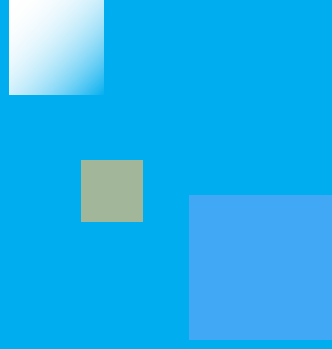
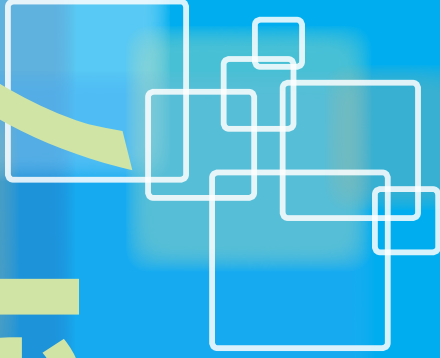


# Chapter 7



## Chapter 7

# Addressing Aboriginal and Torres Strait Islander over-representation

This chapter reviews the problem of the high numbers of Aboriginal and Torres Strait Islander children and families in the care system. The terms of reference<sup>1</sup> have specifically asked the Inquiry to identify strategies to reduce the over-representation of Aboriginal and Torres Strait Islander children at all stages of the child protection system, particularly in out-of-home care. While other chapters of this Discussion Paper identify issues relating to the particular needs of Aboriginal and Torres Strait Islander families and attempts to respond to these (such as the operation of the Child Placement Principle, which is discussed at length in Chapter 5, and the need for a stronger presence of Aboriginal and Torres Strait Islander workers in the frontline child protection workforce, discussed in Chapter 8), this chapter specifically addresses over-representation, identifies some possible reasons for it and proposes some avenues for addressing it.

### 7.1 The current situation in Queensland

Queensland's current approach to child protection is clearly failing Aboriginal and Torres Strait Islander children and their families on many fronts. Rates of substantiated harm against children remain high, increasing numbers of families face intrusive interventions, and the system is struggling to provide stable and suitable placements for children in need of protection.

The over-representation of Aboriginal and Torres Strait Islander children at all stages of the child protection system, especially in long-term alternative out-of-home care, is a major concern.

As previously set out in Chapter 3, the department forecasts that by 2012–13 one in two Aboriginal and Torres Strait Islander children in Queensland will be known to Child Safety.<sup>2</sup> This is an increase from 1 in 4.6 in 2007–08.<sup>3</sup>

Although the number of notifications for non-Indigenous children have decreased since 2007–

08 by 10.8 per cent, the number of Aboriginal and Torres Strait Islander notifications has increased over the same period by 35.5 per cent. As a rate per 1,000 of the Queensland population aged 0–17 years, 82.0 per 1,000 Aboriginal and Torres Strait Islander children were subject to a notification in 2011–12, compared with 16.1 per 1,000 non-Indigenous children.<sup>4</sup>

The numbers of Aboriginal and Torres Strait Islander children in out-of-home care are also growing, with Aboriginal and Torres Strait Islander children entering care at an earlier age and staying longer. Nearly 40 per cent of all children in out-of-home care are Aboriginal or Torres Strait Islander, while less than 7 per cent of Queensland’s children are Aboriginal and Torres Strait Islander.<sup>5</sup>

The imbalance of Aboriginal and Torres Strait Islander children in the child protection system has grown considerably and consistently in the eight years since the Crime and Misconduct Commission Inquiry into abuse of children in foster care made its recommendations (Crime and Misconduct Commission 2004). Aboriginal and Torres Strait Islander children are now five times more likely than their non-Indigenous counterparts to be notified for abuse or neglect, six times more likely to be substantiated for abuse or neglect, and nine times more likely to be living in out-of-home care (Department of Communities, Child Safety and Disability Services 2012h; Steering Committee for the Review of Government Service Provision 2012) (see Figure 19).

**Figure 19: Children in out-of-home care at 30 June by Indigenous status (rate per 1,000 children), Queensland, 2002 to 2011**



**Source:** Steering Committee for the Review of Government Service Provision 2012.

**Notes:** Rates per 1,000 are calculated using estimated resident populations aged 0–17 years.

The situation for children in many of Queensland’s discrete Aboriginal and Torres Strait Islander communities remains bleak. Though only 10 per cent of the state’s Aboriginal and Torres Strait Islander population live in these communities,<sup>6</sup> rates of substantiated child abuse and neglect are exceptionally high. In 2010–11, the communities of Coen, Hope Vale, Mapoon

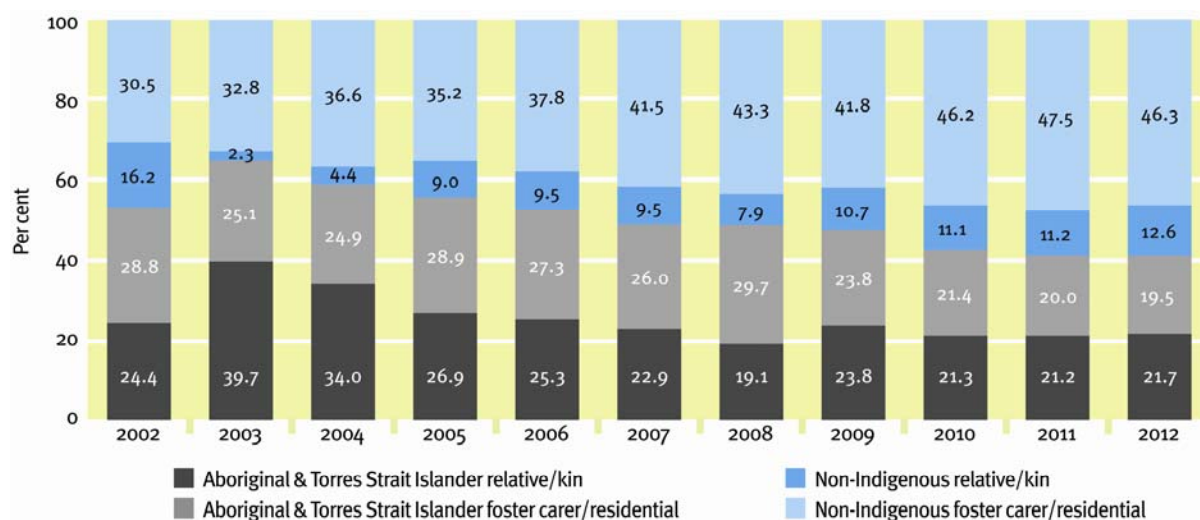
and Wujal Wujal all recorded rates of substantiated harm more than 12 times the state average (Queensland Government 2012).

High rates of child abuse and neglect are only one of the many social and economic problems in Queensland’s remote communities. Child abuse and neglect are occurring alongside general social inequities, extreme poverty, community and family violence, excessive alcohol consumption, poor dental and general health, and poor education (Queensland Government 2012; Robertson 2000). In some communities, it has been noted that extreme adversity coupled with repeated cycles of disempowerment and trauma is leading to entrenched socio-economic disadvantage, intergenerational welfare dependence, isolation, social alienation, diminished cultural ties and worsening child maltreatment.

The large number of Aboriginal and Torres Strait Islander children in the child protection system is significantly reducing the ability of the system to provide culturally responsive and appropriate care to those needing protection. As the number of Aboriginal and Torres Strait Islander children in care has increased, the percentage being cared for by kinship or Aboriginal and Torres Islander carers has declined (see Figure 20). Almost half of all Aboriginal and Torres Strait Islander children in out-of-home care are now cared for by non-Indigenous foster or residential carers (Australian Institute of Health and Welfare 2012).

The placement of Aboriginal and Torres Strait Islander children away from family and kin, contrary to the policy intention of the *Child Protection Act 1999*, has the potential to cause life-long harm by disconnecting these children from their cultural history, customs and identity (Human Rights and Equal Opportunities Commission 1997; Royal Commission into Aboriginal Deaths in Custody 1991; Secretariat of National Aboriginal and Torres Strait Islander Child Care 2008).

**Figure 20: Aboriginal and Torres Strait Islander children in out-of-home care at 30 June by Indigenous status and relationship of caregiver (proportions), Queensland, 2002 to 2012**



**Source:** Steering Committee for the Review of Government Service Provision 2012; Department of Communities, Child Safety & Disability Services, *Our performance*.

The causes of the over-representation of Aboriginal and Torres Strait Islander children in the

child protection system are complex, comprising multiple historical, community, family and individual factors. Of particular note are:

- trauma resulting from past government policies, including mass relocations of communities, forced removals of children and children growing up in dormitories, effectively removing the experience of being parented and contributing to health and social problems (Atkinson 2002; Australian Institute of Family Studies 2012; Crime and Misconduct Commission 2009; Robertson 2000)<sup>7</sup>
- the intergenerational effects of removals on parenting, leading to multiple generations of families becoming involved in the child protection system (Human Rights and Equal Opportunities Commission 1997; McComsey 2010)
- high rates of social disadvantage experienced by Aboriginal and Torres Strait Islander people with respect to health, education, housing and employment (Australian Institute of Family Studies 2012)<sup>8</sup>
- extremely high rates of alcohol and drug abuse, family violence, poverty, mental illness, welfare dependency, and over-crowded and inadequate housing in some discrete Aboriginal and Torres Strait Islander communities (Australian Institute of Family Studies 2012; Robertson 2000; Pearson 1999)<sup>9</sup>
- limited services and supports in some discrete communities and a distrust of mainstream services and agencies among Aboriginal and Torres Strait Islander people (Family Responsibilities Commission 2011a; Human Rights and Equal Opportunity Commission 1997).<sup>10</sup>

Numerous inquiries and reports have highlighted the role of chronic interpersonal violence and child abuse in some discrete Aboriginal and Torres Strait Islander communities (Robertson 2000; Crime and Misconduct Commission 2009; Memmott et al. 2001). Child abuse has been identified as just one of several forms of violence confronting the residents of these communities, occurring alongside spousal assaults, homicides, self-harm, rapes and inter-group violence (Memmott et al. 2001). The Aboriginal and Torres Strait Islander Women's Task Force concluded that, in some discrete communities, violence has become a part of everyday life and has often gone ignored, despite pleas for intervention from women's groups in those communities (Robertson 2000).

The Commission has learnt that a number of systemic factors in Queensland's child protection system may be further contributing to and making it difficult to address over-representation:

- an over-reliance on forensic and tertiary responses to the protection of Aboriginal and Torres Strait Islander children (Aboriginal and Torres Strait Islander Child Safety Taskforce 2009)<sup>11</sup>
- the fragmented nature of Aboriginal and Torres Strait Islander child protection services and the limited role of these services (such as recognised entities) in decision-making<sup>12</sup>
- the potential for cultural bias in Structured Decision Making tools, increasing the likelihood that Aboriginal and Torres Strait Islander children will be assessed as being in need of protection<sup>13</sup>
- children being removed from remote communities, making it difficult for families to

maintain contact and meaningful relationships, and thus reducing the chances of successful reunification<sup>14</sup>

- parents having little understanding of child protection practices and what they need to do to secure the return of their children<sup>15</sup>
- departmental officers having a poor understanding of, or lack of respect for, Aboriginal and Torres Strait Islander cultural and family practices<sup>16</sup>
- primary caregivers being excluded from child protection proceedings despite being recognised as parents under cultural adoption practices<sup>17</sup>
- some Aboriginal and Torres Strait Islander people finding the carer assessment process, including the state's working with children check, intimidating and burdensome, making them reluctant to seek carer approval.<sup>18</sup> This may be making it unnecessarily difficult to identify suitable kinship care placements for children who are in need of protection.

This chapter focuses on some of the systemic service delivery factors that may be contributing to the over-representation of Aboriginal and Torres Strait Islander children in the child protection system: specifically, the overuse of tertiary child protection responses, the fragmentation of the Aboriginal and Torres Strait Islander child protection sector and the restricted role of these agencies in the delivery of child protection services. The chapter then considers some of the tensions that exist in attempting to overcome these problems, before outlining some proposals for reform.

## 7.2 Key issues contributing to over-representation

### 7.2.1 An over-reliance on tertiary child protection responses

The high number of Aboriginal and Torres Strait Islander children in the child protection system is closely linked to the disproportionately high levels of social and economic disadvantage experienced by Aboriginal and Torres Strait Islander families (Australian Institute of Family Studies 2012; Robertson 2000; Tilbury 2009).

Although most Aboriginal and Torres Strait Islander families report high levels of resilience, family cohesion and social support, many also face significant stressors (Australian Institute of Health and Welfare 2011; Silburn et al. 2006). These stressors include high rates of inadequate housing, early parenthood, low household income, unemployment, discrimination, family violence, and alcohol and substance addiction and abuse.

It is widely recognised that social disadvantage and its underlying causes need to be effectively treated if there is to be a meaningful and sustainable reduction in the over-representation of Aboriginal and Torres Strait Islander children in the child protection system (Bambllett & Lewis 2007; Calma 2008; Tilbury 2009). This will not be achieved through a statutory child protection response alone:

... it must be understood that harm and risk of harm to children in Aboriginal and Torres Strait Islander communities is symptomatic of social disadvantage, that cannot be addressed by child

safety alone, but rather by a proper focus on the broader and far reaching disadvantage of our Aboriginal and Torres Strait Islander communities.<sup>19</sup>

A significant reduction in the number of children in the system will require broad improvements in Aboriginal and Torres Strait Islander child and family wellbeing. It has been argued that this is best achieved by providing a mix of culturally appropriate family supports and interventions while also addressing the causes and consequences of social disadvantage (Aboriginal and Torres Strait Islander Child Safety Taskforce 2009; Bamblett & Lewis 2007; Council of Australian Governments 2009; Tilbury 2009):

When unpacking the concept of neglect in Aboriginal families, it is apparent that the key drivers include poverty, poor housing and lack of equitable access to appropriate services. Both poverty and poor housing are arguably outside the domain of parental influence so it is unlikely that a family wellbeing and child protection system could effectively redress these risks in the absence of other social investments and strategies to alleviate poverty and improve access to appropriate housing.<sup>20</sup>

Repeated calls have been made for a greater emphasis on primary and secondary prevention to protect Aboriginal and Torres Strait Islander children.

In this context, the *National framework for protecting Australia's children 2009-2020* (the National Framework) outlines an approach to reducing over-representation that includes:

- addressing disadvantage such as overcrowding and inadequate housing
- recognising and promoting family, community and cultural strengths that serve to protect children
- developing community-wide strategies to deal with specific risk factors, such as alcohol misuse and family violence, where they occur in high concentration
- using approaches that are holistic and culturally sensitive, and that empower families and communities to develop and take responsibility for community-identified solutions
- maintaining connection to family, community and culture
- developing partnerships between Aboriginal and Torres Strait Islander families and communities, and between Aboriginal and Torres Strait Islander agencies, mainstream service providers and governments
- using strategies that build on existing strengths, match expectations with appropriate supports, and recognise the importance of Aboriginal and Torres Strait Islander led and managed solutions (Council of Australian Governments 2009).

However, the Commission has also heard that the reality of Aboriginal and Torres Strait Islander child protection is quite different from that articulated by the National Framework. It has been told that, despite investments in early intervention services in recent years, many at-risk families are still only being offered meaningful assistance once a situation has reached crisis point.<sup>21</sup> It has also been told that community-driven preventative activities based on community development, parental education and promoting family wellbeing are particularly needed but are virtually absent.

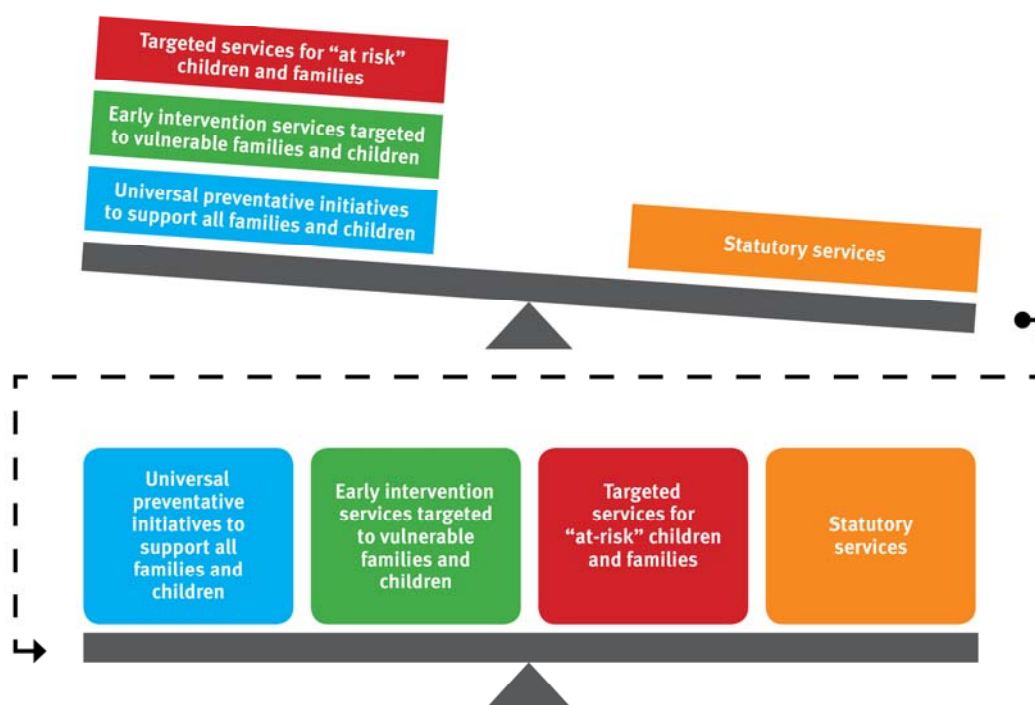


Aboriginal and Torres Strait Islander Family Support Services were established in 2010 with the aim of providing early intervention for families at risk of entering the statutory child protection system, and a total of 11 family support services have been set up throughout Queensland. Although these services are intended to provide early support to families, it has been noted that many of these families already have significant involvement in the system:

... While [Aboriginal and Torres Strait Islander Family Support Services] is a program that Queensland can be very proud of having initiated the reality is that less than 10% of [referrals received by the Townsville Aboriginal and Islander Health Family Support Service] to date could even remotely be deemed early intervention, much less prevention. Of even more concern is also the fact that the majority of the remaining 90% of families have significant histories with Child Safety extending from two to three years to up to 10 years, and in some instance, up to 20 years.<sup>22</sup>

In line with the public health approach adopted in the National Framework, the Aboriginal and Torres Strait Islander Child Safety Taskforce has recommended a more nuanced and culturally responsive approach to the protection of Aboriginal and Torres Strait Islander children (see Figure 21).<sup>23</sup> This involves coercive responses being used only when necessary and operating alongside a much wider range of universal pre-emptive and preventative services, early intervention services and targeted intensive home-based services for at-risk families.

**Figure 21: Reducing the focus and reliance on tertiary child protection responses**



Source: Aboriginal and Torres Strait Islander Child Safety Taskforce 2009.



The taskforce recommended incorporating a number of features into the child protection system to ensure that children, young people and families avoid unnecessary exposure to coercive intervention. These are:

- being flexible enough to allow children and families to access different levels of support as and when they are needed
- allowing referrals to be made to support services without the need for a notification to statutory services
- working with existing processes in Aboriginal and Torres Strait Islander communities so that Elders and other respected community leaders can identify and refer people for support before family circumstances deteriorate
- having clearly defined ‘exit points’ to prevent families having unnecessarily prolonged involvement with statutory services
- developing a culturally respectful, collaborative and capable workforce across all agencies.
- The taskforce also established a clear position that, in creating a balanced approach, no child should be deprived of a statutory response when this is needed to keep them safe from harm.

### **7.2.2 The fragmentation of the Aboriginal and Torres Strait Islander child protection sector**

In the past, Aboriginal and Islander Child Care Agencies played an integral role in the child protection system. Aboriginal and Islander Child Care Agencies emerged across Australia in the 1970s as a community-led response to Aboriginal and Torres Strait Islander children entering care (Black Wattle Consulting 2012). Though the specific responsibilities of each agency varied, they typically provided a mix of services such as general family support for non-child protection clients, intensive family support for families and children who had had contact with the child protection system, placement services (including recruitment, training and initial assessment of carers), carer support, responding to notifications and child advocacy (Forster 2004).

In 2004, the Crime and Misconduct Commission took the view that an expanded network of Aboriginal and Islander Child Care Agencies, or equivalent organisations, should play a significant role in a reformed child protection system. It concluded that:

... AICCA-type organisations currently provide the only logical mechanism for delivering key aspects of child protection services for Indigenous children. There are no other mechanisms available at present that satisfy the two vital criteria of sensitivity to cultural factors and acceptability to the communities concerned. (Crime and Misconduct Commission 2004, p230)

The subsequent Crime and Misconduct Commission implementation plan, or ‘Blueprint’, proposed that about 23 Aboriginal and Islander Child Care Agencies be funded throughout Queensland to provide at least five distinct but integrated programs with the support of a peak body (Forster 2004). These programs were to comprise:

- family restoration and support, primary prevention, parenting support and early intervention
- intensive family support
- placement services
- carer support
- child advocacy and statutory advice.

The Commission has been told that, since the Crime and Misconduct Commission implementation plan was developed, the funding and delivery of programs by the Aboriginal and Torres Strait Islander controlled agencies have become increasingly fragmented.<sup>24</sup>

In 2011–12, the Department of Communities, Child Safety and Disability Services allocated \$32.7 million to the delivery of child protection and related programs through Aboriginal and Torres Strait Islander controlled or managed agencies,<sup>25</sup> representing 15.9 per cent of the department’s total non-government grants budget.<sup>26</sup> These programs comprised:

- \$0.6 million for the Queensland Aboriginal and Torres Strait Islander Child Protection Peak as a peak body for Aboriginal and Torres Strait Islander child protection services
- \$9.6 million for 11 recognised entities to participate in decisions made by the department about Aboriginal and Torres Strait Islander children
- \$9.4 million for 11 family support services to deliver intensive and practical in-home supports, primarily to families at risk of entering the statutory system
- \$4.8 million for 11 foster and kinship care services to deliver carer recruitment, training, assessment and support functions
- \$1.9 million for six family intervention services to work with families where ongoing intervention is required to prevent children entering care, or promote reunification where children have entered care
- \$2.2 million for three Safe Houses to supply short- and medium-term supervised residential care for children at risk of harm in discrete Aboriginal and Torres Strait Islander communities
- \$0.7 million for one Safe Haven to respond to the safety needs of children and families affected by family violence
- \$3.3 million for a range of other therapeutic and targeted family support services.

The funding and service delivery arrangements for the core recognised entity, family support, family intervention and foster and kinship care programs vary across the state. Contrary to the intentions of the Crime and Misconduct Commission implementation plan, there are currently only four areas of Queensland providing all core services:

- Gold Coast – Kalwun Development Corporation
- Toowoomba – Goolburri Health Advancement Aboriginal Corporation

- Central Queensland – Central Queensland Indigenous Development
- Townsville – Townsville Aboriginal and Islanders Health Services.

In other parts of the state, these programs have been split across multiple agencies acting separately or in partnership arrangements. In one case, these programs have been split between agencies controlled by Aboriginal and Torres Strait Islander and mainstream agencies. In many parts of the state there is only a partial complement of services provided by Aboriginal and Torres Strait Islander controlled agencies.

The Commission has heard that the fragmentation of these services, an inability for services to take non-statutory referrals, and a limited capacity for early intervention are making it difficult to intervene with Aboriginal and Torres Strait Islander families before a situation reaches a crisis.<sup>27</sup> The diffusion of services may also be making it difficult to identify potential carers and support for families subject to statutory intervention. Some have directly attributed the growing over-representation of Aboriginal and Torres Strait Islander children in the system to the dispersion of these services:

It is my contention that the deterioration in outcomes for Aboriginal and Torres Strait Islander children and families is a direct result of departmental intervention and forced changes to a successful community driven Aboriginal and Torres Strait Islander service model and that the way forward is to invest in this sector and rebuild this holistic Aboriginal and Torres Strait Islander service system.<sup>28</sup>

In addition to the fragmented nature of some Aboriginal and Torres Strait Islander controlled services, the Commission has learned that there are a number of other factors that may be constraining their capacity to deliver child protection services. These limitations need to be removed for services to perform effectively in the future:

- difficulties recruiting and retaining appropriately trained, qualified and experienced Aboriginal and Torres Strait Islander staff, particularly in remote areas<sup>29</sup>
- boards being constituted with members who have limited experience of the work and services of the organisation<sup>30</sup>
- gaps in some areas of expertise<sup>31</sup>
- lack of clear and consistent processes and procedures<sup>32</sup>
- a limited ability to influence service delivery models that are poorly suited to Aboriginal and Torres Strait Islander clients<sup>33</sup>
- difficulties providing data required by funding bodies, because of a lack of appropriate IT infrastructure or skills.<sup>34</sup>

A number of stakeholders advocate a return to the more integrated and ‘joined-up’ approach to service delivery,<sup>35</sup> as previously offered under the Aboriginal and Islander Child Care Agency model and recommended in the Crime and Misconduct Commission Blueprint. The Queensland Aboriginal and Torres Strait Islander Child Protection Peak, the Cape York/Gulf Remote Area

Aboriginal and Torres Strait Islander Child Care Advisory Association, the Aboriginal and Torres Strait Islander Legal Service and the Wuchopperen Health Service have all called for the establishment of integrated and holistic child and family wellbeing services.

The Commission's advisory group agrees that better integration is needed between the programs delivered by Aboriginal and Torres Strait Islander agencies. The group also sees a need for these agencies to be more deeply embedded in the broader child protection system. In particular, members of the advisory group have highlighted the benefits that can be achieved by having recognised entities able to refer to family support services and work closely with foster and kinship care services and departmental officers.

### **7.2.3 The restricted role of Aboriginal and Torres Strait Islander agencies in child protection**

The Commission has been told about the often restricted role that Aboriginal and Torres Strait Islander agencies are playing in Queensland's child protection system. Similar criticisms have been made in other jurisdictions. It has been pointed out that these agencies typically account for only a relatively minor part of the child protection system in most states and territories (Tilbury 2009). They often receive low levels of funding, they are small in number and in practice they have only limited decision-making powers. Their ability to develop responses designed to meet the cultural and other needs of Aboriginal and Torres Strait Islander people is often very limited (Libesman 2008).

Many submissions have highlighted the role of recognised entities to illustrate the limitations on Aboriginal and Torres Strait Islander agencies in responding to child protection concerns. Recognised entities are individuals or organisations funded by the department to participate in and provide advice on all child protection decisions related to Aboriginal and Torres Strait Islander children.<sup>36</sup> The role of recognised entities is legislated under ss 6, 246I and related sections of the Child Protection Act. The Act provides for recognised entities to:

- participate in significant and other decisions about an Aboriginal or Torres Strait Islander child throughout their involvement with the child protection system (ss 6 and 83)
- provide advice when assessing if an unborn child may be in need of protection and advice on appropriate support for the mother (s 21)
- provide advice to the Childrens Court about a child and about Aboriginal tradition and Island custom relating to a child (s 6)
- participate in court-ordered conferences for Aboriginal or Torres Strait Islander children (s 70)
- participate in family group meetings and the review and preparation of case plans for Aboriginal or Torres Strait Islander children (ss 51L and 51W)
- participate in Suspected Child Abuse and Neglect team meetings when an Aboriginal or Torres Strait Islander child is being discussed (s 159L).

The Commission has received a number of submissions raising concerns about the ability of

recognised entities to actively participate in decision-making processes as intended under legislation. These concerns relate to the lack of ability to provide frank and independent advice, the low level of skill and training provided to some staff, and the quality of services provided by some recognised entity services. The key concerns relayed to the Commission are that recognised entities:

- have been limited to participation and consultation roles in decision-making; their involvement is also limited in relation to the level of engagement and information gathering with family, kin and community that should inform their participation in decision-making<sup>37</sup>
- lack independence, as they are funded through the department and service agreements stipulate that the department is their client rather than the child;<sup>38</sup> this may create a conflict with being able to provide full and frank advice<sup>39</sup>
- do not receive enough information about clients or proposed placements, which makes it difficult for recognised entities to give appropriate advice<sup>40</sup>
- are not always invited to give advice before decisions are made, or are not invited with enough notice to attend family group meetings and other case planning meetings<sup>41</sup>
- are not always given the opportunity to attend investigations and home visits with Child Safety, and their role is not always explained to families as being separate from the department<sup>42</sup>
- have insufficient skills and training to cope with the complexity of their role.<sup>43</sup> This is compounded by a lack of clear and consistent processes and procedures for interacting with and providing advice to the department and the courts.<sup>44</sup>

In addition, the Commission is informed by its advisory group that some recognised entities are being actively discouraged from and reprimanded for contradicting or disagreeing with departmental decisions, or for attempting to make referrals to support services. In its submission to the Commission, Townsville Aboriginal and Islanders Health Services has identified cases in which it had significant concerns about the welfare of children in its care but had been unable to secure the ongoing assistance of Child Safety.<sup>45</sup>

All submissions acknowledge the need for recognised entities and cultural advisers to participate in decisions involving Aboriginal and Torres Strait Islander children. However, it is suggested that the model as it stands is significantly flawed and in many cases is not working in the interests of children, young people and their families.<sup>46</sup> In its submission, the Aboriginal and Torres Strait Islander Women's Legal and Advocacy Service states:

Although recognised entities were established to provide a mechanism for consultation with indigenous communities, it has been demonstrated that this model does not constitute meaningful consultation, it does not overcome historic power imbalances, fails to provide indigenous people with capacity to provide input into decisions that affect them and does not ensure that cultural issues are taken into consideration when decisions are made about Aboriginal and Torres Strait Islander children. Furthermore, this model is not well-regarded by the community and has never been evaluated for its effectiveness.<sup>47</sup>

The Commission is considering a host of suggestions put forward in submissions about ways to better integrate the role of recognised entities into the child protection system. They include providing recognised entities with a greater court advisory role by making them a party or expert in court proceedings,<sup>48</sup> changing their funding and legislative arrangements to increase their independence from the department,<sup>49</sup> and delegating more decision-making and casework responsibilities to them. It has also been suggested that greater attention be given to improving the skills of staff of recognised entities. The need for transparent processes for complaint handling and review has also been noted.<sup>50</sup>

Some members of the Commission's advisory group favour the separation of recognised entities from financial dependence on the department, and believe that they should have a court advisory role that is increased and properly supported. Currently the recognised entity is funded to provide cultural advice at the court phase, but this role has been performed inconsistently throughout the state. It was also noted by some members of the advisory group that, if the court advisory role were to be broadened, the legal skill base of those recruited into recognised entities might need to be reviewed and enhanced. They might also need access to independent legal advice, an option that is currently not available.

#### **7.2.4 Placing greater child protection control in the hands of Aboriginal and Torres Strait Islander communities and agencies**

During its consultations, the Commission has been told that Aboriginal and Torres Strait Islander communities and agencies need to be more active in designing and delivering culturally oriented child protection services.<sup>51</sup> It is argued that doing so would help to both reduce the over-representation of Aboriginal and Torres Strait Islander children in the system and improve the quality of services provided to them and their families. Stakeholders have stressed the need for this to include greater involvement across the entire spectrum from prevention to tertiary functions.

In its previous *Options paper* (Queensland Child Protection Commission of Inquiry 2012), the Commission detailed some local and interstate initiatives that have sought to increase the role of Aboriginal and Torres Strait Islander families, communities and agencies, mainly within the tertiary end of the continuum. The paper considered the role of local Family Responsibilities Commissioners in restoring local authority and social norms in four discrete Aboriginal and Torres Strait Islander communities – Aurukun, Coen, Hope Vale and Mossman Gorge. Under the Family Responsibilities Commission program, a resident's receipt of government payments can be linked to making and maintaining improvements in the care of their children (Family Responsibilities Commission 2011a, 2011b).

Community conferencing is at the centre of the Family Responsibilities Commission model. Residents may be referred for conferencing by local agencies for a range of infractions, including having a child absent from school without reasonable excuse, not having a child enrolled in school or being the subject of a child safety report. The standard process is for a conference to be convened by the Family Responsibilities Commissioner and two local Commissioners.<sup>52</sup> Local Commissioners are all respected community Elders. There are 18 local Commissioners in the four communities. During the conference, the three Commissioners, the

resident and the local Family Responsibilities Commission coordinator discuss the referral and determine what actions should be taken by the resident to correct the problem. At the conclusion of the conference the Commission may:

- decide that no further action be taken
- issue a warning
- recommend or direct the person to attend a community support service
- order the person to undergo conditional income management
- require the person to undergo conditional income management imposed by Centrelink for a period of between three and 12 months.

A 2010 review of the Family Responsibilities Commission implementation concluded that the Family Responsibilities Commission was contributing positively to the restoration of local authority and that, although change was often fragile, positive outcomes were being achieved (Department of Families, Housing, Community Services and Aboriginal and Torres Strait Islander Affairs 2010). In September 2012, the Queensland Government announced that it would extend funding for the Family Responsibilities Commission to the end of 2013 (Nicholls & Elmes 2012). A total of \$1.8 million has been allocated to the Family Responsibilities Commission, with a further \$3.9 million in related programs. The future of the Family Responsibilities Commission beyond this date is unclear.

The *Options paper* also noted the growing national and international trend toward the delegation of statutory and non-statutory child protection services to Indigenous-controlled and managed agencies, highlighting recent developments in the Canadian province of Manitoba (Libesman 2004, 2008). Since the early 1990s, Manitoba has been engaged in a significant reform process to fully delegate child protection services for Aboriginal children to its First Nations and Métis communities. Under these reforms, First Nations and Métis authorities have been granted the right to establish child protection services to meet the needs of their respective communities. Though each authority is required to deliver services in accordance with the same governing child protection legislation,<sup>53</sup> they are free to develop their own local policies and to fund and manage their own local agencies.

Recent developments in Victoria and New South Wales have also seen both jurisdictions change the delegation of statutory functions to Aboriginal and Torres Strait Islander child protection agencies. Most recently, the Protecting Victoria's Vulnerable Children Inquiry recommended that the government develop a 10-year plan that would delegate the care and control of Aboriginal children to Aboriginal agencies. The plan was to include a sustainable funding model to support the transfer of guardianship, a process to progressively transfer responsibility for out-of-home care placements, and increased training opportunities for the staff of Aboriginal community-controlled organisations to improve skills in child and family welfare (Cummins, Scott & Scales 2012). The Commission has been told that plans are currently under way to trial the transfer of guardianship of Aboriginal children to the Victorian Aboriginal Child Care Agency in the northern metropolitan region of Melbourne.<sup>54</sup>



More significant reforms toward delegation are currently under way in New South Wales. Acting on the recommendations of the 2008 Wood Inquiry, the New South Wales Government has commenced a 5–10-year plan to transfer the provision of out-of-home care services to the non-government sector. This will include responsibility for case planning. As part of this transition, the provision of out-of-home care services for Aboriginal and Torres Strait Islander children will be transferred to Aboriginal and Torres Strait Islander controlled agencies accredited by the New South Wales Children’s Guardian. The transition process is being overseen in collaboration between Family and Community Services, the Association of Children’s Welfare Agencies and the Aboriginal Child Family and Community Services State Secretariat (AbSec) (Ministerial Advisory Group 2011). AbSec has established a six-member Transition Team to assist Aboriginal agencies in the transition process. Initial planning identified the need to increase case management capacity in the sector from 370 to 3,000 placements for all children to be case managed by an Aboriginal and Torres Strait Islander agency. The full transition is planned to occur by 2022.

It has been strongly suggested to the Commission that it recommend similar moves toward the delegation of statutory child protection functions to Aboriginal and Torres Strait Islander agencies (to be carried out over time as capacity and expertise are built). For example, in its submission to the Commission, the Aboriginal and Torres Strait Islander Legal Service proposes legislative amendments that would allow recognised entities to deliver targeted case work, family group meetings (described in 10.2.6), and cultural support planning and implementation, and assist children through mentoring and transition to adulthood.<sup>55</sup>

Although many submissions have advocated a greater role for Aboriginal and Torres Strait Islander controlled agencies in child protection, it has also been recognised that all agencies need to provide a culturally safe and responsive environment for Aboriginal and Torres Strait Islander children and their families. This includes building a culturally competent workforce across all aspects of the sector. Increasing the cultural competence of the child protection workforce is considered further in Chapter 8 of this discussion paper.

### 7.2.5 Learning from past child protection practices

In 1997, the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families released the landmark *Bringing them home* report (Human Rights and Equal Opportunities Commission 1997). The National Inquiry’s report detailed the history and devastating consequences of the forced removal of Aboriginal and Torres Strait Islander children from their families.

The report estimated that between one in ten and one in three Aboriginal and Torres Strait Islander children were forcibly removed from their families between 1910 and 1970. It was concluded that no family has been left unaffected. Children who were removed from their families were routinely discouraged from family contact and encouraged to reject their Aboriginality. Children who lived in institutions and missions often experienced harsh conditions and received limited education. Physical abuse and excessive punishment of children were common and many were also subjected to sexual abuse.

The forced removal of Aboriginal and Torres Strait Islander children has had profound and lasting impacts on Aboriginal and Torres Strait Islander families and communities. It has been the source of much personal grief and loss. It has also contributed to the social disadvantage that is experienced by many Aboriginal and Torres Strait Islander people today, and has left many with little trust in government, churches and non-government organisations. The trans-generational effects of the trauma caused by forced removals have been well recognised (Atkinson 2002). The harm caused by these policies and its impact on contemporary family life is illustrated in the many personal accounts detailed in the *Bringing them home* report:

There's still a lot of unresolved issues within me. One of the biggest ones is I cannot really love anyone no more. I'm sick of being hurt. Every time I used to get close to anyone they were just taken away from me. The other fact is, if I did meet someone, I don't want to have children, cos I'm frightened the welfare system would come back and take my children. (Human Rights and Equal Opportunity Commission 1997, p184)

That's also impacted on my own life with my kids. I have three children. And it's not as though I don't love my kids. It's just that I expect them to be as strong and independent and to fight for their own self like I had to do. And people misinterpret that as though I don't care about my kids. But that's not true. I do love my kids. But it's not as though the Church provided good role models, either, for a proper family relationship. (Human Rights and Equal Opportunity Commission 1997, p189)

The Commission has been impressed by the resilience of Aboriginal and Torres Strait Islander men and women in adapting to the ongoing effects and intergenerational consequences of past practices. The Commission has been made aware of the determined and committed work of groups such as the ex-Cherbourg Boys Dormitory men. This community-led group works to support healing and document the stories of men previously separated from their families and institutionalised as children.<sup>56</sup>

In keeping with the recommendation of the National Inquiry, both the Queensland Government and the Australian Government have formally apologised for the forced removal of Aboriginal and Torres Strait Islander children from their families (Beattie 1999; Rudd 2008). Both levels of government have also made commitments to learn from and redress the damage caused by these policies and practices.

It has been argued, however, that many of these lessons have yet to be fully comprehended or acted upon. Douglas and Walsh (2012) highlight the view among some legal professionals that, although legislation and policies may have changed, the legacy of forced removals continues to be reflected in the growing numbers of Aboriginal and Torres Strait Islander children being placed in out-of-home care and with non-Indigenous carers. McGlade (2012) has argued that one of the most important lessons to be learnt from past practice is the need to empower and partner with local communities to develop their own local responses to child protection, with a particular emphasis on the empowerment of women and children.

## 7.2.6 The Aboriginal and Torres Strait Islander Child Safety Taskforce

In 2009, the Aboriginal and Torres Strait Islander Child Safety Taskforce was established by the department to provide advice on reducing the over-representation of Aboriginal and Torres Strait Islander children in the child protection system and improve the quality of services for them and their families. This cross-agency taskforce comprised representatives of Queensland's key peak bodies, Aboriginal and Torres Strait Islander child protection practitioners and representatives from government agencies.<sup>57</sup>

*Together keeping our children safe and well* outlines the taskforce's comprehensive plan. The plan proposed a series of actions to be undertaken by the government, the non-government sector and communities across four priority areas (see Table 5):

- sharing a common vision and commitment
- providing the right services at the right time
- ensuring the existence and application of sound legislation, policy, practice and procedures
- building a robust system and network of Aboriginal and Torres Strait Islander service providers.

In response to the comprehensive plan, the department developed the Blueprint for implementation strategy: to reduce the over-representation of Aboriginal and Torres Strait Islander children and young people in Queensland's child protection system. The Blueprint supported the intent of the comprehensive plan. The key themes in the Blueprint were the need to engage and partner with Aboriginal and Torres Strait Islander communities about the protection and care of their children, to provide earlier support for families and to build local capacity for change.

**Table 5: Aboriginal and Torres Strait Islander Child Safety Taskforce Comprehensive Plan**

Priority area	Summary of actions
Sharing a common vision and commitment	<ul style="list-style-type: none"> <li>• Develop and implement a shared 'vision statement' and 'statement of commitment' that guides child protection and related services to Aboriginal and Torres Strait Islander children, young people and their families.</li> </ul>
Providing the right services at the right time	<ul style="list-style-type: none"> <li>• Design and establish services that reflect the preferences of Aboriginal and Torres Strait Islander people for holistic service delivery, placing an emphasis on prevention and early intervention, and building on the strengths of communities.</li> <li>• Establish processes to link and monitor the effectiveness of strategies initiated by government and non-government agencies as part of 'closing the gap' and addressing the economic and social disadvantage experienced by Aboriginal and Torres Strait Islander peoples.</li> </ul>
Ensuring the existence and application of sound legislation, policy, practice and procedures	<ul style="list-style-type: none"> <li>• Strengthen the processes for ensuring that statutory decision-making is properly informed through the active participation of Aboriginal and Torres Strait Islander service providers.</li> <li>• Review current policies, practices and procedures for assessing the needs of Aboriginal and Torres Strait Islander children and young people and making decisions about the nature and extent of interventions needed to secure their safety from harm.</li> <li>• Undertake research into models for transferring the authority for child and family services to Aboriginal and Torres Strait Islander peoples, with a view to conducting one or more trials.</li> <li>• Examine the adequacy of the <i>Child Protection Act 1999</i> in meeting the best interests of Aboriginal and Torres Strait Islander children and young people and, subject to the outcomes of this review, amending legislation to reflect a shared 'vision statement'.</li> </ul>
Building a robust system and network of Aboriginal and Torres Strait Islander service providers	<ul style="list-style-type: none"> <li>• Develop existing and future workforce capacity for recruitment by Aboriginal and Torres Strait Islander controlled agencies.</li> <li>• Develop strategies for supporting and resourcing the effective governance and management of Aboriginal and Torres Strait Islander controlled agencies.</li> </ul>

**Source:** Adapted from Aboriginal and Torres Strait Islander Child Safety Taskforce 2009.

In formulating its recommendations, the Commission will carefully consider the proposals and outcomes of this plan and its implementation. It will also take account of other recent developments in the child protection and social policy landscape. These include initiatives currently being implemented under the Queensland Government's *Just futures 2012–2015 strategy*, the *Closing the gap national partnership agreements* and the *National framework for protecting Australia's children*.

### 7.3 Options for reform

A significant change in approach is needed if there is to be a reduction in the high numbers of Aboriginal and Torres Strait Islander children in Queensland's child protection system. To date, nothing has worked to remedy this system failure, so there is a critical need to consider innovative and radical approaches to make a difference. First and foremost, there is a need to balance the current focus on tertiary responses with a significant increase in preventative efforts and parenting supports. Second, Aboriginal and Torres Strait Islander communities and agencies need a more active role in the design and delivery of primary, secondary and tertiary child protection services. Third, a substantial improvement is needed in the number of Aboriginal and Torres Strait Islander people throughout the child protection workforce. In making the following proposals for reform, the Commission is mindful that there are a number of tensions that need to be considered. In particular:

- Queensland has many different communities, including urban, regional, rural and remote communities. Each region has its own set of circumstances and needs. The Commission is looking to provide a framework that will guide reform without prescribing a one-size-fits-all approach, particularly for discrete Aboriginal and Torres Strait Islander communities.
- The Commission may propose expanding the role of Aboriginal and Torres Strait Islander controlled agencies in child protection. However, this needs to be done in line with the capacities of local agencies, particularly with respect to the transfer of any statutory functions. Appropriate strategies are needed to strengthen the capacities of the sector over time and to ensure appropriate monitoring of services.
- Though Aboriginal and Torres Strait Islander controlled agencies should be taking a more active role in the protection of Aboriginal and Torres Strait Islander children, all agencies have a responsibility to provide services that meet the needs of Aboriginal and Torres Strait Islander children and families.
- Increasing the role of Aboriginal and Torres Strait Islander controlled agencies may make it difficult to simultaneously develop and maintain an appropriately sized workforce within Child Safety and mainstream non-government organisations. There is currently a limited pool of qualified and experienced Aboriginal and Torres Strait Islander child protection workers and this presents a significant challenge.
- Most funding to Aboriginal and Torres Strait Islander controlled agencies is for tertiary-related functions (recognised entities, foster and kinship care and family intervention services). Continuing to expand these functions could come at the cost of preventative efforts. Decisions need to be made about the appropriate balance between the resources provided for preventative, secondary and tertiary functions.

The following proposals are put forward for further discussion. These options do not specifically address the needs of the one in ten Aboriginal and Torres Strait Islander children living in Queensland's discrete communities. The needs of these children and communities will be considered further by the Commission in the coming months.

### **7.3.1 Aboriginal and Torres Strait Islander child and family wellbeing services**

The Child Protection Act (s 7(f)) requires the chief executive to help Aboriginal and Torres Strait Islander communities to establish programs for preventing or reducing incidences of harm to children in the communities.

The Commission may propose an expanded network of integrated Aboriginal and Torres Strait Islander child and family wellbeing services throughout Queensland. This Aboriginal and Torres Strait Islander controlled network would offer a significantly expanded range of early intervention activities aimed at preventing the occurrence of abuse and neglect and reducing the need for tertiary interventions with Aboriginal and Torres Strait Islander families. This may include a focus on community education and parental supports for those at risk but not in contact with statutory services.

In addition to providing early intervention services, these agencies would re-integrate the core secondary and tertiary child protection functions that in many cases have been split across agencies. These are:

- family support services
- recognised entity (cultural advisory) services
- foster and kinship care services
- family intervention services.

The number of Aboriginal and Torres Strait Islander child and family wellbeing services to be established would need to be based on an appropriate mapping of existing services and gaps throughout Queensland. It is suggested that the funding and infrastructure to establish the network could be achieved in a number of ways:

- building on existing Aboriginal and Torres Strait Islander controlled services such as Aboriginal and Torres Strait Islander Medical Services and/or Child and Family Centres<sup>58</sup>
- increasing the proportion of the department's non-government grants funding being allocated to Aboriginal and Torres Strait Islander controlled agencies from the current 15.9 per cent
- shifting some funding from tertiary-related functions (for example, recognised entities and foster and kinship care services) into early intervention functions
- investing new funds or reallocating funding from related portfolios.

**Question 21**

What would be the most efficient and cost-effective way to develop Aboriginal and Torres Strait Islander child and family wellbeing services across Queensland?

**Question 22**

Could Aboriginal and Torres Strait Islander child and family wellbeing services be built into existing service infrastructure, such as Aboriginal and Torres Strait Islander Medical Services?

The Commission is aware that there are genuine constraints that need to be overcome for some Aboriginal and Torres Strait Islander agencies to effectively provide their existing and additional services. The Commission may propose expanding the functions of the peak body to address these constraints and to support the establishment of new Aboriginal and Torres Strait Islander child and family wellbeing services. Based on the information provided to the Commission to date, it is suggested that the functions of an expanded peak may include:

- working with higher education institutions to improve education, training and professional development opportunities for Aboriginal and Torres Strait Islander staff



- working with government and the sector to develop agreed practice frameworks and manuals
- working with government and the sector to develop and facilitate joint training on the role of all parties in the protection of Aboriginal and Torres Strait Islander children
- assisting agencies to form partnerships to acquire and build needed expertise
- working with government to develop career pathways in all sectors and portability of staff between the government and non-government sectors
- working with agencies to establish appropriate governance arrangements and develop appropriate financial management and reporting systems
- working with agencies, government and higher education institutions to develop and trial new practice models designed specifically for Aboriginal and Torres Strait Islander children and families.

An expanded peak body should also have a significant role in working with government and mainstream non-government agencies to build their capacities to respond effectively to Aboriginal and Torres Strait Islander children and families.

### **Question 23**

How would an expanded peak body be structured and what functions should it have?

The Commission may also propose changes that would enable some additional statutory functions to be delegated to suitably accredited Aboriginal and Torres Strait Islander child and family wellbeing services. Some of the statutory functions that the Commission believes could be partially or fully delegated to agencies are:

- the investigation and assessment of risk
- the coordination and facilitation of family group meetings
- the assessment and approval of kinship and foster carer placements
- management of cultural planning
- management of transition planning.

To enable this to occur, it may be proposed that the Queensland Government make necessary legislative amendments to enable the chief executive to delegate statutory functions to suitably accredited Aboriginal and Torres Strait Islander agencies. As well, it may be proposed that the Queensland Government identify one or more sites for trialling the delegation of functions.

### **Question 24**

What statutory child protection functions should be included in a trial of a delegation of functions to Aboriginal and Torres Strait Islander agencies?



### Question 25

What processes should be used for accrediting Aboriginal and Torres Strait Islander agencies to take on statutory child protection functions and how would the quality of those services be monitored?

### 7.3.2 A clear, shared vision underpinned by legislation

The Commission agrees with the Aboriginal and Torres Strait Islander Child Protection Taskforce that changing the approach to protecting Aboriginal and Torres Strait Islander children should start with a shared vision across government, mainstream agencies and Aboriginal and Torres Strait Islander agencies. This vision should be underpinned by appropriate legislation, policy and practice support, and a commitment to genuine and respectful partnership by all parties.

The Commission may propose a specific chapter of the legislation to govern the protection and care of Aboriginal and Torres Strait Islander children. This chapter would bring together all relevant provisions relating to the protection of Aboriginal and Torres Strait Islander children. It would also guide the duties and responsibilities of the department and of government and non-government agencies delivering services to Aboriginal and Torres Strait Islander children and families, and the rights and responsibilities of parents, families and communities in caring for Aboriginal and Torres Strait Islander children.

The principles of this shared vision and the specific provisions of a new chapter in legislation should be developed in partnership with all relevant state and federal government departments, the non-government sector and Aboriginal and Torres Strait Islander communities. It is suggested that the following parties would be consulted in the development of this work:

- the Department of Premier and Cabinet and relevant state government agencies and statutory bodies
- Aboriginal and Torres Strait Islander controlled organisations providing child protection and related services
- traditional owners, Elders and community stakeholders in remote, regional and urban communities
- the Queensland Aboriginal and Torres Strait Islander Child Protection Peak and other relevant peak bodies
- mainstream non-government providers of child protection and related services
- the Department of Families, Housing, Community Services and Indigenous Affairs.

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- <sup>1</sup> Term of Reference 6 states that the Commissioner’s recommendations should include ‘(b) strategies to reduce the over-representation of Aboriginal and Torres Strait Islander children at all stages of the child protection system, particularly out-of-home care’.
- <sup>2</sup> Submission of Department of Communities, Child Safety and Disability Services, December 2012 [p21].
- <sup>3</sup> Exhibit 9, Statement of Brad Swan, 10 August 2012 [p5: para 20].
- <sup>4</sup> Submission of Department of Communities, Child Safety and Disability Services, December 2012 [p21].
- <sup>5</sup> Submission of Department of Communities, Child Safety and Disability Services, December 2012 [p21].
- <sup>6</sup> Source: Government Statistician, ‘Population estimates by Indigenous status, LGAs, 2001 to 2011’, ABS unpublished data.
- <sup>7</sup> Transcript, William Hayward, 28 August 2012, Brisbane [p45: para 10]; Transcript, Wayne Briscoe, 6 September 2012, Brisbane [p20: para 10].
- <sup>8</sup> Submission of Townsville Aboriginal and Islanders Health Services, October 2012 [p4].
- <sup>9</sup> Transcript, Wayne Briscoe, 6 September 2012, Brisbane [p26: para 10]; Transcript, Bruce Marshall, 10 October 2012, Aurukun [p53: para 30].
- <sup>10</sup> Statement of Joan McNally, 5 September 2012 [p5: para 31]; Transcript, Bruce Marshall, 10 October 2012, Aurukun [p53: para 30].
- <sup>11</sup> Submission of Townsville Aboriginal and Islanders Health Services, October 2012 [p22].
- <sup>12</sup> Submission of Aboriginal and Torres Strait Islander Women’s Legal Service NQ, October 2012 [p7]; Submission of Townsville Aboriginal and Islanders Health Services, October 2012 [p23]; Statement of William Hayward, 24 August 2012 [p15: para 57].
- <sup>13</sup> Submission of Aboriginal and Torres Strait Islander Legal Service, November 2012 [p12].
- <sup>14</sup> Consultation with Legal Aid Queensland (Cairns), September 2012; Consultation with Apunipima Cape York Health Council (Cairns), September 2012.
- <sup>15</sup> Submission of Townsville Aboriginal and Islanders Health Services, October 2012 [p7]; Submission of Aboriginal and Torres Strait Islander Women’s Legal & Advocacy Service, September 2012 [p17]; Consultation with Queensland Indigenous Family Violence Legal Service (Cairns), September 2012.
- <sup>16</sup> Submission of Aboriginal and Torres Strait Islander Women’s Legal Service NQ, October 2012 [p11]; Statement of Debra Malthouse, 28 September 2012 [p2]; Submission of Townsville Aboriginal and Islanders Health Services, October 2012 [p15].
- <sup>17</sup> Submission of Aboriginal and Torres Strait Islander Women’s Legal & Advocacy Service, September 2012 [p14]; Exhibit 58, Statement of Joan McNally, 5 September 2012 [p6: para 42].
- <sup>18</sup> Submission of Aboriginal and Torres Strait Islander Women’s Legal & Advocacy Service, September 2012 [pp6–7]; Statement of Maneisha Jones, 26 September 2012 [p1: para 10]; Exhibit 58, Statement of Joan McNally, 5 September 2012 [p3: para 22]; Exhibit 63, Statement of David Goodinson, 5 September 2012 [p5: para 22]; Statement of Gregory Anderson, 5 October 2012 [p5: para 25].
- <sup>19</sup> Exhibit 58, Statement of Joan McNally, 5 September 2012 [p7: para 50].
- <sup>20</sup> Submission of Queensland Aboriginal and Torres Strait Islander Child Protection Peak Ltd, October 2012 [p7].
- <sup>21</sup> Submission of Townsville Aboriginal and Islanders Health Services, October 2012 [pp26–27].
- <sup>22</sup> Submission of Townsville Aboriginal and Islanders Health Services, October 2012 [p27].
- <sup>23</sup> The Aboriginal and Torres Strait Islander Child Safety Taskforce is a cross-agency working group established by the department in 2009 to provide advice on reducing the over-representation of Aboriginal and Torres Strait Islander children in the child protection system and improve the quality of services for them and their families. More information about the taskforce can be found in section 2.1.7.
- <sup>24</sup> Submission of Queensland Aboriginal and Torres Strait Islander Child Protection Peak Ltd, October 2012 [p8].
- <sup>25</sup> In addition to the \$32.7 million in grants to Aboriginal and Torres Strait Islander agencies, the department allocated a further \$16.3 million in funds to mainstream agencies for the delivery of Aboriginal and Torres Strait Islander-specific child protection services. These programs included one Family Intervention Service, six Safe Houses, two Safe Havens and eight residential care facilities.

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- <sup>26</sup> Statement of Brad Swan, 31 August 2012, Attachment 3; Exhibit 9, Statement of Brad Swan, 10 August 2012, Attachment 7.
- <sup>27</sup> Submission of Queensland Aboriginal and Torres Strait Islander Child Protection Peak, October 2012 [p8].
- <sup>28</sup> Statement of Julie Bray, 17 December 2012 [p3: para 15].
- <sup>29</sup> Submission of Townsville Aboriginal and Islanders Health Services, October 2012 [p16]; Exhibit 58, Statement of Joan McNally, 5 September 2012 [p6: para 39].
- <sup>30</sup> Statement of Gerald Featherstone, 24 January 2013 [p2: para 13].
- <sup>31</sup> Confidential Submission.
- <sup>32</sup> Frontline staff forums, 2012.
- <sup>33</sup> Submission of Townsville Aboriginal and Islanders Health Services, October 2012 [p17: para 2].
- <sup>34</sup> Submission of Townsville Aboriginal and Islanders Health Services, October 2012 [p28].
- <sup>35</sup> Statement of Julie Bray, 17 December 2012 [p15: para 61]; Submission of Queensland Aboriginal and Torres Strait Islander Child Protection Peak, October 2012 [p9].
- <sup>36</sup> Service agreements between the department and recognised entities identify six key decision-making points: intake, assessment, court phase, placement, case planning and reunification.
- <sup>37</sup> Statement of William Hayward, 24 August 2012 [p15: para 57].
- <sup>38</sup> Submission of Aboriginal and Torres Strait Islander Women's Legal Service NQ, October 2012 [p9]; Statement of Julie Bray, 17 December 2012 [p11: para 40]; Submission of Townsville Aboriginal and Islanders Health Services, October 2012 [p22].
- <sup>39</sup> Statement of Julie Bray, 17 December 2012 [p11: para 40].
- <sup>40</sup> Submission of Townsville Aboriginal and Islanders Health Services, October 2012 [pp23–24].
- <sup>41</sup> Submission of Townsville Aboriginal and Islanders Health Services, October 2012 [p23].
- <sup>42</sup> Submission of Townsville Aboriginal and Islanders Health Services, October 2012 [p23].
- <sup>43</sup> Submission of Aboriginal and Torres Strait Islander Women's Legal Service NQ, October 2012 [pp9–10].
- <sup>44</sup> Frontline staff forums, 2012.
- <sup>45</sup> Submission of Townsville Aboriginal and Islanders Health Services, October 2012 [pp8–9].
- <sup>46</sup> Submission of Aboriginal and Torres Strait Islander Women's Legal & Advocacy Service, September 2012 [p8]; Submission of Townsville Aboriginal and Islanders Health Services, October 2012 [p23].
- <sup>47</sup> Submission of Aboriginal and Torres Strait Islander Women's Legal & Advocacy Service, September 2012 [p8].
- <sup>48</sup> Submission of Aboriginal and Torres Strait Islander Women's Legal & Advocacy Service, September 2012 [p8].
- <sup>49</sup> Submission of Aboriginal and Torres Strait Islander Women's Legal Service NQ, October 2012 [p10]; Submission of Townsville Aboriginal and Islanders Health Services, October 2012 [p32].
- <sup>50</sup> Submission of Aboriginal and Torres Strait Islander Women's Legal & Advocacy Service, September 2012 [p9].
- <sup>51</sup> Submission of Queensland Aboriginal and Torres Strait Islander Child Protection Peak, October 2012 [p6]; Submission of Remote Area Aboriginal & Torres Strait Islander Child Care Advisory Association, December 2012 [p2]; Submission of Aboriginal and Torres Strait Islander Legal Service, November 2012 [p21].
- <sup>52</sup> Under amendments to the process in October 2010, three local Commissioners can hold a conference in certain circumstances.
- <sup>53</sup> *Child and Family Services Act 1984* (Manitoba).
- <sup>54</sup> Consultation with Victorian Aboriginal Child Care Agency, 26 November 2012.
- <sup>55</sup> Submission of Aboriginal and Torres Strait Islander Legal Service, November 2012 [p40].
- <sup>56</sup> *National Indigenous Times*, 22 August 2012.
- <sup>57</sup> The agencies represented were the Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP), the Queensland Council of Social Services (QCOSS), PeakCare Queensland, Foster Care Queensland (FCQ), the CREATE Foundation, the Coalition of Aboriginal and Torres Strait Islander

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Human Services Organisations and the Commission for Children and Young People and Child Guardian. Secretariat support was provided by the Department of Communities, Child Safety and Disability Services.

<sup>58</sup> Child and Family Centres are being developed under the *Closing the gap national partnership agreements*.