

19 February 2025

Copy of letter sent to MP's

Re: Children and Young People (Safety and Support) Bill 2024

As the independent peak body representing foster and kinship carers across South Australia, representing the largest cohort of the Carer community, Connecting Foster & Kinship Carers SA (CF&KC-SA) is dedicated to ensuring carers receive the recognition, advocacy, and support they need to provide safe, stable, and nurturing homes. Our mission is to empower and support foster and kinship carers by amplifying their voice, fostering systemic change, and ensuring their rights are embedded in legislation that impacts their daily life.

CF&KC-SA has, both to the previous Arney Review and during the extensive consultation process to develop the *Children and Young Person (Safety and Support) Bill 2024 (the Bill)*, made numerous written submissions, appeared before the Select Committee and engaged in many meetings with members of parliament and other stakeholders about what carers need to see change so they can better care for their precious young people.

Whilst CF&KC-SA have expressed, at various times throughout its systemic advocacy, recently to the Select Committee considering the Bill, that there may be benefit in a shift away from safety to best interests, as the paramount consideration under the new Act, that desire has not been a primary focus of CF&KC-SA submissions. Whilst desirable, the inclusion in the Bill of proposed section 11, which requires the consideration of best interests, goes some way in ensuring that principle is not lost.

We consider that it is important not to inflate the capacity of a paramount consideration to drive and change frontline practice. Whilst it is true that the concept of 'safety' can appear to be weaponised at times, a shift in focus will not guarantee a change. Poor frontline management will result in weaponisation of principles, whatever the paramount consideration is. It is important to recall the history of this legislation. Best interests was once the paramount consideration, and that did not result in better frontline delivery.

A statement of legislative intent remains only that, it does not have direct force. The view of CF&KC-SA is that the changes to the Bill which address direct rights of carers, (and indeed other stakeholders) and ensure their voices will be heard in relation to the development of guidelines and policy which effect frontline practice are vital. As such, CF&KC-SA consider that the positive changes in this Bill far outweigh and balance any concerns it has expressed with respect to the paramount consideration.

With the Government's proposed amendments, CF&KC-SA are **pleased to support the Bill**, principally because of the following key considerations:

1. The introduction of **quality of care guidelines** directly speaks to the concerns carers have raised repeatedly about the current system of care concerns. What the Bill will do is require the Department of Child Protection (**DCP**) to develop, expressly with the input of the peak body for carers, quality of care guidelines. Those guidelines will provide frontline staff with a process to inform them of when, how and if they should respond to issues raised about the quality of care a child is receiving in a placement. It provides carers with transparency as to the process, and access to the guidelines allows carers to reference them in responding to any quality of care issues and the DCP's response to them. This is an enormous shift from the present process, where there are no guidelines and a serious lack of consistency with how a care concern is managed. This inclusion in the Bill is exactly what carers have been asking for, and it needs to come into action as quickly as possible.
2. The Bill requires that, where a quality of care report is made, that **procedural fairness** is afforded to carers. This is an enormous shift from current practice, where a carer might be told nothing about the basis for which a child is being removed from their care due to a care concern. The current system is damaging in so many ways, including to the viability of placement for young people and the desire of carers to remain providing care. Again, this inclusion directly reflects the strong advocacy of CF&KC-SA about this topic, and is of huge benefit to carers. For too long carers have been denied this fundamental right, and any further delay to its implementation is unacceptable.
3. The Bill requires the development of a **state strategy** for children and young people in care, with the Minister holding power to direct Chief Executives of the health, education and human services departments to meet to enable inter-agency support response when required. Again, this inclusion directly reflects the systemic advocacy of CF&KC-SA, specifically our recommendations at the 2022 state election, asking for a whole of government approach to ensure all departments work together for the best interests of children and young people in care. Children and young people have been impacted by systems operating in silos, and further delay of this legislation is unacceptable.
4. The Bill requires the enshrining of **The Statement of Commitment to Foster and Kinship Carers**, a document spearheaded by CF&KC-SA that outlines how the DCP will work in partnership with peak bodies, has also been enshrined in the draft Bill.

5. The proposed amendment which requires internal reviews to be completed within **60 days**, and **failing that a person may seek review** of a decision in the SACAT, are both key inclusions CF&KC-SA have advocated for. These provisions finally ensure there is timeliness to the process of reviewing decisions made by DCP and allows for certainty for foster and kinship carers. This provides a fixed time frame so that the review of decisions made by DCP, including decisions to remove a child from a placement, will not languish. This will go some way to repairing a prominent systems issue carers have raised with CF&KC-SA many times, and which we have witnessed directly during the provision of our advocacy service as being a core issue facing carers.
6. The proposed amendments which would introduce a **complaints review panel** will assist those carers who are not otherwise able to access complaints processes and/or are concerned about how the DCP approaches its complaints process. This is a welcome inclusion. Although the issue of complaints is not one which is raised with CF&KC-SA by carers often, we are vitally aware there are carers who feel strongly about this issue. CF&KC-SA has raised by way of several submissions the need for an independent complaint handling mechanism that is wholly independent of DCP, based on the principles of natural justice and procedural fairness, meets the best practice of complaints handling criteria, and is enshrined in legislation. This amendment speaks to this requirement.
7. The proposed amendment which requires the CE to publish the **Complaints and Feedback Management Guidelines**, setting out what these guidelines must contain, how matters will be considered, how and by whom matters may be submitted, what actions can be taken in response to a complaint and how an applicant can seek a review of their matter. There is provision the CE must ensure **procedural fairness is provided** in accordance with any action taken with regard to a complaint. We are pleased to see the inclusion of procedural fairness prescribed as a requirement within these guidelines, in addition to information about alternative independent complaints and feedback mechanisms and bodies.
8. The proposed amendments which would see the **recognition of the peak body for carers** is something which was recommended by the Arney Report and which CF&KC-SA have been advocating for. This inclusion provides a statutory foundation for the vital work of the peak, and, coupled with the proposed amendments which **mandate consultation with the peak body**, ensure that carers voices are represented and amplified. In many respects, these amendments, from the perspective of carers, assist in overcoming concerns about safety being the paramount consideration. That is because the inclusion

of consultation with the peak body on core issues like Quality of Care (i.e. Care Concerns) and the Complaints and Feedback Management Guidelines mean that we will have a role in shaping frontline policy and practice, thus informing how frontline workers engage with family based carers.

9. The proposed amendment which requires the Minister to consult with peak bodies during the **5 year review of the Act**, is a welcome inclusion. This provision ensures the prescribed consultation with the carer peak body, ensuring carer voices are represented and amplified regarding the legislation that directly impact their children, young people and their carer families.
10. The proposed amendment which **extends the time within which complaints may be made to the Ombudsman**, from 12 months to 2 years is a welcome inclusion. This provision increases access to justice

The most recent proposed amendments are a direct reflection of the key requests CF&KC-SA have made and demonstrate that the consultation process has been progressive. The changes set forth in this Bill, together with the proposed amendments, should provide carers with great hope that the Bill protects carers rights, enshrines the need to listen to carers and ensure the peak body has a key seat around the table to enable the ideals in the Bill to filter down to front line work.

When we look at the balance of this legislation although it is not perfect, and no legislation is, it speaks to embedding the rights and amplifying the carer voice within. Carers know their children and young people best. Their voice is required around the table and that is what these proposed amendments provide. It would be a seriously disappointing result to lose all the progress that the Bill provides in an attempt to strive for something "more perfect". Carers cannot afford to wait any longer for their fundamental rights to be recognised and we want to see this Bill with the Government amendments pass without any further delay.

Thank you for considering the position of CF&KC-SA as the independent carer peak body.