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DISCUSSION PAPER – Guiding Principles for implementation of the *Children and Young People (Safety and Support) Act 2025*

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About this discussion paper

Purpose:

To provide information about the 'guiding principles' in the new *Children and Young People (Safety and Support) Act 2025*. This legislation is expected to start next year (mid-2027).

To engage with carers and collect new insights and experiences to influence the implementation of the guiding principles in the new legislation.

Connecting Foster and Kinship Carers South Australia (CFKC) will also use existing feedback previously provided – the purpose of this document is to provide an additional opportunity ahead of the upcoming consultation.

Note that the information contained in this document is for consultation purposes. CFKC will develop more thorough guidance that reflects the regulations and policies developed by the Department for Child Protection (DCP) prior to the commencement of the new legislation.

Background:

On 12 June 2025, the Parliament of South Australia passed the *Children and Young People (Safety and Support) Act 2025*.

When a law is passed, it is common for time to pass before it comes into effect. This provides the government and the organisations who deliver services with time to prepare for the incoming changes. The new laws are expected to come into effect in mid-2027.

When passing this legislation, the government said it would consult with foster and kinship carers, the sector and peak bodies regarding the implementation of key elements that are set through legislation and policy.

This is important, as many of the details about how things are delivered in practice are not in legislation – rather they are in Regulations and policies which are set by the Minister or Department for Child Protection (DCP).

DCP have told CFKC that there would be carer specific consultation regarding the implementation of the Act. CFKC has asked for some more information about when this carer specific consultation will be. We will share this information when it is available.

The government is also consulting the sector, including government agencies, foster agencies, peak bodies and sector partners. CFKC will also be in attendance of workshops which are targeted at sector agencies.

While separate carer consultation must be held, CFKC also wants to make sure that carer perspectives are strongly considered and heard at these sector consultations.

To make sure we can record your insights and views, CFKC is undertaking a survey to support the design and implementation of the legislation, and to ensure carer voices are heard at the sector-focused workshops. Results of the survey will be used in addition to feedback previously provided by carers.

Disclaimer:

CFKC has tried to summarise the guiding principles and ask questions in a way which is accessible to most people, and which will help in influencing the implementation of the legislation.

The information provided does not, and is not intended to, constitute legal advice; instead, all information is for general informational purposes only to support consulting with foster and kinship carers regarding implementation of legislation.

Note that some of the questions in this consultation paper may bring up issues and cause distress. You do not need to answer any questions. Support is available. CFKC's Carer Advocacy Service can be contacted at 1800 732 272. If distressed, you may want to contact Lifeline at 13 11 14. Our carer advocacy team is here to connect, inform, support, and advocate for carers. To speak with our advocates, phone 1800 732 272 (free call) or email: support@cfc-sa.org.au.

This consultation paper is not intended to collect any personal information. Please do not include any personal information in responses to the online survey. Any personal information inadvertently collected will be deleted, unless there are legal requirements to act on this information. If you provide email responses, your emails will be deleted after the content has been recorded.

Guiding Principles

What are the Guiding Principles?

Put simply, the guiding principles are about how decisions are made by the courts and the Department of Child Protection regarding things like removing children and young people from their parents, child placement, and the supports that children and young people who interact with the child protection system need.

There are four guiding principles in the legislation:

1. The *safety principle*, which states *"the safety of the child or young person must always be the priority in determining whether or not to remove a child or young person".*
2. The *best interests principle*. This states that the best interests of a child are to be upheld in all decisions. The best interests of a child or young person are based on keeping them safe from harm, protecting their rights, and promoting their development. Where relevant to the decision, a list of factors should also be considered, including family support and reunification; the emotional, social and psychological needs of the child or young person; the child or young person's voice; and culture and identity. The full list of factors is in Section 11 of the legislation and is set out from page 9 of this document. Additional best interest considerations also apply for Aboriginal and Torres Strait Islander children and young people, which are outlined in Section 52 of the legislation.
3. The *Active efforts principle*. This states that decisions should be 'timely', 'practicable', 'purposeful', 'culturally appropriate' and 'to the greatest extent possible, in partnership with the child, young person, family and community'. This means that decisions should be made as quickly as possible without compromising the care for the child or young person.
4. The *principle of effective intervention*. This says all decisions made, actions taken and support offered should be timely, direct and fit for purpose, and consider the circumstances of the child or young person..

Why is this the focus of this discussion paper?

There are workshops coming up for the sector which CFKC will be attending. These workshops are focused on the guiding principles and their implementation.

These principles will provide the direction for the implementation of the new legislation. The regulations and policies which are created before the implementation must be consistent with this legislation.

By asking carers questions about these principles, CFKC will be better placed to advocate for carers in meetings and the workshops we are at. Providing the collective carer voice makes our advocacy more powerful.

Do you have any advice about what would be useful for influencing the implementation of the legislation?

These questions are not about changing the law. The law has been made and will be reviewed within five years.

The current focus is on how the new laws will be put into practice.

Examples of good practice are especially helpful. Good practice examples are useful because they show what we should aspire to when working out how to implement the laws.

Examples of poor practice are also helpful because they show what needs to change and can help shape a better system and stronger accountability for agencies and government.

Safety principle

What does the legislation say?

Note: There is a summary after this orange section

The legislation states that 'children and young people are to be kept safe and protected from **harm'**[1].

It also states that despite any other part of the legislation, the safety of the child or young person must always be the priority in determining whether or not to remove a child or young person.

In the legislation, **harm** is "a reference to physical harm or psychological harm…and includes such harm caused by sexual, physical, mental or emotional abuse or neglect or exposure to domestic violence"[2].

In the legislation, '**significant harm'** is:

a) "harm that endangers a child or young person's life;
b) harm that consists of, or results in, serious impairment of the physical or psychological wellbeing of a child or young person;
c) harm that results in, or is reasonably likely to result in, a significant adverse impact on the safety or wellbeing of a child or young person."[3]

In this section, psychological harm does not include emotional reactions such as distress, grief, fear or anger that are the ordinary behaviour of a child or young person[4].

Summary of safety principle

Put simply, this section of the legislation states **that preventing physical and psychological harm is the most important thing when deciding** whether to remove a child or young person from their family, and when considering the placement of a child or young person in care or the ending of that placement. The threshold for removal is significant harm[5].

While the legislation provides direction provides direction on what significant harm means (physical and psychological harm, endangerment of a child's life, risk of impairment, or serious adverse impacts)[6], it does not provide very specific detail.

[1] Section 10
[2] Section 4
[3] Section 4
[4] Section 4
[5] Section 87
[6] Section 4

Consultation Questions

The legislation indicates that psychological harm does not include emotional reactions such as distress, grief, fear or anger that are a “response to the ordinary vicissitudes of life”[5].

- Can you provide examples of what you would consider an ordinary reaction for a child in care, or any problems you have experienced? You may wish to talk about how different age groups respond, or if the child or young person has a disability.
- What do you want case workers to think about when making decisions based on the ‘safety principle’?
- Do you have any other comments about the safety principle?

Best interests principle

What does the legislation say?

(Note: There is a summary after this orange section)

"(1) It is a principle of this Act (the best interests principle) that the best interests of each child and young person are to be upheld and effected in all decision making under this Act (and a reference in this Act to a particular decision being in the best interests of a child or young person will be taken to be a reference to the decision being made in accordance with the best interests principle).

(2) In determining whether a decision or action is in the best interests of a child or young person, the need to keep them safe from harm and the risk of harm, to protect their rights and to promote their development (taking into account their age and stage of development) must always be considered.

(3) In addition to subsections (1) and (2), in determining what decision to make or action to take in the best interests of a child or young person, consideration must be given to the following, where they are relevant to the decision or action:

a) the need to support the child or young person's family to ensure the child or young person's safety and wellbeing within their family and community;
b) the desirability of the child or young person's family having primary responsibility for the child or young person's upbringing, protection and development;
c) the emotional, social and psychological needs of the child or young person, including—
    (i) the need to be heard and have their views considered; and
    (ii) the need for love and attachment; and
    (iii) the need for the child or young person to be given the opportunity to achieve their full potential;
d) the need to strengthen, preserve and promote positive relationships between the child or young person and their parents, family members and other persons significant to them;
e) if the child or young person is able to form their own views on a matter concerning their care—the need to support them to express those views freely in accordance with the developmental capacity of the child or young person and the circumstances, and for those views to be given due weight;
f) the effects of cumulative harm on the child or young person's safety and development;
g) the desirability of continuity and permanency in the child or young person's care;
h) the desirability of making decisions as expeditiously as possible and the possible harmful effect of delay in making a decision or taking an action;
i) a child or young person is only to be removed from the care of their parents in accordance with section 87 or an order of the Court;

j) if the child or young person is removed from the care of a person—the need to place the child or young person in a safe, nurturing, stable and secure environment;
k) the desirability, when a child or young person is removed from the care of their parent, to assess the reunification of the child or young person with their parent;
l) contact arrangements between the child or young person and their parents, siblings, family members and other persons significant to them;
m) in respect of case planning for the child or young person—
    i. the desirability of placing, so far as may be appropriate, the child or young person with the following persons in the following order:
        (A) a person who is a member of the child or young person's family (including the child or young person's siblings);
        (B) a person with whom the child or young person has an existing relationship;
        (C) a person who is willing and able to encourage and support the child or young person to develop and maintain contact with the child or young person's parents, siblings and other family members, and with other people who are significant to the child or young person (subject to any decisions made under this Act in relation to such contact); and
    ii. the desirability of siblings being placed together when they are placed in care; and
    iii. the desirability of connection between the child or young person and their family being maintained;
n) if the child or young person has been removed from their parents or family—the need to ensure that they have the ability to know, explore and maintain their identity and values, including those relating to their culture, language or religion;
o) if the child or young person has a disability—the need to ensure that the child or young person is treated in a way that preserves their identity and respects their developing capacity;
p) if a child or young person with a particular cultural identity is placed in care with a person who is not a member of that cultural community—the desirability of the child or young person retaining a connection with their culture;
q) the desirability of using family group conferences to make informed decisions as to the arrangements for the care of the child or young person;
r) the desirability of a child or young person being supported to gain access to appropriate educational services, health services and accommodation and to participate in appropriate social opportunities;
s) the desirability of allowing the education, training or employment of the child or young person to continue without interruption or disturbance;
t) any other relevant consideration”[7]

In considering what is in the best interests of a particular Aboriginal or Torres Strait Islander child or young person, regard should also be given to the matters set out in section 52.

[7] Section 11

Summary of best interests principle

In summary, the legislation includes factors to be considered when making decisions about children and young people. These include:

- Need to keep safe from harm and the risk of harm
- Need to protect their rights[8]
- Need to promote their development (taking into account their age and stage of development)

In addition, decision-makers must think about the following factors where appropriate or relevant.

Family support and reunification Where possible, families should be supported to care for children and maintain the primary role in their upbringing. If a child or young person is removed, reunification with their family should be assessed. Approaches such as family group conferencing are desirable when a child or young person is in care. *Relevant provisions: Section 11(3) a, b, d, l, k, l, q*	**Emotional, social and psychological needs** Meet the child or young person's emotional, social and psychological needs, including being heard and having opportunities to reach their full potential. The effects of cumulative harm on the young person's safety and development should also be considered. *Relevant provisions: Section 11(3) c(i-iii), f, j*
Child's voice Children and young people should be supported to express their views and have those views taken seriously in decisions about their care. Listening to children and meeting emotional and psychological needs by ensuring they are heard and considered. *Relevant provisions: Section 11(3) e, c, m(i)*	**Placement preference** The desirability of placement, where appropriate, in the following order: 1. Family 2. Existing relationships 3. Carers who support family connection *Relevant provisions:* *Section 11(3) m*
Connection to family and community Preserve and strengthen relationships with family, siblings, and significant people (including through maintaining cultural identity and connections). Maintain contact with family and significant others where appropriate. *Relevant provisions:* *Section 11(3) a, b, c, d, l, m, n, p, q*	**Stability** Child and young people should have access to stable, continuous care. Placements must provide a safe, nurturing, stable and secure environment. It is desirable for education, training or employment to be uninterrupted when children are removed. *Relevant provisions:* *Section 11(3) g, j, s*

[8]The Charter of Rights of Children and Young People in Care is covered under Section 15 and is developed by the Guardian for Children and Young People.

Culture and identity Desirability for children and young people to explore and maintain cultural identity, values, language or religion. *Section 11(3) n, p*	**Appropriate supports** Access to education, health, disability supports, therapies and other services is desired and supported. *Section 11(3) o, r*
Sibling connection Desirability for siblings to be located together and where not possible for connection with siblings to be maintained. *Relevant provisions:* *Section 11(3) j, m*	**Other relevant considerations** Allow for "any other relevant considerations" based on the child's unique circumstances. *Relevant provisions:* *Section 11(3) t*
Aboriginal children and young people In considering what is in the best interests of a particular Aboriginal or Torres Strait Islander child or young person, regard should also be given to the matters set out in section 52. *Relevant provisions:* *Section 11(4), Section 52.*	

Consultation Questions

Remember you do not have to answer every question (or any question). We appreciate carers have provided input previously. This is an additional opportunity ahead of the upcoming consultation.

- How should decision makers best consult with carers and involve carers in case planning, including when considering the above factors?

Child wellbeing and rights

- Do you have any examples of how children and young people are advised of their rights?
- Can you provide any examples or comments on how carers can be supported with a child or young person's development in line with their age? You may wish to think about any assessments that the children/young people in/have been in your care have undergone.
- Do you have any examples – good, bad or both – where a child or young person has been actively engaged and listened to in determining actions by decision makers?

Connection to family and culture

- Do you have any comments on, or examples of, experiences of family contact?

- Have you experienced any good practice and support in keeping siblings together? You may want to also think about challenges in keeping siblings together in placements.
- Have you experienced any good practices or support in engaging children and young people with their culture? This could include Aboriginal children and young people's connection to culture, or religious affiliation or ethnicity.

Placement stability and child supports

- What are the key things that help maintain placement stability?
- What are some of the main challenges in maintaining placement stability? You may also want to think about the best ways of addressing these challenges.
- Are the children or young people in your care, or who have been in your care, supported to access education, health, disability supports and other services?
- Are there any barriers to children and young people receiving support? You may want to think not only about support services, but also if there are any challenging behaviours that are a barrier to accessing support.

Other relevant considerations

- Do you have any examples or comments on how cumulative harm has been considered when making decisions about a child or young person's placement?
- Is there anything else that should be considered related to the implementation of the best interests of the child principle?

Principle of active efforts and standard of active efforts

What does the legislation say?

Note: There is a summary after this orange section.

"Under the principle of active efforts, active efforts must—

a) be timely; and
b) be practicable, thorough and purposeful; and
c) address the grounds on which a child or young person is considered to be at risk of harm; and
d) conducted, to the greatest extent possible, in partnership with the child or young person and the family, kin and community of the child or young person; and
e) be culturally appropriate; and
f) comply with any other requirements prescribed by the regulations.

Without limiting a preceding subsection, active efforts include—

a) assisting with access to support services and other resources; and
b) if appropriate services or resources do not exist or are not available—considering alternative ways of addressing the relevant needs of the child or young person and their family, kin or community; and
c) activities directed at finding and contacting the family, kin and community of the child or young person."[9]

Summary of active efforts principle

Put simply, active efforts means doing everything reasonably possible, as quickly as possible, to keep a child or young person safe and support them. This should be done in a thoughtful and practical way, working closely with the child or young person, their family, and community, and respecting their culture.

Consultation Questions:

- Can you share experiences where a case worker or agency worker has done everything practical to support the child and young person in (or previously in) your care?
- Can you share any challenges in accessing supports for the child or young person in your care (or previously in your care)?
- Do you have any other comments about the active efforts principle?

[9] Section 12

Principle of effective intervention

What does the legislation say?

Note: There is a summary after this orange section.

"It is a principle of this Act (the principle of effective intervention) that decisions made, actions taken and support offered under this Act relating to a particular child or young person should be timely, direct and fit for purpose given the circumstances of the child or young person."

Summary of effective intervention principle

Put simply, this means decision makers should do things quickly, clearly, and in a way that suits the child or young person's needs.

Consultation Question:

- Do you have any comments about the principle of effective intervention?
- Do you have any concerns or comments about what happens If all of the principles discussion in this paper are used? (For example, if some principles do not appear consistent how would they be implemented)

Support is available

Note that some of the questions in this survey may bring up issues and cause distress. Support is available. If distressed, you may want to contact Lifeline on 13 11 14. Further information about support services is available on the CFKC website: *https://cfc-sa.org.au/contact/helplines-services/*.

Our carer advocacy team is here to connect, inform, support, and advocate for carers. To speak with our advocates, phone 1800 732 272 (free call) or email: support@cfc-sa.org.au

Glossary:

CFKC: Short for Connecting Foster and Kinship Carers South Australia, the independent peak body for foster and kinship carers.

Decision maker: A person or body that makes decisions under the law, such as the Department for Child Protection or the Youth Court.

Guiding principles: The main rules that help guide decisions about children and young people, including removal, placement and support.

Implementation: Putting the new law into practice, including setting the rules for how it will work day to day.

Legislation: The written law. In this paper, it means the *Children and Young People (Safety and Support) Act 2025*.

Policies: Rules and guidance about how people in the child protection system should do their work.

Provisions: Specific parts of the law.

Regulations: Rules made by government that explain how a law will work in practice.

Sector: Non-government organisations that work with parents, children and young people, and foster and kinship carers.