SHARING THE CARE

Sharing the care of children is part of Torres Strait Islander culture, custom and life. Torres Strait Islanders have long sought the legal recognition of traditional child rearing practices. The Kupai Omaker Working Party has actively advocated for legal recognition on behalf of the Torres Strait Islander community.

The Queensland Government is now undertaking consultations to inform a new law to recognise Torres Strait Islander families continued use of this traditional child rearing practices. This will be a historic step for our State and for Australia.

New laws for the recognition of traditional Torres Strait Islander child rearing practices will be based on three key principles including:

- the rights and best interests of the child throughout their life
- the informed consent of biological and cultural parents
- the suitability of cultural parents.

The Queensland Government has engaged three Eminent Persons: Ms Ivy Trevallion, Mr Charles Passi and the Honourable Alastair Nicholson AO RFD QC to provide legal and cultural expertise during consultation.

WHY LEGAL RECOGNITION?

Many Torres Strait Islander people do not have a birth certificate that reflects their cultural identity and lived experience. This impacts on many day-to-day activities.

It is proposed that new laws will honour Torres Strait Islander peoples’ right to their identity; to practice their own culture, decision-making, traditions and enduring customs. Importantly, new laws will aim to resolve many long-standing practical issues faced by Torres Strait Islander individuals and families, so they can more easily:

- enrol in school
- get a tax file number
- open a bank account
- obtain legal identification such as driver’s licence or passport
- access Centrelink payments and various financial assistance
- access inheritance
- make health care decisions for ageing parents.

HAVE YOUR SAY

Help Torres Strait Islander children and their families enjoy the same rights as other Queensland families.

Community consultation is open until Friday 30 November 2018.


You can:

- **attend** a community forum or a tailored small group meeting with the Eminent Persons
- **email** your comments to: torreschildrearing@datsip.qld.gov.au
- **mail** your written feedback to:
  
  Policy Team
  Department of Aboriginal and Torres Strait Islander Partnerships
  PO Box 15397
  City East Qld 4002
QUESTIONS

We are seeking public feedback on the below questions by 30 November 2018.

Traditional practices

How are the traditional practices in the best interests of a particular child?

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________________________________________________________________________

Why are particular people chosen to be cultural parents?

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________________________________________________________________________

What are the reasons why people might not be considered suitable to raise a child?

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________________________________________________________________________

Legal recognition

Who should be eligible to apply for legal recognition?

- For example, should only Torres Strait Islanders living in Queensland be eligible to apply for legal recognition?
- An applicant (if over 18 years and requesting legal recognition) or one/both biological and cultural parents (if the child is under 18 years)?
Legal recognition (continued)

What information should someone need to provide to show that the cultural practice was done the ‘proper way’ (i.e. in accordance with cultural protocols)?

– Who could provide this information?
– Should there be a Torres Strait Islander advisory body to review each of the applications?
– What would their responsibilities be?
– Who should be on the advisory body (e.g. Elders from each cultural group)?

What other supporting documentation should be provided to apply for legal recognition?

How do the biological parents, cultural parents and a child (if appropriate) consent to commencing the process for legal recognition?

When should an arrangement not be legally recognised?
Legal recognition (continued)

Who, if anyone, should be able to appeal a decision to legally recognise the cultural practice?

- Other than the child (or adult child), biological and cultural parents, should another family member or member of the community be able to appeal the decision?
- Why or why not?

Are there any reasons the Torres Strait Islander community might not want to use the new laws? What can the Queensland Government do to address this?

What other issues are important to the Torres Strait Islander community in relation to legal recognition of traditional child rearing practices that the Queensland Government should consider?

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The Department of Aboriginal and Torres Strait Islander Partnerships would like to thank you for your time and feedback.