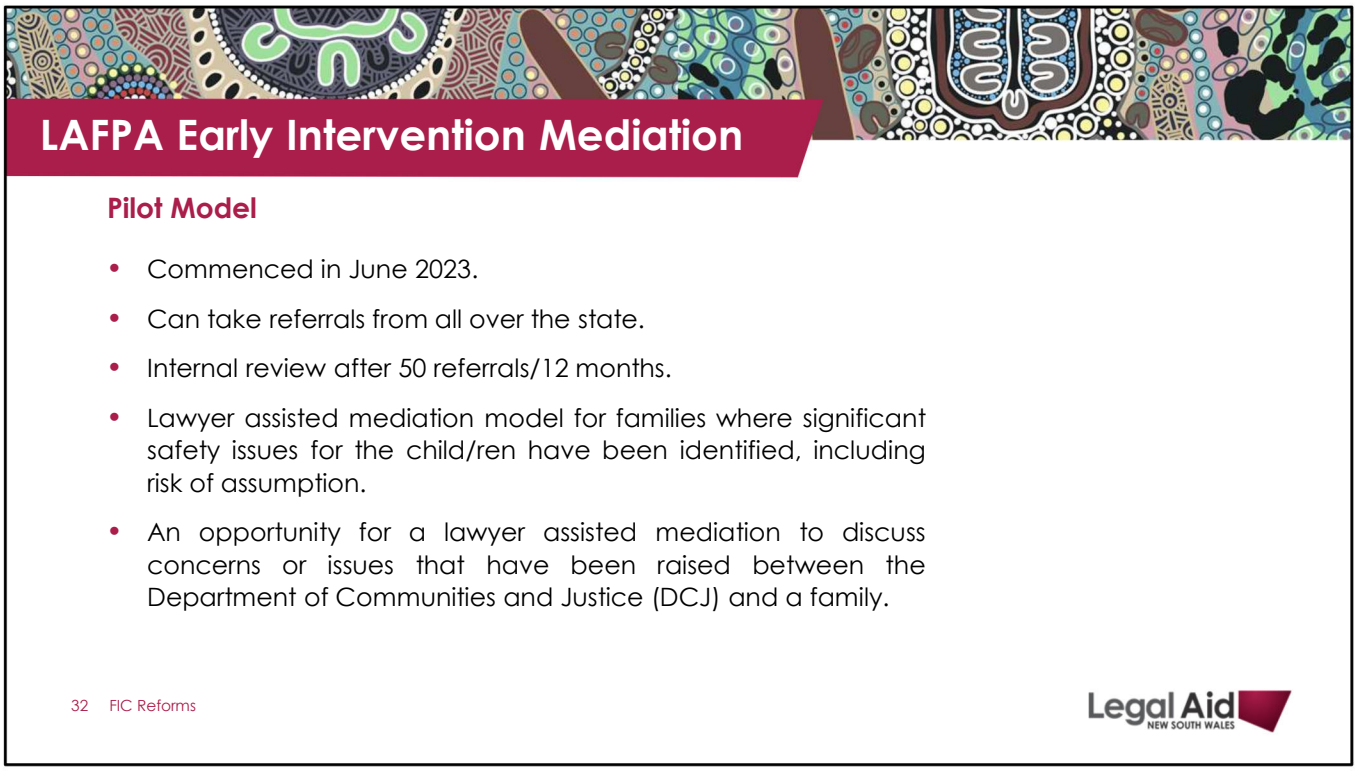
The Family Dispute Resolution Unit

Who we are

- The FDR Service at Legal Aid commenced in 1993.
- Care and Protection mediations commenced in 2014.
- Comprises Mediation Organisers, their team leaders, FDRPs
- We conduct about 3000 mediations a year – all legally assisted
- Audio-visual is the default mediation format: Teams or Zoom
- Co-managers : Eloise Riches and Gabriela Nitsolas-Pirc

Legal Aid NEW SOUTH WALES

Commenced providing services at Legal Aid in 1999 and in the Care space since 2014.
Conduct just under 3000 mediations – all legally assisted – each year.



Difference from FGC is that mediations are lawyer assisted.

Mediations where **significant safety issues** for the child/ren have been identified – including risk of assumption.

Very keen to be in this space because understand how important it is to act early and keep children out of the care system.

What we offer is a lawyer assisted approach, that helps families to understand what is happening and we work to bridge the communication gap that can prevent, particularly very vulnerable families, from reaching agreement.

LAFPA Early Intervention Mediation

- Enabling an open discussion and for arrangements to be put in place in an attempt to avoid the need for a formal court process occurring.
- Allow families an opportunity to contribute to discussions relating to keeping children safe and keeping families together.
- Supports family led decision making by providing families with an alternate model where they want or need the support of legal assistance.

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Focus on family lead and **family owned** decision making – important for families but most importantly for Aboriginal and Torres Strait Islander families.

We provide a platform, on which we have a representative of DCJ in attendance, vulnerable families with legal support.

What we try and achieve both a realistic and achievable outcome and way forward to meet concerns identified by DCJ.

Who might be suitable?

Types of matters that should be considered for a referral

- Where there are concerns about domestic and family violence, in particular where the children may be removed from a victim of family violence;
- Where the participants have issues relating to mental health or disability;
- If there is a significant power imbalance which can be assisted by the presence of a legal representative;
- If the parent is a child;
- Children over the age of 12, in particular children seeking a representative or involvement in discussions;
- Aboriginal families;
- Where there are current significant risk of harm concerns for children and the matter is not suitable for FDR
- Any matter where the parent, carer or family requests a lawyer assisted mediation.

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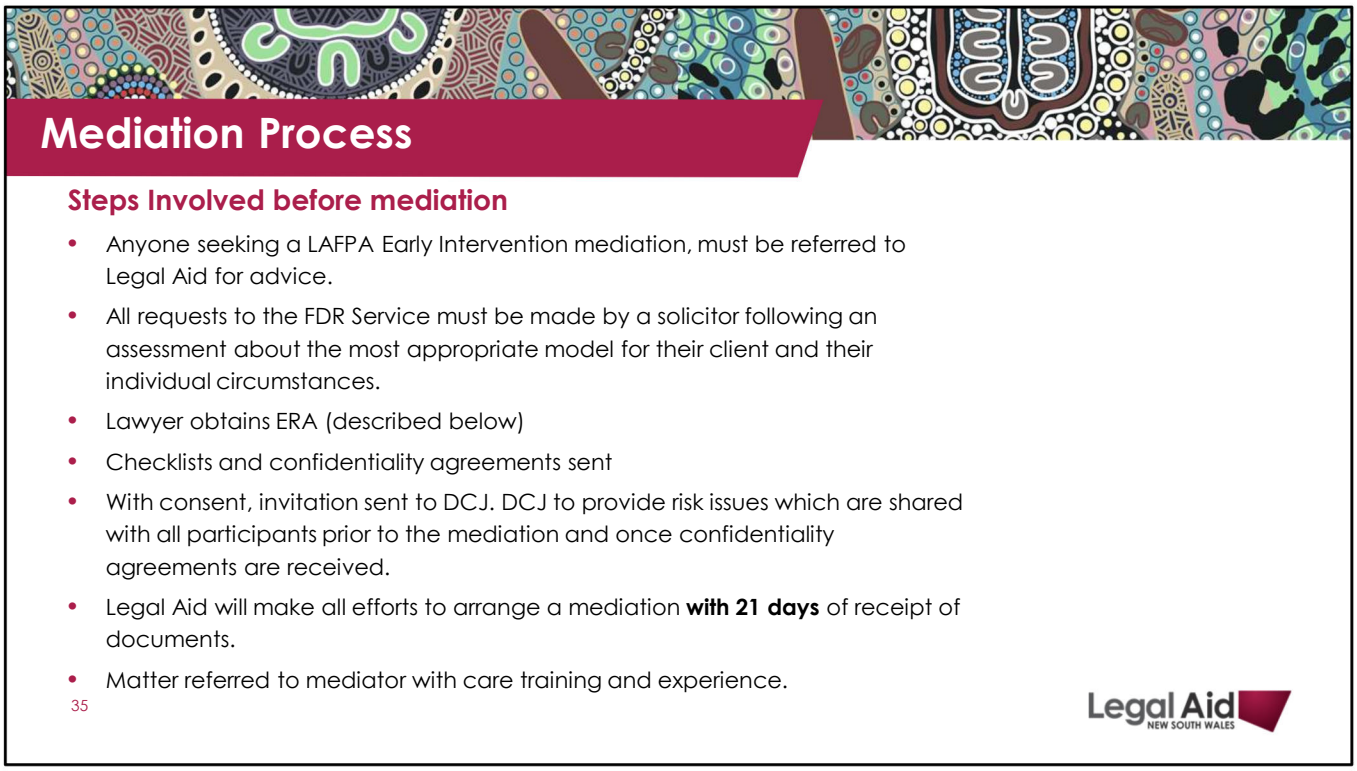
Referral must come through a lawyer because a lawyer can make assessment about what model is best for client – our model or FGC or something else.



Key to model – with consent we will contact DCJ to participate in our process. And we ask them for information about risk, which is shared with all parties.
The reason we have included this in the model is for transparency. It means solicitors can provide informed, comprehensive and realistic advice and we as mediators we can reality test with the parties.
There is a visible collaboration between agencies.
Outcomes and can be targeted .

Benefits of the model

For DCJ

- Mediation can be arranged quickly – dependant on how quickly documentation is received
- Provides DCJ ability to communicate to families significance of risk to children and likely outcome if risks are not addressed
- Hopefully reduces the amount of matters where assumption occurs – no Court

For families

- Knowledge of the issues at an early stage to allow for issues to be addressed
- Access to solicitors for informed advice and support during the mediation process
- Family led decision making
- Support for families to remain safe and at home

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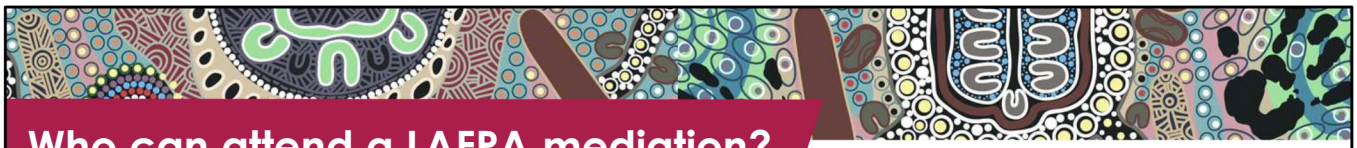

Who can attend a LAFPA mediation?

At least one party must be funded by ERA for Legal Aid to arrange a mediation.

Who might attend:

- Mediator
- DCJ
- Parents, kin, extended family
- Person identified by family that is instrumental in any agreement
- direct legal representative for the child/ren, lawyers
- support persons, interpreter – as appropriate

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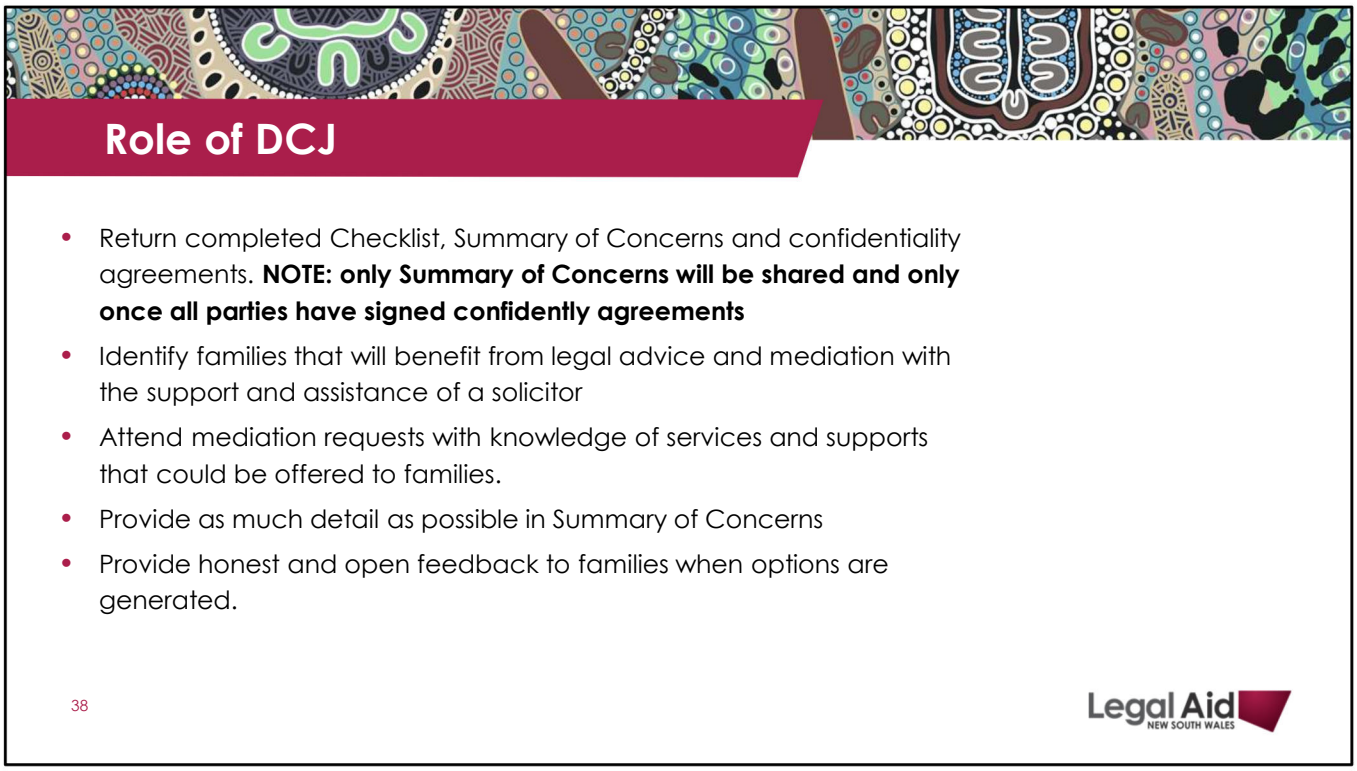
Anyone instrumental in the family coming to an agreement.



DCJ very important to process.

DCJ sharing their knowledge and expertise with families provides the opportunities in this model.

Summary of concerns is information that is shared with the family.

Experience to date

Being picked up internally via Intake & Checklist

Types of matters so far:

- Parents younger than 18
- Parent is under the care of the Minister
- Child informally placed with non-parent family member
- Baby in Newborn Intensive Care Unit
- Aboriginal family with a parent with various vulnerabilities not spending any time with children
- Significant DV including breached ADVOs
- Parent scheduled due to mental health concerns

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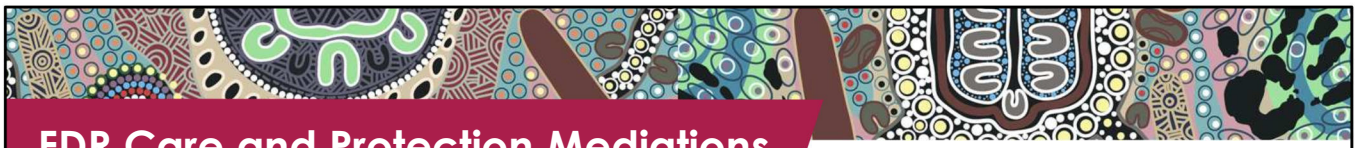

FDR Care and Protection Mediations

FDR conducts mediations in a variety of care and protection matters, being:

Care and Protection

- **S86 contact mediations** - no current court proceedings – includes a child rep
- **Pre filing Adoption** - no current Adoption proceedings
- **Post filing Adoption** – Adoption proceedings on foot
- **LAFPA – Early Intervention mediation PILOT** – can include a child rep in certain circumstances

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S86 – where there are already orders.

Pre filing - Adoption proceedings have not commenced.

ERAs and Funding

Funding for Care & Protection, Adoption (pre and post filing) and Early Intervention Care are funded via ERA – **no longer a grant**!

- **LAFPA Early Intervention mediation pilot**
  - Under Matter details, for Matter group select 'Care & Protection'
  - Early Intervention Care **- LAFPA Pilot Conference**
- **S86 Contact mediations**
  - Under Matter details, for Matter group select 'Care & Protection'
  - Care Contact s86 - **ERAs86**
- **Adoption**
  - Under Matter details, for Matter Group select 'Family Law Other'
  - Adoption - **ERAAD** (post-filing) or **ERAPF** (Pre-filing)

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Eligibility for ERA

- 1.7 ERA Merit test
  - It is likely that ERA will resolve the dispute; AND
  - Applicant is committed to the early resolution of their dispute

- 1.6 ERA Means Test
  - An applicant receiving a Centrelink income support payment; OR
  - Satisfies the asset and income tests

LAFPA Mediation solicitor fees

Solicitor Fees and Disbursements	
Taking instructions and preparing for the Mediation	$390 ($195 x2hrs)
Representing client at the Mediation	$195/hr up to 4hrs

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Section 78 Care Plans

Current State	Future State includes S78(2A)
No reference to cultural planning in current s78. S78A(3) (omitted) makes it a requirement that a permanency plan for an Aboriginal or Torres Strait Islander child or y/p must address compliance with section 13. 43 FIC Reforms	**Inclusion of s78(2A)** (2A) If the care plan is for an Aboriginal or Torres Strait Islander child or young person, the plan must also— (a) include a cultural plan that sets out how the following will be maintained and developed— (i) the child's or young person's connection with their Aboriginal or Torres Strait Islander family and community, (ii) the child's or young person's Aboriginal or Torres Strait Islander identity, and

The new section 78(2A) requires that a care plan for an Aboriginal or Torres Strait Islander child or young person **must** also include a cultural plan. The section gives some guidance about the aspects of a child or y/p's culture to be maintained and developed. Section 78(2A)(c) specifically refers to compliance with the new section 12A Aboriginal and Torres Strait Islander Children and Young Persons Principle and to the placement Principles at section 13.

Implications for practice -

Will require information about and evidence of family led input into cultural plans, consultations beyond DCJ internal staff, and for detail in the cultural plan specific to the child (including ensuring connection to community of origin, country (including sites of significance for that family/community) and frequency of contact with family and community that share that same culture.

Section 78 Care Plans

Current State	Future State
No reference to cultural planning in current s78. S78A(3) (omitted) makes it a requirement that a permanency plan for an Aboriginal or Torres Strait Islander child or y/p must address compliance with section 13.	(b) be developed, to the greatest extent practicable, in consultation with— (i) the child or young person, and (ii) the parents, family and kin of the child or young person, and (iii) relevant Aboriginal or Torres Strait Islander organisations or entities for the child or young person, and

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Section 78 Care Plans

Current State	Future State
No reference to cultural planning in current s78. S78A(3) (omitted) makes it a requirement that a permanency plan for an Aboriginal or Torres Strait Islander child or y/p must address compliance with section 13.	(c) address how the plan has complied with the following— (i) the permanent placement principles, (ii) the Aboriginal and Torres Strait Islander Children and Young Persons Principle - s**12A,** (iii) the placement principles for Aboriginal and Torres Strait Islander children and young persons set out in section 13.

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Care Plans must continue to address how the plans for a child or y/p comply with the s10A permanent placement principles – including the recent amendment at s10A(3)(b1) - which provides for an order for PR or aspects of PR solely to the Minister with supports under s153(1) or financial assistance under s161(1).
It is important to be aware that an order pursuant to s10A(3)(b1) requires consideration of s135(3) and supported out of home care in s135B. And the implication for clients of the provisions of supported out of home care.

A significant difference to s78 Care plans is the requirement that they comply not only with the s13 Placement Principles but that they also comply with the new s12A Aboriginal and Torres Strait Islander Children and Young Persons Principle.

How could things be different?

The Current State

- Limited active efforts to;
- explore possible paternity,
- find extended family/kin/community,
- include family/kin/community,
- engage with organisations for knowledge,
- Understand unique aspects of a child's culture.

Potential Future State?

- Evidence of completed forms and tests to putative fathers;
- Evidence of attempts to test relatives in the alternative;
- Efforts to locate family members, not simply awaiting a call back - including identifying important linkages for communication (either in person, or via platforms such as Facebook).
- Asking community organisations about family or kin networks and persons who might make an appropriate point of contact;
- Discuss placement and cultural planning in the same conversation – piecemeal engagement for narrow purposes often results in families disengaging – for example, when told will not be assessed as carers;
- Identification of country and community of belonging early in interactions.

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Nothing in the legislation previously prevented these kinds of steps being take, however, what was exceptional or rare work for that individual caseworker, will now be expected to be BAU for all caseworkers.

How could things be different?

The Current State

- Limited understanding of what culture, country and belonging mean and involve;
- Token responses to culture;
- A lack of active efforts to ensure sibling, kin and community connections are maintained.

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Potential Future State?

- Looking at times/days of significance for that community – Boomerang festival or Saltwater Festival on the east coast.
- Times/dates of significant for the family - anniversary of death of a young relative, family reunions, Sorry Day etc.
- Spending time on country means organising for a child to spend time on country with their mob. Requires active efforts by caseworkers - travel , relevant and genuine plans for connection.
- Identification of people who can coordinate family, as well as people who hold cultural knowledge.
- Beyond NITV and NAIDOC, which involve also including conversations with the child or young person about how they understand and express their culture.

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Restoration Time Frames

Section 79 (Current State)	Section 79AA – Special Circumstances that warrant allocation of parental responsibilities to the Minister for more than 24 months (Future State)
S79(1) (1) Children's Court may make an order under this section allocating all aspects of parental responsibility or aspects of parental responsibility to: (b) Solely to the Minister	**S79** is retained in it's current form

48 FIC Reforms

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Section 79 has not changed. The combination of s79(1)(b) and sections 79(9) and (10) means that the Court cannot make an order allocating parental responsibility or aspects of parental responsibility for a child or y/p solely to the Minister - when the Court has approved a permanency plan for restoration, guardianship or adoption – for more than 24 months, unless the Court is satisfied that there are special circumstances that warrant a further period of time.

This has not changed. Section 79AA now follows section 79 and it sets out some matters the Court may have regard to in deciding under s79(10) whether there are special circumstances that warrant the allocation of parental responsibility for further time.

Restoration Time Frames

Section 79 (Current State)	Section 79AA – Special Circumstances that warrant allocation of parental responsibilities to the Minister for more than 24 months (Future State)
S79(9) The maximum period for which an order under s(1)(b) may allocate all aspects of parental responsibility to the Minister following the Court's approval of a permanency plan involving restoration, guardianship or adoption is 24 months	**Section 79AA** (1) provides that when Court is deciding whether there are special circumstances that warrant allocation for more than 24 months pursuant to s79(10) (2) it must have regards to - (a) Whether support services/resources are reasonable required to support restoration,

49 FIC Reforms

In deciding whether there are special circumstances that warrant the allocation of parental responsibility for more than 24 months, the Court can have regard to whether the support services and other resources reasonably required to support restoration are not available at the time of making the order – and therefore a longer period of time is needed to facilitate access to support services.

The Court can also have regard to the active efforts made by the Sec. to restore a child or young person.

The considerations in s79AA are consistent with the experience of a lack of available services and resources, particularly in the regions. And the need in some matters, for the Minister to continue to hold parental responsibility – for more than 24 months –

Implications for practice –

- Consideration at or after 24 months, of how aspects of parental responsibility are being managed and if the order reflects the reality,
- obtaining evidence by regular request for updates and issuing subpoenas if necessary, as to client engagement nd active efforts will support argument for interim orders that reflect a client's progress and for longer periods under s79AA,

Restoration Time Frames

Section 79 (Current State)	Section 79AA – Special Circumstances that warrant allocation of parental responsibilities to the Minister for more than 24 months (Future State) cont…
S79(10) Subsection (9) does not apply if the Children's Court is satisfied there are special circumstances that warrant the allocation being for a longer period.	- If they are not available at the time of the Courts decision, whether longer period of PR to the Minister is needed to facilitate access to services/resources; - The active efforts made to restore the child/young person - Any other matters prescribed by the regulations.

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Permanency Plans cont...

Preparation of Permanency Plan Section 83 (Current State)	Preparation of Permanency Plan Inclusion of Section 83 (5B) and Section 83A(3) (Future State)
No provision for Court to require reasons for decision by Secretary pursuant to sections 83(2) and (3)	Before deciding whether to accept the Secretary's assessment of whether or not there is a realistic possibility of restoration within a reasonable period, the Children's Court may direct the Secretary to provide the Court with— (a) the reasons for the Secretary's assessment that there is not a realistic possibility of restoration within a reasonable period,
No requirement for permanency plan to contain details of actions taken to restore or place with family, kin or community.	and evidence of the active efforts the Secretary has made to— (i) restore the child or young person to the child's or young person's parents, or (ii) if restoration to the child's or young person's parents is not practicable or in the best interests of the child or young person— place the child or young person with family, kin or community.
51 FIC Reforms	**Note** – section 83A(3) provides additional matters about which the Childrens Court **must** make express findings before making a final order in relation to an Aboriginal and Torres Strait Islander child or young person.

Currently the Sec. is not required to provide reasons for an assessment that there is no realistic possibility of restoration within a reasonable period. The Sec. makes that assessment and the Court decides whether to accept it.

The inclusion of s83(3A) means that going forward, a permanency plan **must** include the reasons the Sec. has assessed there is no realistic possibility of restoration. And details of the active efforts the Sec. has made to restore a child or y/p or to place a child or y/p with family/kin or community.

Section 83(5B) means that when making a decision to accept the Sec's. assessment, the Court can direct the Sec. to provide reasons for the assessment and evidence of the active efforts made to restore a child or y/p or to place with family/kin or community. In other words evidence of things undertaken that supports the reason for the assessment.

S83(3A) and s83(5B) apply at the point of permanency planning – when decisions are being made about restoration. Pursuant the these sections the Sec. must give reasons for decisions and can be directed to provide evidence in support of those reasons.

Recall section 63, the provision relating to evidence of prior alternate action, this amendments mean that at these two critical stages, the Sec.
must provide reasons and evidence in support of the interventions being taken with a family and the Orders the Sec. is seeking.

Permanency Plans cont...

Preparation of Permanency Plan Section 83(8A) (Current State)	Preparation of Permanency Plan New Section 83 (8A) (Future State)
S83(8A) A **reasonable period** for the purposes of this section must not exceed 24 months	**S83(8A)** For the purposes of this section, a **reasonable period** must not exceed 24 months unless the Secretary is satisfied, having regard to any matters prescribed by the regulations, there are exceptional circumstances that warrant a longer period.
No section 83A which provides additional requirement for permanency plans for Aboriginal and Torres Strait Islander children and young persons and which makes specific reference to section 12A.	**s83A Additional requirements for permanency plans for Aboriginal and Torres Strait Islander children and young persons** (1) This section sets out requirements for the preparation of a permanency plan for an Aboriginal or Torres Strait Islander child or young person that are in addition to the requirements set out in section 83. (2) If the Secretary assesses, under section 83(3), that there is not a realistic possibility of restoring a child or young person to the child's or young person's parents within a reasonable period, the Secretary must—
52 FIC Reforms	(a) include in the permanency plan evidence of the active efforts in accordance with the section 13 3(1)—

Section 83(8A) has been amended so that restoration within a **reasonable period** remains 24 months – "unless the Secretary is satisfied having regard to any matters prescribed by the regulations, there are exceptional circumstances that warrant a longer period."

The new section 83A – like the new section 78 Care plans – given much greater emphasis to the importance of culture and cultural planning for Aboriginal and Torres Strait Islander children and young persons.
The new section 83A, specifically deals with Aboriginal and Torres Strait Islander children and young persons.

Permanency Plans cont...

Preparation of Permanency Plan Section 83(8A) (Current State)	Preparation of Permanency Plan New Section 83 (8A) (Future State)
No section 83A which provides additional requirement for permanency plans for Aboriginal and Torres Strait Islander children and young persons and which makes specific reference to section 12A.	After considering a permanency plan the Children's Court must not make a final care order unless it expressly finds— (a) the plan complies with the following— (i) the permanent placement principles, (ii) the Aboriginal and Torres Strait Islander Children and Young Persons Principle, (iii) the placement principles set out in section 13, and
53 FIC Reforms	(b) the plan includes a cultural plan that sets out how the following will be maintained and— (i) the child's or young person's connection with the child's or young person's Aboriginal or Torres Strait Islander family and the Aboriginal or Torres Strait Islander community of the child or young person, (ii) the child's or young person's Aboriginal or Torres Strait Islander identity, and (c) the plan has been developed, to the greatest extent practicable, in consultation with— (i) the child or young person, and (ii) the parents, family and kin of the child or young person, and (iii) relevant Aboriginal or Torres Strait Islander organisations or entities for the child or

Section 83A(3) requires the Court, to make express findings about the compliance of a permanency plan before making a final care order.
Implications for practice:

How could things be different?

The Current State

- Plans are made without consultation with Family, kin and community;
- Plan contain token contact regimes,
- Limited consideration to value of the unique relationships for child;
- Culture handed over to carers with limited knowledge support;
- Culture handed over to carers who don't/can't implement
- Limited broader involvement of community

The Potential Future State

- s12A Principle provides a guide (5 elements)
- S78(2) mandates cultural planning in Care Plans;
- s83A mandates active efforts with respect to placement of a child or y/p and
- Compliance with s10A, S12A and s13;
- More robust legislative imperatives to increase cultural inclusion;
- Court cannot make FO without making express findings

Legal Aid NEW SOUTH WALES

New Right to review a decision not to authorise a carer

Matthew Butt, Solicitor Advocate

Legal Aid NEW SOUTH WALES

Background

- Family is Culture Report (2019) reviewed a number of issues affecting potential Aboriginal carers and made a number of recommendations
- Recommendation 94: The NSW Government should ensure that the NSW Civil and Administrative Tribunal has jurisdiction to review a decision not to authorise a carer
- Recommendation 94 reflected the Report's conclusion that 2015 amendments to remove this right of review should be reversed to ensure complete and effective options for reviewing decisions about carer authorisation

References: Family is Culture Report pp 303-304

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Background

- The authorisation of authorised carers, including applications, assessment, suspension and cancellation, is governed by the Children and Young Persons (Care and Protection) Regulation 2022
- Reg 18 provides that a designated agency is to determine an application for authorisation as a carer by either approving and authorising the applicant as a carer, or refusing the application
- The central criterion is that the applicant is "capable and suitable to be an authorised carer"

References: s 137, Children and Young Persons (Care and Protection) Act 1998; Div 2, Children and Young Persons (Care and Protection) Regulation 2022

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Reviewable decisions – s 245

- Section 245 of the Children and Young Persons (Care and Protection) Act 1998 stipulates the decisions under the Act which are reviewable
- If a decision is reviewable, a person may apply to the NSW Civil and Administrative Tribunal (NCAT) for review of the decision in the its administrative review jurisdiction
- The administrative review jurisdiction permits review 'on the merits'
- There are a number of key procedural rights which attach to reviewable decisions:
  - ➢ Right to reasons
  - ➢ Right to internal review (normally required before application to NCAT)

References: Parts 2 & 3 Administrative Decisions Review Act 1997; Part 5 Community Services (Complaints, Reviews and Monitoring) Act 1993; s 30 Civil and Administrative Tribunal Act 2013; s 245 Children and Young Persons (Care and Protection) Act 1998

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Currently only certain aspects of the authorisation of a carer are reviewable.
The central change to s245 upon proclamation will permit the review of decisions not to authorisation of an authorised carer.
Direct recommendation of the FIC report.

Current s 245

245 Decisions that are administratively reviewable by Civil and Administrative Tribunal

(1) Each of the following decisions made under or for the purposes of this Act or the regulations is an administratively reviewable decision for the purposes of section 28(1)(a) of the Community Services (Complaints, Reviews and Monitoring) Act 1993 –

(a) a decision of the relevant decision-maker to suspend a person's authorisation as an authorised carer or to impose conditions on a person's authorisation,

(a1) a decision of the relevant decision-maker to cancel a person's authorisation as an authorised carer, other than a decision to cancel an authorisation granted on a provisional basis or a decision to cancel an authorisation on the occurrence of an event prescribed under section 137(2)(e)

....

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Key amendment to s 245

245 Decisions that are administratively reviewable by Civil and Administrative Tribunal

(1) Each of the following decisions made under or for the purposes of this Act or the regulations is an administratively reviewable decision for the purposes of section 28(1)(a) of the Community Services (Complaints, Reviews and Monitoring) Act 1993

(a) a decision of the relevant decision-maker not to authorise a person as an authorised carer, other than the following decisions

(i) a decision not to authorise a person as a residential care worker;

(ii) a decision not to authorise a person who

(A) has been granted an authorisation as an authorised carer on a provisional basis, and

(B) had not, at the time the authorisation took effect, made an application but was taken under the regulations to have made an application,

Note – See the Children and Young Persons (Care and Protection) Regulation 2022, section 21(2)

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Key amendment to s 245

- The purpose of new s 245(1) is to give effect to Recommendation 94 of the Family is Culture Report
- It confers a right to review of a decision not to authorise as an authorised carer (subject to exceptions) by NCAT
- Its purpose is to ensure the transparency and accountability of decisions about who can be an authorised carer, in light of concerns that Aboriginal people are disadvantaged by current carer authorisation processes and the impact on cultural rights and the ability of Aboriginal children to be care for by Aboriginal people
- Commencement by proclamation

References: Second reading speech for the Children and Young Persons (Care and Protection) Amendment (Family is Culture) Bill 2022, Legislative Council Hansard 13 October 2022; s 2(a) Children and Young Persons (Care and Protection) Amendment (Family is Culture) Act 2022

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Implications for practice

- Advising clients of their rights – to review, but also very importantly procedural rights (notice, reasons, internal review)
- Assisting clients to access rights
- Systemic advocacy – new changes take time to bed down
- Consideration of relevance when Children's Court proceedings on foot compared to other options such as joinder – unlikely to be preferred option?

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Firstly, there is a grant of aid for reviewing the decisions. It is currently a very restrictive grant.

A couple of warning;

The underlying reason for a difficulty with authorisation is a working with children's check issue. You have to be careful that you do not directly challenge the authorisation issue without addressing the WWCC issue because if you do, you cannot be successful.

Underlying practice issue is timeliness and delay – if extended period of time since placement of a child, there may be no purpose in challenging the decision and

The whole point of an administrative review is to attach procedural rights, the right to reasons, the right to internal review as well as the right to go to the NCAT and so you need to consider the timeliness and purpose of what you are doing and consider whether to engage in an internal review – quicker decision (needs to be done with care). Need to consider best way to advance clients interests.

When you change statutory rights in this way, not having a right to having a right, you will get good faith discouraging of the making of applications and a refusal to give reasons because the person making the decision is not over the changes in the law, take time to bed down.

Might not be the most useful or best option in a Court context, you might have a better option such as joinder. Need to carefully consider if admin. review best option.

The Role of Legal Practitioners

- 'What is needed is more scrutiny and accountability of decision making that is transparent, better record keeping, proper application of risk assessment tools, a deeper understanding of Aboriginal history and culture..'

- 'Better scrutiny of decision making that ensures there are substantive consequences for lazy or poor practice would inevitably improve practice.'

'The right to self determination is not about the state working with our people, in partnership. It is about finding agreed ways that Aboriginal people and their communities can have control over their own lives and have a collective say in the future well being of their children and young people.'

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End by going back to the start – FIC report

Whole reason for the report identify the reasons for the high numbers of Aboriginal children and young people in OOHC in NSW and offer strategies:

- to reduce the number of Aboriginal children and young people entering OOHC,
- increase restoration and permanency outcomes for Aboriginal children and young people in OOHC
- improve connections to family, culture and community for Aboriginal children and young people in OOHC.

Acknowledge the dedication, skill and commitment you all have to this work

Don't do this work for financial reasons, genuine commitment to obtaining better outcomes for all families coming into contact with C&P system

Really a call to action – pulled these quotes from the report itself

We can bring the scrutiny, the accountability, the transparency and can advocate for the families we work with to have greater control over their own lives and have greater say in the future wellbeing of their children

We can drive this change, hopefully we have given you some food for thought in terms of how you might do this