

Queensland



Subordinate Legislation 2000 No. 346

Child Protection Act 1999

CHILD PROTECTION REGULATION 2000

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PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *Child Protection Regulation 2000*.

PART 2—LICENSING OF CARE SERVICES

Independent evaluation of a care service

2.(1) The purpose of this section is to require the chief executive to obtain certain information about a care service, from an independent source, to help the chief executive decide if the standard of care provided, or proposed to be provided, by the care service under a licence complies with the statement of standards.

(2) Before granting an application for a licence or renewal of a licence, the chief executive must—

- (a) obtain a written evaluation, from an independent person, of the care services provided, or proposed to be provided, under the licence; and
- (b) give a copy of the evaluation to the applicant; and
- (c) give the applicant a written invitation to give the chief executive, within a reasonable stated time of at least 14 days after the invitation, a submission about anything contained in the evaluation.

(3) In this section—

“independent person” means a person who is independent of the applicant and the department.

Licensee must have policy about reporting matters of concern

- 3.(1)** A licensee must prepare a policy under this section, keep the policy

up-to-date, and ensure the licensee's staff members are aware of the policy.¹

(2) The policy required by subsection (1) is a policy that facilitates the reporting by the licensee's staff members of any matters of concern they may have.

(3) The policy may, for example, include the following—

- (a) a statement that the licensee supports the staff members in the reporting of matters of concern;
- (b) for a licence relating to a licensed residential facility, provision for ensuring the staff members are aware of their obligations under section 148² of the Act;
- (c) addresses, phone numbers or other contact details for reporting matters of concern.

(4) In this section—

“matter of concern”, for a staff member of a licensee, means—

- (a) harm that the staff member has become aware, or reasonably suspects, has been caused to a child in the care of the licensed care service operated under the licence; or
- (b) a concern that the staff member has about the standards of the care services provided under the licence.

“staff member”, of a licensee, means a person employed in the licensed care service operated under the licence.

Licensee to keep, and allow chief executive to inspect, records

4.(1) A licensee must keep records under this section.¹

(2) The records must include the following—

- (a) the name, date of birth and sex of each child who receives care services from the licensee;

¹ Under section 139(b) of the Act, the chief executive may suspend or cancel an authority on the ground that the holder has contravened a provision of the Act.

² Section 148 (Obligation to report harm to children in residential care) of the Act

- (b) the first and last days of each period during which the child received the services;
- (c) the name and address of—
 - (i) the licensed residential facility in which the child is residing; or
 - (ii) the carer in whose care the child has been placed by the chief executive;
- (d) details of—
 - (i) any written complaint, received by the licensee, in relation to the provision of the services to the child; and
 - (ii) any action taken by the licensee in relation to the complaint;
- (e) details of—
 - (i) any written allegation of breach of the statement of standards, received by the licensee, in relation to the child's care by a licensed care service operated under the licence; and
 - (ii) any action taken by the licensee in relation to the allegation;
- (f) if the child is residing in a licensed residential facility, details of any significant event relating to the child that happened during the residency.

(3) The licensee must allow the chief executive to inspect the records during office hours on business days.³

(4) In this section—

“significant event”, relating to the child, means an event that is significant in the child's life, having regard to the child's age and circumstances.

Examples of a ‘significant event’ relating to the child—

1. Non-routine medical treatment received by the child.
2. Punishment received by the child at the facility.
3. Contact between the child and the child's family.
4. Receipt by the child of a schooling or sporting award.

³ Under section 139(b) of the Act, the chief executive may suspend or cancel an authority on the ground that the holder has contravened a provision of the Act.

Return by licensee

5.(1) The chief executive may, by written notice given to a licensee, require the licensee to give a return under this section.

(2) The notice must state the time, not less than 30 days after the notice is given, for giving the return.

(3) If a licensee is given a notice under subsection (1), the licensee must give a return as required by this section relating to the details in the records required to be kept by the licensee under section 4.⁴

(4) The return must—

(a) be in the approved form; and

(b) be given to the chief executive within the time stated in the notice.

Suitability of methods for the selection, training and management of people engaged in providing care services—Act, s 126(d)

6. In deciding, under section 126(d)⁵ of the Act, the suitability of the methods for the selection, training and management of people engaged in providing care services, the chief executive must have regard to the standards for the management of a licensed care service published by the department.⁶

PART 3—PLACING CHILDREN IN CARE**Agreement to provide care for a child—Act, s 84(2)**

7.(1) For section 84(2)⁷ of the Act, the following are the terms—

⁴ Under section 139(b) of the Act, the chief executive may suspend or cancel an authority on the ground that the holder has contravened a provision of the Act.

⁵ Section 126 (Restrictions on granting application) of the Act

⁶ The standards are available for inspection, without charge, at the offices of the department during normal business hours.

⁷ Section 84 (Agreements to provide care for children) of the Act

- (a) the time for which the agreement is to have effect;
- (b) the time for which it is intended that the foster carer will care for the child;
- (c) information, from any case plan prepared by the chief executive for the child, about matters involving or affecting the foster carer;
- (d) whether the chief executive has complied, or intends to comply, with the relevant notice provision and, if so, the information given, or intended to be given, to the child's parents under the notice provision;
- (e) arrangements for contact between the child and the child's parents or other members of the child's family, including, for example, the child's transport arrangements;
- (f) the responsibilities of the chief executive and of the foster carer in the provision of medical, therapeutic, schooling and other services to the child;
- (g) information about any special needs of the child, including—
 - (i) information about any special health needs; and
 - (ii) information about any special behavioural management needs; and
 - (iii) information about the resources needed to meet the special needs;
- (h) the amounts to be paid to the foster carer for the child's care and maintenance.

(2) In this section—

“notice provision” means section 85(2) or 86(2)⁸ of the Act.

Matters to consider before telling parents about child placed in care—Act, ss 85(3) and 86(3)

8.(1) This section states the matters that the chief executive must consider

⁸ Section 85 (Chief executive to tell parents of placing child in care—assessment order) or 86 (Chief executive to notify parents of placing child in care—child protection order) of the Act

for sections 85(3) and 86(3) of the Act.

(2) The chief executive must consider whether a parent of the child, a partner of a parent of the child, or another person closely associated with a parent of the child—

- (a) has a history of violence relevant to the safety of the child or anyone else with whom the child is living; or
- (b) has recently made a threat to harm the child or anyone else with whom the child is living; or
- (c) is likely to behave in a way that is likely to intimidate or frighten the child or another child with whom the child is living; or
- (d) is likely to attempt to intimidate or otherwise adversely influence the child in relation to future court proceedings; or
- (e) is likely to attempt to remove the child from the chief executive's custody or guardianship; or
- (f) has previously engaged in violent behaviour, harassment or other harmful behaviour in response to an action taken to protect a child.

PART 4—SUITABLE PERSONS

Suitable person—Act, sch 3, definition “suitable person”

9.(1) A person is a suitable person for having the custody or guardianship of a child if the person—

- (a) does not pose a risk to the child's safety; and
- (b) is willing and able to care for the child in a way that meets the standards of care in the statement of standards.

(2) A person is a suitable person for having the daily care of a child if the person—

- (a) does not pose a risk to the child's safety; and
- (b) for a person other than an approved foster carer, is willing and

able to provide the care in a way that meets the standards of care in the statement of standards;⁹ and

- (c) understands, and is committed to, the principles for administering the Act;¹⁰ and
- (d) has completed any training reasonably required by the chief executive to ensure the person is able to properly provide the care; and
- (e) understands the policies and procedures implemented by the chief executive to ensure the care meets the standards of care in the statement of standards.

(3) A person is a suitable person for managing a licensed care service if the person—

- (a) does not pose a risk to the safety of the children who, under the Act, are in the care of the service; and
- (b) is willing and able to manage the service in a way that—
 - (i) ensures the provision of care complies with the statement of standards; and
 - (ii) implements the methods mentioned in section 126(d)¹¹ of the Act; and
- (c) understands, and is committed to, the principles for administering the Act.

(4) In deciding if a person is a suitable person under this section, the chief executive or a court may consider the person's employment history, physical or mental health and any other relevant matter.¹²

⁹ For the requirement that an approved foster carer meet the standards of care in the statement of standards, see section 133(b) of the Act.

¹⁰ See section 5 (Principles for administration of Act) of the Act.

¹¹ Section 126 (Restrictions on granting application) of the Act

¹² See also section 142 (Inquiries about certain persons' suitability) of the Act.

PART 5—PUBLICATION OF INFORMATION ABOUT CHILDREN

Chief executive's approval—Act, s 189

10. In deciding whether to give an approval under section 189¹³ of the Act, the chief executive may have regard to the following—

- (a) if the child is able to form and express views about the issue, the views of the child, taking into account the child's age or ability to understand;
- (b) the emotional support available to the child;
- (c) the likely effect on the child, at present or in the future, of the publication of the information;
- (d) whether the publication of the information would adversely affect the child's relationship with members of the child's family;
- (e) the way it is proposed to publish the information;
- (f) the estimated number of persons who will hear or see the information, as a result of its publication;
- (g) the views of the child's parents;
- (h) the identity of the person asking for the chief executive's approval;
- (i) the reason for the proposed publication of the information;
- (j) the views of the person seeking the chief executive's approval as to why publication of the information is in the best interests of the child.

¹³ Section 189 (Prohibition of publication of information leading to identity of children) of the Act

PART 6—MISCELLANEOUS

Reporting harm to a child in residential care—Act, s 148(2)

11. For section 148(2)¹⁴ of the Act, the report must include the following particulars—

- (a) the name and sex of the child;
- (b) if the responsible person knows the child's age, the age of the child;
- (c) details of the basis for the responsible person becoming aware, or reasonably suspecting, that harm has been caused to the child;
- (d) details of the harm or suspected harm;
- (e) if the responsible person knows the identity of the person who caused, or is reasonably suspected of causing, the harm, particulars of the identity;
- (f) if the responsible person knows the identity of any other person who may be able to give information about the harm or suspected harm, particulars of the identity.

Chief executive to keep records

12.(1) The chief executive must keep records under this section.

(2) The records must include—

- (a) details of any report given to the chief executive about—
 - (i) harm caused, or suspected to have been caused, to a child who, under the Act, is in the care of an approved foster carer, licensed care service or departmental care service; or
 - (ii) a breach, or claimed breach, of the statement of standards; and
- (b) the results of any investigation of a matter mentioned in paragraph (a).

¹⁴ Section 148 (Obligation to report harm to children in residential care) of the Act

(3) The information recorded about a matter concerning a child must include the type of care being provided to the child.

(4) The records must be kept in a way that enables the chief executive to—

- (a) access or collect information about a particular carer or care service; or
- (b) analyse trends across all the recorded information.

Information to be given to Children’s Commissioner

13.(1) The chief executive must, on a regular basis, give the Children’s Commissioner a written report about the information recorded under section 12.

(2) If requested in writing by the Children’s Commissioner, the chief executive must give the Children’s Commissioner details of a particular matter mentioned in the records kept under section 12.

ENDNOTES

1. Made by the Governor in Council on 14 December 2000.
2. Notified in the gazette on 15 December 2000.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is Families, Youth and Community Care Queensland.