Queensland Child Protection Commission of Inquiry: emerging issues

September 2012

Disclaimer

This paper is not intended to provide legal advice, and has been prepared by the Commission only to respond to the terms of reference issued to it by the Premier of Queensland. While all reasonable care has been taken in the preparation of this publication, no liability is assumed for any errors or omissions.

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Abbreviations

CCYPCG	Commission for Children and Young People and Child Guardian
CMC	Crime and Misconduct Commission
Cwlth	Commonwealth
ICMS	Integrated Client Management System
QCC	Queensland Crime Commission
QPS	Queensland Police Service

Glossary

Indigenous Child Placement Principle	Requires that an Indigenous child who is to be placed in out-of-home care be placed—in order of preference—with a: (a) member of his or her family; (b) member of his or her community who has a relationship of responsibility for the child; (c) member of the child's community; (d) person with the same Indigenous cultural background as the child; or (e) non-Indigenous person who is able to ensure that the child maintains significant contact with his or her family, community, or communities.
Notification	The term 'notification' refers to the process whereby a professional or other member of the community lodges a report with the appropriate statutory child protection department to signify that they have reason to believe that 'a child is in need of protection'. Depending on the circumstances, not all reports received by a child protection department will be recorded as a 'notification'. Where, for example, a determination is made that a child and family are better served by family support services rather than a child protection response, and the alleged behaviour does not meet the definition of a 'child in need of protection', a 'child concern report' or equivalent may be recorded instead.
Secondary services	Secondary interventions target families who are 'at risk' for child maltreatment. Where families are at risk for child maltreatment (due to the presence of one or more risk factors for child maltreatment), secondary approaches prioritise early intervention. Secondary interventions generally involve early screening to detect children who are most at risk, followed by a combination of interventions (for example, home visiting, parent education, and skills training) to address the risk factors for child maltreatment.
Substantiation	The term 'substantiation' refers to a possible outcome of an investigation. To substantiate means that there is reasonable cause to believe that the child has been, is being or is likely to be abused or neglected or otherwise harmed.
Tertiary services	Tertiary interventions target families in which child maltreatment has already occurred (e.g., statutory child protection services). Tertiary interventions seek to reduce the long-term implications of maltreatment and to prevent maltreatment recurring. Given that tertiary interventions operate once child maltreatment has occurred or is believed to have occurred, they have been assessed as reactive and 'after-the-fact' approaches.

Background

The Queensland Child Protection Commission of Inquiry was established on 1 July 2012 to review the effectiveness of the child protection system in Queensland. The terms of reference for the Commission, provided in full at Appendix 1, require it to chart a road map for the child protection system for the next decade.

The Commission is required by the terms of reference to make 'full and careful inquiry in an open and independent manner' and 'may hold public and private hearings in such a manner and in such locations as may be necessary and convenient'.

The Commission will inform itself via:

- submissions from individuals and organisations about their experiences with the child protection system – the first round of submissions will close on 28 September 2012 and a second round of submissions will be received through December 2012 and January 2013

- public hearings convened throughout Queensland to seek information from individuals and organisations who have knowledge about the child protection system – a first round of hearings will be held in Brisbane, Beenleigh, Ipswich, Aurukun, Cairns, Townsville, Mount Isa and Rockhampton between August and November 2012, with a second round planned for early 2013

- visits to a number of key child protection facilities and services throughout Queensland

- information and documentation requested from key government agencies

- consultation with an expert advisory group which will be convened twice during the course of the Inquiry

- engaging consultants to advise on discrete topics and issues outside the expertise of the Commission and its staff

- private hearings and meetings with individuals and organisations who do not wish to have their experiences and views made public.

This paper has been prepared to provide some initial information about the key child protection issues that have emerged during the course of the Queensland Child Protection Commission of Inquiry to date. It is not intended to be an exhaustive list of the issues the Commission wishes to address or respond to as part of its work. It is hoped that this short paper, as well as a second paper entitled *Options for Reform*, planned for release in October, will simply provide some additional topics for debate and discussion, and perhaps guide the development of submissions that individuals and organisations may wish to provide to the Commission.

The remainder of this paper will briefly describe and detail six key issues that the Commission has considered over its first two months of operation.

1 Mandatory reporting

Mandatory reporting refers to a legislative requirement by some groups of people and professionals to report child protection concerns. Each state and territory in Australia has different laws relating to mandatory reporting (Australian Institute of Family Studies 2012).

In Queensland, the following groups of people are required under state or federal legislation to report any suspected physical, sexual or psychological abuse, and neglect, of a child:

- doctors and registered nurses

- staff of schools, including teachers

- employees of the Department of Communities, Child Safety and Disability Services, and employees of departmental, and licensed, care providers

- the Commissioner for Children and Young People and Child Guardian

- personnel of the Family Court of Australia and the Federal Magistrates Court.

In addition, under Queensland Police Service (QPS) policy, police officers are required to report cases of domestic violence where children normally reside at the residence, regardless of whether the incident is likely to meet the threshold for child protection intervention.

The main justification for mandatory reporting is philosophical. It acknowledges that children have a basic right to safety and community protection and elevates the interests of child safety above the adult right of privacy.

Improving disclosure and reporting rates of child sexual and other forms of abuse is also widely recognised as a key requirement for better targeted police and child protection agency responses to the problem. Effective pre-emptive and remedial action depend on timely reporting from victims, supporters and those in the regulated employment sector, such as teachers.

However, there are some questions about the relative merits of mandatory reporting versus voluntary reporting in a child protection setting. One of the key outcomes of mandatory reporting is an increase in reports. Many would argue that mandatory reporting leads to the over-reporting of incidents, with most reports falling short of the statutory threshold for a full child protection assessment. That is, the information received by Child Safety Services does not suggest a child may be in need of protection.

In 2010–2011, 90,863 of the 112,518 reports received by Child Safety Services did not meet the threshold for a full assessment. This included 84 per cent of referrals made by the QPS, 79 per cent of referrals from the then Department of Education and Training and 73 per cent of referrals from Queensland Health.[1] It has been estimated by Child Safety Services that each of these referrals can result in up to four hours work for departmental officers.[2]

In an attempt to reduce the number of reports that fail to meet the assessment threshold, Child Safety Services has developed and trialled the use of the Queensland Child Protection Guide.[3] This guide takes reporters through a series of questions to help them determine whether a concern is serious enough to warrant referral to Child Safety Services or is better referred to a secondary service provider. The guide has been modelled on a guide recently introduced in NSW and has been introduced on a limited trial basis in South-East Queensland.

The Commission has heard from Child Safety Services that the introduction of the guide in NSW has had a significant impact in reducing the number of reports to their child safety services and that consideration should be given to mandating the use of the guide in Queensland.[4]

However, some stakeholders have identified potential benefits of continuing to refer and record all suspicions of abuse or harm, even if they are unlikely to meet the threshold for immediate assessment or intervention. For instance, Queensland Health's Child Safety Director has told the Commission:

> …on some occasions inputting that data has then added to a cumulative information base that has come from education, police, community sources that then gives that department the richness of information they need to actually make appropriate decisions about that child and family. So there's pros and there's cons in terms of workload and budget versus intelligence around the decision-making coming from all sources.[5]

Enforcing compliance with mandatory reporting laws is also problematic. There is doubt, for instance, about the extent to which section 67ZA of the *Family Law Act 1975* (Cwlth) is complied with. Under this section of the Act, personnel from the Family Court of Australia and the Federal Magistrates Court are required to notify child protection services where they have reasonable grounds for suspecting that a child has been abused, or is at risk of being abused.

Another issue that has been identified as being relevant to the Commission's terms of reference is the lack of uniformity: an inconsistency across mandated reporting categories and the diversity of grounds for notification across jurisdictions. While some jurisdictions have relatively narrow mandatory reporting requirements, others, like the Northern Territory, have very broad requirements. In the Northern Territory any person with grounds to suspect abuse or neglect is required by law to report it. It may be argued that this type of broad-based mandatory reporting puts too much pressure on the investigation and assessment resources of a system that is already under stress.

Perhaps most controversially, the Commission has raised for discussion the possibility of extending the mandated notifiers in Queensland to include the clergy and other religious bodies or organisations. At present, compulsory notification provisions covering members of non-government organisations, providers of sporting and recreational services, and ministers of religion are presently unique to South Australia.

Anecdotally, Child Safety Services currently intervenes in cases of alleged or suspected extra-familial child sexual abuse only where there are indications that the relationship between the perpetrator and the child's parent impairs the protective instincts or capabilities of the parent. However, misplaced trust, disbelief and denial are obvious risk factors for non-reporting in a religious affiliation context because of the historical moral and spiritual authority of clerics. Alleged cover-ups and secrecy involving offending within church schools and facilities are also being regularly highlighted in the media.

In November 2000, the Queensland Crime Commission (QCC) and QPS published the Project Axis report on criminal paedophilia (QCC & QPS 2000). Project Axis found that reporting requirements of suspected or alleged child sexual abuse in church communities and complaint-handling procedures lacked uniformity and strict adherence. Project Axis recommended consideration of external controls to improve the response and accountability of church institutions when faced with allegations of child sexual abuse, and suggested a role for the then Commission for Children and Young People as the advocate of child rights and interests.

In this context, questions for the Queensland Child Protection Commission of Inquiry include: do the Department of Communities, Child Safety and Disability Services and the Commission for Children and Young People and Child Guardian monitor and have input into the policies and practices of non-government schools and churches with regard to the handling of the suspected and alleged abuse of children? How is compliance with these policies and practices regulated and enforced? How is non-compliance dealt with? What external and internal mechanisms are in place for reviewing, standardising and improving them?

The Commission would benefit from submissions from the leadership of the organised churches within the Queensland community in relation to these issues. Submissions are also welcome from individuals and organisations in respect of mandatory reporting more broadly, about whether there is wisdom in following a broader mandatory reporting approach such as in the Northern Territory,

or whether the increase in reports that could be generated by this approach, and the challenges of enforcement outweigh any benefit.

2 Indigenous over-representation

The Commission's terms of reference specifically require the Commission to make recommendations that include strategies to reduce the over-representation of Aboriginal and Torres Strait Islander children in the child protection system.

One of the most significant and intractable problems facing the child protection system is the over-representation of Aboriginal and Torres Strait Islander children at every point in the child protection system. While Aboriginal and Torres Strait Islander children comprised only 6.4 per cent of all Queensland children aged 0–17 years in 2010, they made up 29.1 per cent of children who were the subject of a substantiated notification in 2010–11 and 37.5 per cent of children in out-of-home care as at 30 June 2011. The rate of Aboriginal and Torres Strait Islander children in out-of-home care more than tripled between 2002 and 2011 (see figure 1).

Figure 1: Children in out-of-home care at 30 June by Indigenous status (rate per 1,000 children), Queensland, 2001–11
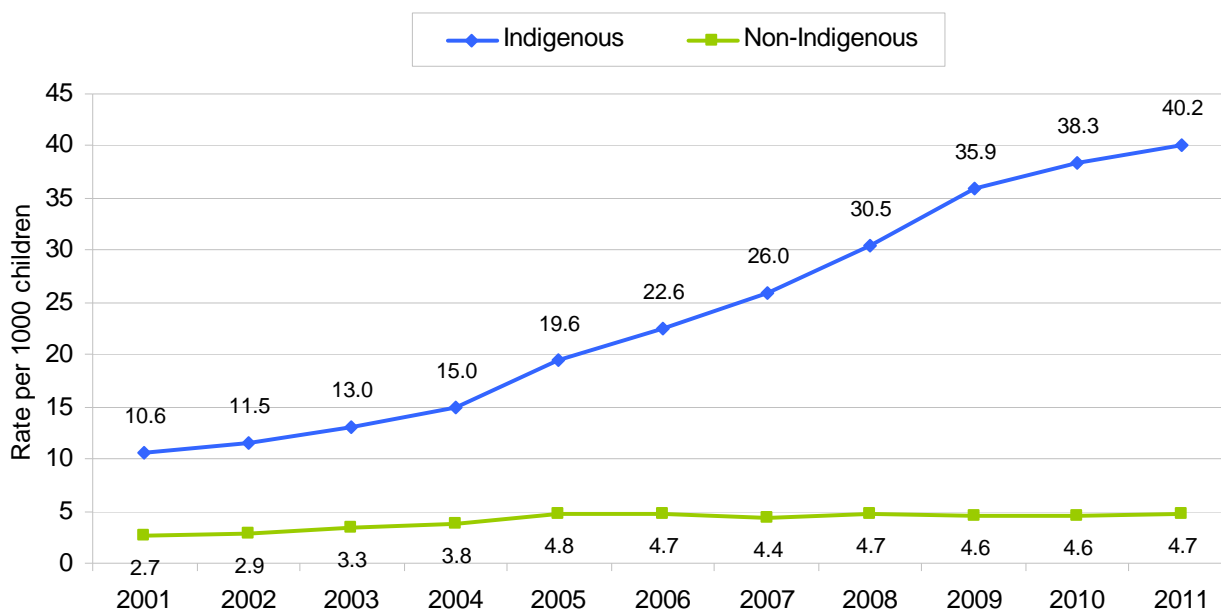
Source: Productivity Commission 2012, *Report on Government Services*

Notes: Rates per 1000 are based on estimated resident population aged 0–17 years as at 30 June, with the exception of 2011 which is based on population as at March 2011.

Non-Indigenous children include non-Indigenous children and children whose Indigenous status is unknown or not stated.

Indigenous over-representation was identified as a key issue for the child protection system by the Crime and Misconduct Commission (CMC) in its 2004 inquiry (CMC 2004) into the child protection system. The CMC report made a number of recommendations that were aimed at strengthening the role of independent community-based Indigenous organisations to provide culturally appropriate child protection services to the Indigenous community.

In addition, the CMC also recommended that the state's child protection services be required to comply with the Indigenous Child Placement Principle, as long as the placement is in the best interests of the child, and that this compliance be audited and reported on by the Commission for Children and Young People and Child Guardian.

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The CMC also recommended that, in situations where Indigenous children are placed with non-Indigenous carers, child protection legislation should specifically provide that contact be maintained with their kinship group, where this is in the best interests of the child.

Finally, in relation to specific issues relating to Cape York, the Gulf and Torres Strait regions, the CMC recommended that Queensland's child protection system provide culturally appropriate services that take account of the drug and alcohol related problems in some remote communities.

Since the CMC's inquiry, the over-representation of Indigenous children in out-of-home care has increased markedly. As shown in figure 1, Indigenous children were four times more likely than other children to be in out-of-home care in 2003 but almost nine times more likely to be in out-of-home care by 2011.

Programs and funding for specific Aboriginal and Torres Strait Islander services

It is broadly acknowledged that a major reason for the large number of Aboriginal and Torres Strait Islander children in the child protection system lies in the significant, systemic and sustained disadvantage that Indigenous people inherit and continue to experience on all key indicators of disadvantage:

> … the main harm and risk indicators for Aboriginal and Torres Straits Islander child are often grounded in neglect which can be directly linked to poverty and the low socio-economic status of many Aboriginal and Torres Strait Islander children and young people.[6]

> ...Indigenous communities in Australia, in Queensland, continue to be some of the most marginalised, disadvantaged groups in Australia. So it's no surprise that we have such a disproportionate number of reports of Indigenous children to the child safety arrangements.[7]

The Department of Communities, Child Safety and Disability Services has identified a number of specific programs and services that have been funded to try and address the over-representation of Indigenous children in the child protection system.[8] These are:

- Recognised Entities, funded to actively participate in significant decisions made by Child Safety Services in relation to Aboriginal and Torres Strait Islander children and to assist Child Safety Services to comply with the Indigenous Child Placement Principle. In 2011–12, 10 Recognised Entities were funded at a total of $9,079,219.

- Aboriginal and Torres Strait Islander Family Support services were established in 2010 to fund 11 service hubs throughout Queensland, to provide a range of intensive and practical in-home support to Aboriginal and Torres Strait Islander families who have been referred by Child Safety Services. Funding for these services totalled $9,434,020 in 2011–12.

- Safe Houses provide a supervised residential care service (either short or longer term) for children and young people aged 0–17 living in nine discrete Aboriginal and Torres Strait Islander communities. A related family intervention service also provides practical support to families, and parenting interventions during supervised contact. In 2011–12, Safe Houses were allocated funding of $8,457,070.

- Safe Haven services are located in Mornington Island, Coen, Cherbourg and Palm Island. These services provide culturally appropriate integrated services to respond to the safety needs of children, young people and families who are affected by domestic and family violence. Safe Havens, which aim to reduce demand on the tertiary child protection system, have funding of $2,097,585 in 2011–12.

- Funding of $635,673 was provided to the Queensland Aboriginal and Torres Strait Islander Child Protection Peak Limited in 2011–12, which advocates for the Indigenous child protection sector.

In addition to these Indigenous-specific services, Aboriginal and Torres Strait Islander children and families have access to the mainstream child protection services provided throughout Queensland.

Despite these, not insignificant, investments of resources in services to Aboriginal and Torres Strait Islander children in the child protection system, this group is still considerably over-represented, and projected to become more so as time passes. Based on 2010–11 figures, Child Safety Services has projected that, in 2012–13, 1 in every 1.6 Indigenous children will be known to them compared to 1 in every 4.2 children generally.[9]

It has been put to the Commission that part of the reason Indigenous children continue to be substantially over-represented in the child protection system is that current government investments and interventions are not correctly configured to address the disadvantage faced by many Aboriginal and Torres Strait Islander children and families. For instance, questions have been raised about the balance between the provision of preventative family supports and tertiary interventions:

> The over-representation of Indigenous children and families is linked to their level of social disadvantage and inequities in areas such as employment, income, housing and health. Clearly government action is required to remedy this situation. It is not the fact of government intervention in Indigenous family life that is problematic, but the nature of the intervention. If a community has greater needs for support because of poverty or other forms of disadvantage, it is logical to expect them to have a greater need for services, including child protection services. The problem arises when services are only available in stigmatising circumstances of child maltreatment and involuntary intervention, rather than being provided as part of a family support response.[10]

It has also been put to the Commission that there would be benefit in giving a greater role in the delivery of child protection services to Aboriginal and Torres Strait Islander controlled agencies and recognised entities:

> One of the fundamental flaws of the Recognised Entity model is that professionals have been limited to participation and consultation roles in decision-making… In my view, legislative amendments could delegate enhanced responsibility to Recognised Entity professionals to deliver targeted case work assistance in family group meeting conferencing, cultural support planning and implementation, assisting children though mentoring/transition to adulthood and a court advisory role.[11]

The Indigenous Child Placement Principle

Queensland's *Child Protection Act 1999* includes specific principles applying to the placement in care of an Aboriginal or Torres Strait Islander child. These provisions require that an Indigenous child be placed, in order of priority, with:

- a member of the child's family

- a member of the child's community or language group

- another Aboriginal or Torres Strait Islander person who is compatible with the child's community or language group, or

- another Aboriginal or Torres Strait Islander person.

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If none of these people are available to take care of the child, the Child Protection Act requires the department to place the child with a person who lives near the child's family, or with a person that lives near the child's community or language group.

In making a decision about where an Aboriginal or Torres Strait Islander child is to be placed while in out-of-home care, the Child Protection Act requires the department to ensure that a Recognised Entity[12] is provided with an opportunity to advise on the process for making the decision. In addition, the department is required to ensure their placement decision provides for the optimal retention of the child's relationship with parents, siblings and other people of significance according to Aboriginal or Torres Strait Islander tradition or custom.

The Indigenous Child Placement Principle, as outlined above, has been adopted by all Australian jurisdictions (Australian Institute of Health and Welfare 2012). Figures reported by the Productivity Commission (2012) indicate that Queensland is currently placing only 52.4 per cent of Aboriginal and Torres Strait Islander children with either an Indigenous carer, an Indigenous relative or kin, or a non-Indigenous relative or kin. This is well below the national average (see figure 2 below).

Figure 2: Aboriginal and Torres Strait Islander children in out-of-home care by relationship of caregiver, states and territories, 30 June 2011
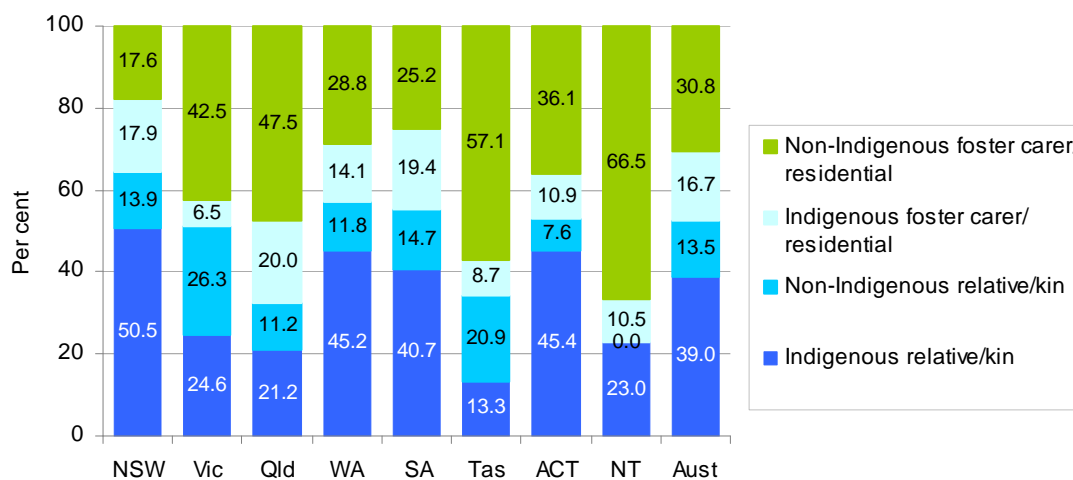
Source: Productivity Commission 2012, *Report on Government Services,* Table 15A.22

A number of factors have been identified as making it increasingly difficult to place Indigenous children with Indigenous carers in accordance with the Child Placement Principal (Bromfield et al 2007):

- the disproportionally high number of Aboriginal and Torres Strait Islander children requiring care

- the relatively small proportion of adults in the Aboriginal and Torres Straits Islander population

- carers ageing out of the system and a lack of new Indigenous carers coming into the system

- Indigenous carers being overloaded and potentially 'burnt out' by attempting to meet growing demand within a small pool of carers

- willing and otherwise capable adults not being financially able or otherwise eligible to provide foster care

- an increasing trend for children to enter care earlier and remain longer

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- tensions created within the extended family living in close proximity with each other within small, tight-knit communities

- potential kinship carers are faced with and have difficulty in coping with the same personal and parenting challenges in their own families.

In 2008, the Commission for Children and Young People and Child Guardian (CCYPCG) released a report which documented an audit of the Indigenous Child Placement Principle (CCYPCG 2008). It found that:

- the department's policies, procedures and information management systems did not provide sufficient guidance and support for the day-to-day decisions of frontline staff about the Child Placement Principle

- some progress towards enhancing compliance had been made through the implementation of the Integrated Client Management System, and that further work was planned

- the department supported the audit, demonstrating a willingness to identify and respond to the challenges associated with improving compliance with the Child Placement Principle.

The CCYPCG made 28 recommendations in this report (the inaugural recommendations), which principally related to the need for procedural guidelines to assist departmental officers to comply with the Child Placement Principle.

Recommendations were also made to enhance the Integrated Client Management System (ICMS) to allow recording of the necessary information to support procedural enhancements. More broadly, the CCYPCG recommended the introduction of specialised case managers for Indigenous children, as well as the development of relevant training for departmental officers generally (CCYPCG 2008).

In 2011, the CCYPCG released its most recent audit report, which proposed 10 recommendations to strengthen the department's practice support and record-keeping primarily related to the implementation of some inaugural recommendations, as well as further enhancements to the ICMS, and information gathering and sharing (CCYPCG 2011).

This Commission will be hearing from Indigenous individuals and non-government organisations throughout Queensland, and will seek to better inform itself about the reasons for the over-representation of Aboriginal and Torres Strait Islander children in the child protection system. Questions that have been raised thus far are: How can we ensure the Aboriginal and Torres Strait Islander children and their families are supported to avoid contact with the child protection system? Are the programs and responses in place currently the right ones? Does the Aboriginal Child Placement Principle need review? Is it achievable in Queensland?

3 Investment in secondary services

In 2010, the National Framework for Protecting Australia's Children was released, proposing that all Australian states and territories adopt a public health approach for the delivery of child protection services (Commonwealth of Australia 2009). A public health approach seeks to prevent and respond to abuse and neglect through a continuum of services that includes primary interventions that target everyone, secondary interventions that target particularly vulnerable families, and tertiary interventions that target families where abuse or neglect has already occurred (Scott 2006).

Improving access to non-stigmatising primary and secondary services has been a common theme in the Commission's submissions, witness statements and hearings to date. As one example, the Australian Association of Social Workers have stated in their submission that:

> … .early intervention and prevention activities [need to be] recognised, and resourced, as integral dimensions of an effective child protection service system. We argue for a greater emphasis on non-stigmatising and accessible early intervention services with a well resourced and skilled tertiary system that will together provide appropriate responses for keeping children safe and supporting vulnerable families.[13]

Calls for greater investment in early intervention services in Queensland are not new. In 1999, the Forde Inquiry (Commission of Inquiry into Abuse of Children in Queensland Institutions 1999) recommended that the Queensland Government increase the budget for child protection services by $103 million to focus on the prevention of child abuse through supporting at-risk families, respite care, parenting programs, and other early intervention and prevention programs for high-risk families. This recommendation recognised that Queensland had traditionally under-invested in prevention and early intervention services to at-risk families compared to other Australian jurisdictions.

This recommendation was re-affirmed by the CMC eight years later when its inquiry into the child protection system recommended that the government maintain its commitment to developing primary and secondary child abuse prevention services as a means of controlling increasing levels of reported child abuse (CMC 2007).

Reforms that have been implemented since these inquiries have aimed to enhance the capacity of the secondary service sector and include the following:

- The establishment of 10 **Referral for Active Intervention** services in different locations across Queensland in 2006 at a cost of approximately $1 million per service. Referral for Active Intervention services were implemented as a direct response to the CMC inquiry and were the only secondary support services directly responsible for working with families to reduce their potential to progress into the tertiary child protection system. A three-year evaluation of Referral for Active Intervention shows positive findings of improved outcomes for children and families as a result of intervention from these intensive family support services.

- The implementation of the **Helping Out Families** initiative in South-East Queensland, which commenced in October 2010 in three trial sites (Gold Coast, Beenleigh and Logan) at a cost of $15 million per year. Helping Out Families aims to reduce demand on child safety service provision by the department and improve outcomes for children through:

  - Legislative change to the Child Protection Act in 2010, to enable Child Safety Services to refer families reported to them who did not require a tertiary intervention to the Family Support Alliance (a non-government organisation) without the permission of the family.

  - Dedicated referral officers in Regional Intake Services to refer families below the threshold for protective intervention to a Family Support Alliance service instead.

  - The establishment of Family Support Alliance services to actively make contact with families reported to Child Safety Services to offer assistance. This can require frequent visits to people to obtain their trust and agreement to services. Family Support Alliance services are also funded to coordinate a network of secondary services in the areas of health, domestic and family violence, family support, child safety, drug and alcohol, and Referral for Active Intervention services so that referrals and services are coordinated and planned in the local area.

- Intensive family support services (delivered by non-government organisations) to provide therapeutic, educational and casework services to families. Services are provided, such as parenting education, anger management, establishing routines, budgeting, relationship and therapeutic counselling, in-home practical assistance and modelling parenting, and referrals and funding to attend drug and alcohol and mental health services.

- Domestic and family violence services (delivered by non-government organisations) implemented to more effectively respond to demand, particularly the need for crisis responses to domestic and family violence.

- Health and home visiting services (universal services delivered by Queensland Health) to assist parents of newborn children up to three years of age, delivered by health nurses and other early years professionals. This includes a series of visits, or contact with parents focusing on child development, monitoring milestones, assisting with sleeping, feeding, immunisation, postnatal depression and strategies to support positive development for young children.

The Helping Out Families trial was originally intended to be implemented more widely across Queensland, but no further funding commitment has been made. An evaluation of the program has provided early indications that:

- families are accessing services and as a result there has been a reduction in intakes from the trial sites to Child Safety Services as compared to the rest of Queensland

- those families who have received services through the program have had less re-reporting to Child Safety Services

- a small number of families who have received services and had their cases closed have reported improved outcomes in terms of reducing risks to their children.

Despite these flagship programs, the Productivity Commission's Report on Government Services for 2010–11 (Productivity Commission 2012) shows that Queensland still spends substantially less on secondary support services than NSW and Victoria.

The Commission has been hearing about some of the contemporary challenges in providing primary and secondary service responses to child abuse and neglect in Queensland. These issues include:

- the only pathway involves a formal report to Child Safety Services to become eligible to receive intensive family support services, which can make families fearful of losing their children and therefore reluctant to seek help

- early intervention services provided through Helping Out Families, Referral for Active Intervention and Aboriginal and Torres Strait Islander Family Support Services are often provided only once harm, or risk of harm, has become entrenched within the family

- the difficulty, particularly for Indigenous workers and staff in remote and rural communities, of working with families and to then be required to remove children from those families and communities

- difficulty attracting workers to rural and remote communities; often workers are new graduates with little or no experience in child protection and little professional supervision or development provided

- lack of culturally aware and sensitive practices, indicating a gap in how graduates are educated; this also includes a lack of understanding of the importance of 'place' and how it impacts on practice.

Recent child protection inquiries have demonstrated that similar obstacles are faced by other Australian states and territories, for example:

- The Cummins Report in Victoria (Protecting Victoria's Vulnerable Children Inquiry 2012) found that, although Victoria has a substantial range of early intervention programs with the potential to support vulnerable children and their families, they did not come together to form a coherent and coordinated system. The Cummins Inquiry found a need for substantial and urgent reform of Child FIRST, the key organisational framework for the referral and delivery of prevention and early intervention programs for vulnerable families.

- The Wood Inquiry into Child Protection Services in New South Wales (Special Commission of Inquiry into Child Protection Services in NSW 2008) found there were insufficient prevention, early intervention and targeted services provided by state agencies or by non-government organisations, including a lack of interventions for Aboriginal children and their families. The Wood Inquiry recommended that greater responsibility for early intervention services be given to the non-government sector.

- The Growing Them Strong Together review of the Northern Territory child protection system (NT Government 2010), also found significant deficiencies in the areas of prevention and early intervention. The review pointed to only a small non-government system of child and family wellbeing services that is under-resourced and predominantly focused on the two major urban areas of Darwin and Alice Springs, which are not necessarily the areas of highest need. There was also an absence of any Aboriginal-operated and controlled child safety and wellbeing service in the Northern Territory.

An investment in prevention and early intervention services has been largely recognised both in Australia and internationally as a critical means of reducing the overall number of reports to Child Safety Services. However, it is yet to be determined exactly what services actually have demonstrably positive outcomes for vulnerable families, how much investment is required to have any impact on numbers of intakes, and where secondary support services for vulnerable families should be located. Added to this is the challenge of how to manage a re-direction of resources away from crisis responses and towards prevention and early intervention, without compromising the capacity of the state to protect children at risk of harm. These issues will be more closely investigated during the remaining months of the Commission's work.

4 Responding to children and families with complex needs

The primary client group of child protection services are families with multiple complex needs (Bromfield et al 2010). Mental health, domestic and family violence, and drug and alcohol abuse have consistently presented as factors where the wellbeing of children can be compromised.

Individually, mental health, domestic and family violence, and alcohol and drug misuse can affect parenting and have marked affects on parenting capacity and the likelihood of abuse. Parents in families with complex needs are often struggling to overcome multiple issues including their own experience of trauma and victimisation, housing instability, low education, poverty, social isolation (Bromfield et al 2010) and disability (O'Connor 2012). These issues are exacerbated for Aboriginal and Torres Strait Islander families who have experienced a history of removal. There has been a significant impact resulting in grief and loss for Aboriginal and Torres Strait Islander people from past policies of removal of children from families and dislocation from land and culture. It is widely acknowledged that Aboriginal and Torres Strait Islander people are socially disadvantaged with

higher unemployment, poorer education and health, and over-representation in the child protection and criminal justice systems. Aboriginal and Torres Strait Islander people also struggle with mental health, drug and alcohol abuse, and high suicide rates among young people. Further, Aboriginal and Torres Strait Islander people living in remote communities have limited access to services, over-crowded housing, long-term unemployment and poorer health outcomes.

An evaluation of 960 families participating in the early intervention program Referral for Active Intervention showed that 85 per cent of families presented with at least two identified needs. Specifically, 41.7 per cent of families had 2–3 presenting needs, 30.8 per cent of families had 4–7 presenting needs and 12.9 per cent of families had more then 8 presenting needs (Department of Communities 2010). The needs identified frequently included parental mental health problems, domestic and family violence, a history of abuse and neglect, relationship and family breakdown, instability of housing, substance abuse, health problems, and social isolation.

In 2008, the then Department of Child Safety commissioned a parent profile report to identify the characteristics of parents involved with the child protection system. One of the major findings of the report was that nearly half (44%) of households with a substantiated notification had more than one parental risk factor present. It was identified that in households with a substantiated notification, substance abuse was present in 47 per cent of households, in 35 per cent domestic and family violence was an issue in the past year, 25 per cent of parents had suffered intergenerational abuse, 21 per cent had a criminal history and 19 per cent of primary parents had a current or previous mental illness (Department of Child Safety 2009).

The report also highlighted characteristics of children and young people in households with a substantiated notification and found that one in five households had at least one child with high needs. Of these households, half had one or more children with a significant developmental or physical disability and 48 per cent of households with high needs children consisted of one or more children with a diagnosed mental health disorder or behavioural problem (Department of Child Safety 2009).

Increasing numbers of children and young people in out-of-home care are presenting with complex needs, often as a consequence of abuse and neglect (Higgins et al 2007). Research in South Australia found that parental substance misuse was a significant factor associated with up to 70 per cent of children entering out-of-home care in 2006. They found that families with substance abuse problems had more complex needs identified than those where substance abuse was not present. The research identified that domestic and family violence, homelessness, financial difficulties, parental incarceration, transience and criminal activity were significantly more prevalent when substance abuse was present (Jeffreys et al 2008).

Families from culturally and linguistically diverse backgrounds also experience unique challenges that can compound the complexity of issues they may already experience. Issues such as different parenting practices, histories of trauma and life in refugee camps, isolation in the Australian community, high unemployment and language barriers provide challenges for both families and service providers.

This research and evaluation provides evidence that families with children at risk of entering the child protection system have a number of complex needs, and require multiple services such as mental health or drug and alcohol treatment. Given this, services that assist families need to be able to work effectively together across both the non-government and government sectors.

The Commission is conscious of the resource implications of designing a child protection system that can adequately cater for children and families with multiple complex needs. It is critical to ensure that current interventions effectively deal with these children, young people and their families. Questions for the Commission will include: Who is best placed to provide direct service delivery to this group? Are staff across the government and non-government sectors adequately trained and resourced to meet the needs of children and young people with complex needs and

their families? How can these families be identified early and encouraged to seek assistance prior to their situation deteriorating?

5 Growth in demand for out-of-home care

One component of the child protection system that has consistently increased over the last 10 years is the demand for out-of-home care placements (see figure 3). In recent years this has included a significant and renewed investment in residential care, usually in the form of a house rented or owned by a non-government organisation and staffed by residential care workers caring for up to four young people.

Figure 3: Children in out-of-home care by placement type at 30 June, Queensland, 1997-2011
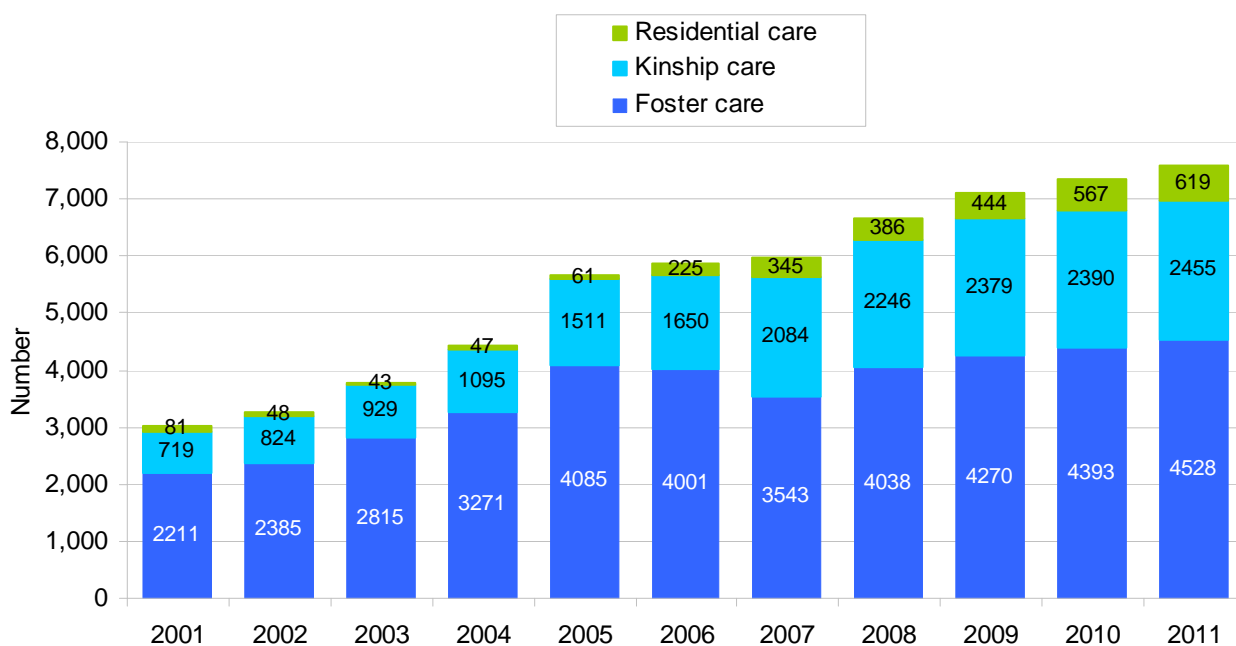
Source: Department of Communities (no date)*,* AIHW (various)

Out-of-home care is regarded as being an option of last resort. This is for several reasons, including the impact on children of removing them from their family. It is also the most expensive option open to child safety officers. Expenditure per child on out-of-home care in Queensland at 30 June 2011 was $48,600.[14] Actual gross expenditure on out-of-home care purchased from the non-government sector in 2011–12 was approximately $243 million.[15]

A number of factors are acknowledged to be placing increasing strain on the out-of-home care system, including:

- an increasing complexity in the needs of individual children in care, particularly those with a disability or other behavioural issue assessed by Child Safety Services as having complex or extreme needs, which require a higher level of carer training and skills (also refer to section 4 of this paper)

- increased sexualised and sexual offending behaviour by children and young people in care where foster carers are reluctant to care for this group of children

- larger sibling groups, particularly Aboriginal and Torres Strait Islander children, being removed from communities or split between placements, sometimes across considerable geographical distances

- less availability by foster carers to support children, as often both foster carers in a family may work and therefore be less available to transport children to appointments

- being less effective than most other jurisdictions, including New South Wales, Victoria, South Australia and the Australian Capital Territory, in utilising kinship care as a placement option.

Out-of home care is also being placed under pressure by the trend for children to be staying in out-of-home care for longer than in the past. Data reported by the Productivity Commission shows that between 2004 and 2011, the percentage of children who were in out-of-home care for two to five years prior to exit has increased from 14 per cent to 26 per cent and the percentage in care for more than five years has increased from 11 per cent to 14 per cent (Productivity Commission 2012).

It has been suggested to the Commission that a much greater emphasis could be placed on working in partnership with families and communities to keep children safely in their homes and, where children have been removed, focus efforts on returning them as soon as it is safe to do so. This includes 'a greater focus on intensive work with parents as soon as children enter care, to ensure short-term or voluntary out-of-home care does not unnecessarily become long-term out-of-home care'.[16]

It has been suggested that such efforts may not only reduce the costs associated with out-of-home care, but may also have benefits in terms of the child's overall life prospects. However, concerns have been raised about the ability of current short-term service models to a support this:

> … the problems that these parents have are multiple and complex, they don't typically have one problem, they have three or four or five; and those can include, you know, disabled child, alcohol and drugs, mental health, domestic violence, high residential mobility with all its attendant losses of connections with community… they don't just need the intensive service for a month, six weeks, or three months, they actually need it for 12 months, 18 months, two years… In our Queensland child protection system the time frames are much reduced. The time frames are typically three months, six months, which don't actually fit with the reality of the life circumstances these parents face.[17]

The more widespread use of kinship care has also been suggested as an alternative to removing children into foster and residential care. Kinship care has the potential to minimise disruption to children and the loss of family and community connections, but kinship carers also require support to undertake the caring role:

> …when people put up their hand to say, 'Yes, I'll take my niece or nephew or cousin or whoever into my family,' that there needs to be an explicit recognition that they're not just taking on the care of the child, they're actually taking on long-standing - typically long-standing and significant emotional and relational issues and they need help. They need help to be able to deal with those.[18]

Very sadly, we know that children in care often suffer adverse outcomes in a number of areas of life. For example:

- poorer educational outcomes – the gap in literacy and numeracy between children in out-of-home care and all children is larger than the gap between Indigenous children and all children. For example, in the 2009 National Assessment Program Literacy and Numeracy (NAPLAN) tests for Year 5, 61 per cent of students in out-of-home care met the reading benchmark compared to 89 per cent of all students (Department of Communities 2011) and 66 per cent of Indigenous students (Australian Curriculum Assessment and Reporting Authority 2009)

- increased risk of involvement in the juvenile justice system - recent research from New South Wales (McFarlane 2010) has suggested that untrained residential care workers are more likely to call police when they are concerned about the behaviour of young people, rather than using strategies to deal with it themselves, resulting in more young people in the out-of-home care system being brought in contact with the youth justice system

- link between young people in care and criminal offending – a large number of young offenders have a child protection background, and child protection involvement has been established for youth offending (Cashmore 2011; Stewart et al 2008). Research published in 2008 shows an increasing percentage of young people who have experienced a child protection substantiation being held in remand (Mazerolle & Sanderson 2008)

- poorer health outcomes – children in care also have poorer sexual health outcomes, for instance, young people who have a care background have higher rates of pregnancy (Brennan 2008).

Questions have been raised about whether the mechanisms designed to support young people in care are working effectively. For example, a study of the educational experiences of children in care by Tilbury (2010) has found that while Education Support Plans are a useful means of obtaining resources to meet the educational needs of children in care, in some cases the resources to implement these plans have not been made available. It has also been acknowledged by witnesses to the Commission that the success of plans like the Education Support Plan is often dependent on a range of stakeholders working together in partnership. For instance:

> …whether it be children in out-of-home care or children in home care, the partnership between parents and family and the child for managing a child within a school setting is crucial. So obviously we do need to work with the foster families in terms of what support they can provide and we also then work with other agencies, such as the Evolve program and students being referred to those if they are needing the higher level of therapeutic support.[19]

The Commission is conscious that the considerable costs of out-of-home care must be carefully targeted, and must be designed to ensure that the families of children and young people in out-of-home care are supported to enable children to return home sooner with less likelihood of re-entry to the child protection system.

6 Workforce and workload issues

The CMC, in its 2007 review of the implementation of its 2004 Inquiry recommendations (CMC 2007), made a number of recommendations relating to workforce, including:

- several recommendations about increasing the numbers of child safety officers, creating specialist positions and improving the ratio of direct service delivery staff to management

- recommendations about improved training and professional development for field staff, including completion of mandatory induction training prior to a child safety officer assuming a caseload, and introduction of ongoing Indigenous cross-cultural training for staff.

Importantly, the CMC recommended that a reasonable caseload for a child safety officer was one worker to 15 cases. Currently, advice from Child Safety Services is that the average caseload is 20 cases per frontline child safety officer, although this varies from region to region across the state.[20]

One of the major workforce challenges being expressed to the Commission is achieving the right balance between the completion of administrative and legal tasks and working directly with children and families. A major component of the current workload, as identified by Child Safety Services, is the significant amount of time that workers spend completing court work.[21] A number of

submissions have been critical of the amount of administrative and record keeping activity that has become associated with frontline work:

> … frontline services providers report to the AASW that there has been a substantial expansion of record keeping activity with the majority of their time spent on administrative activity rather than in direct service practice. This is most apparent in the requirements of the current Integrated Case Management System which requires workers to complete multiple screens to report one event and which does not support the holistic thinking required for sound assessment and intervention.[22]

The high turnover rate of frontline workers was another problem identified by the CMC in its inquiry (CMC 2004). Advice from Child Safety Services indicates, however, that the separation rate for child safety officers for the period March 2011 to March 2012 was 15.98 per cent, marking a significant improvement on past years:[23]

- 17.1% (April 2010-March 2011)

- 28.5% (April 2009-March 2010)

- 30.31% (October 2008-September 2009).

The costs of staff turnover are significant. In fact, it has been estimated that the cost of staff turnover is approximately a third to two-thirds of a worker's annual salary. These costs include separation, recruitment and training costs (Cowperthwaite 2006, Dorch et al 2008, Graef 2000, Tooman & Fluke 2002). Turnover also affects the workloads of staff and supervisors who remain, sometimes resulting in decreased efficiency and burnout, which may in turn lead to additional staff turnover, as well as poorer case outcomes. Importantly, research comparing US counties with high staff turnover with those that have low staff turnover found that low turnover counties had lower median caseloads (Lawson et al 2005).

In November 2008, in an attempt to improve recruitment of child safety officers, Child Safety Services expanded the range of qualifications accepted for entry to frontline positions. Prior to 2008, officers were required to hold a bachelor level degree in social work, psychology or a behavioural science. Following the expansion of allowable qualifications, officers could hold a degree in social science (including anthropology, sociology and community studies), justice and legal studies (including policing and law), occupational therapy, health science, nursing or education.

While expansion in qualifications may have assisted with recruiting higher numbers of staff to frontline positions, it has remained a source of concern to some that the core skills and knowledge of frontline staff may have diminished in terms of their role of working with vulnerable children and families.

The expansion in qualifications for frontline staff increases the importance of appropriate training and ongoing professional development. The Commission has noted, however, that while training for new child safety officers in 2005–06 occurred over a nine-month period and included up to 10 weeks face-to-face training, this training commitment has reduced since 2009, with more online and on-the-job training replacing face-to-face training.

Questions remain for the Commission about the appropriate qualifications that should be required of frontline staff, whether training provided to new staff is adequate, whether staff feel adequately supported in the complex and challenging work they are required to do, and whether addressing these things may lead to increased retention of child safety staff. These questions will be more fully explored at future hearings and through the research work of the Commission.

Summary

This paper has sought to provide information about the issues being raised and debated before the public hearings of the Queensland Child Protection Commission of Inquiry. While six issues have been selected for presentation in this document, the Commission is considering a number of equally important issues that have been raised either during hearings, through public submissions or via its own research. In this paper we have discussed:

1   The question of **mandatory reporting** of suspected child abuse and neglect, and whether the current groups of professionals in Queensland to which this applies should be extended, bearing in mind the potential unintended consequences of increasing the number of reports to a system that is already under pressure.

2   The complex issues involved in the **over-representation of Aboriginal and Torres Strait Islander children** at every point in the child protection system, and the sorts of strategies that have already been put in place by Child Safety Services to respond to this critical issue.

3   The current **investment in Queensland in the 'secondary' child protection system**, which aims to work with at-risk families to provide additional support to prevent their entry into the tertiary child protection system.

4   The challenges and associated costs of responding to families within the child protection system who have **multiple complex needs**, and the importance of ensuring that any future child protection system can respond effectively and in a timely manner to these families.

5   Understanding the drivers of the **increase in demand for out-of-home care**, and assessing what can be done to more carefully target out-of-home care, to ensure it is designed to transition children and young people back to their families and that it is aimed at limiting their re-entry into the child protection system.

6   The **workforce and workload** issues relating to the recruitment and retention of appropriately qualified staff and the mechanisms that could be engaged to support staff in their frontline roles and encourage longer careers in child protection.

These issues, among many others that have been and will be raised and discussed with the Commission of Inquiry over the coming months, will provide the basis of the Commission's thinking about the future of child protection in Queensland. The Commission welcomes the input of every Queenslander in commenting on this important area of public policy. Information on the Commission's website (www.childprotectioninqiury.qld.gov.au) provides information about how to make a submission. It also provides a 1300 number to enable members of the public to call and discuss how to contribute to the work of the Commission.

Appendix 1

Order in Council containing terms of reference

Commissions of Inquiry Order (No. 1) 2012

Short title

1. This Order in Council may be cited as the *Commissions of Inquiry Order (No. 1) 2012.*

Commencement

2. This Order in Council commences on 1 July 2012*.*

Appointment of Commission

3. UNDER the provisions of the *Commissions of Inquiry Act 1950* the Governor in Council hereby appoints the Honourable Timothy Francis Carmody SC, from 1 July 2012, to make full and careful inquiry in an open and independent manner of Queensland's child protection system, with respect to:

> a) reviewing the progress of implementation of the recommendations of the *Commission of Inquiry into Abuse of Children in Queensland Institutions* (the Forde Inquiry) and *Protecting Children: An Inquiry into the Abuse of Children in Foster Care* (Crime and Misconduct Commission Inquiry);

> b) reviewing Queensland legislation about the protection of children, including the *Child Protection Act 1999* and relevant parts of the *Commission for Children and Young People and Child Guardian Act 2000*

> c) reviewing the effectiveness of Queensland's current child protection system in the following areas:

>> i   whether the current use of available resources across the child protection system is adequate and whether resources could be used more efficiently;
>> ii   the current Queensland government response to children and families in the child protection system including the appropriateness of the level of, and support for, front line staffing;
>> iii   tertiary child protection interventions, case management, service standards, decision making frameworks and child protection court and tribunal processes; and
>> iv   the transition of children through, and exiting the child protection system;

> d) reviewing the effectiveness of the monitoring, investigation, oversight and complaint mechanisms for the child protection system and identification of ways to improve oversight of and public confidence in the child protection system; and

> e) reviewing the adequacy and appropriateness of any response of, and action taken by, government to allegations, including any allegations of criminal conduct associated with government responses, into historic child sexual abuse in youth detention centres.

4. EXCEPT that the inquiry is not to have regard to the following matters:

> a) Recommendation 39 of the Forde Inquiry;

b) any matter that is currently the subject of a judicial proceeding, or a proceeding before an administrative tribunal or commission (including, but not limited to, a tribunal or commission established under Commonwealth law), or is, as of the date of these terms of reference, the subject of police, coronial, misconduct or disciplinary investigation or disciplinary action;

c) the appropriateness or adequacy of:

    i   any settlement to a claim arising from any event or omission; or
    ii   the rights to damages or compensation by any individual or group arising from any event or omission, or any decision made by any court, tribunal or commission in relation to a matter that was previously the subject of a judicial proceeding, or a proceeding before a tribunal or commission; or
    iii   any Queensland Government redress scheme including its scope, eligibility criteria, claims and/or payments of any kind made to any individual or group arising from any event or omission;

for any past event that, as of the date of these terms of reference, is settled, compromised or resolved by the State of Queensland or any of its agencies or instrumentalities; and

d) the operation generally of youth detention centres (other than those matters relating to historic child sexual abuse in youth detention centres identified at paragraph 3(e) of these terms of reference), including but not limited to the progress of implementation of Recommendations 5 to 15 (inclusive) of the Forde Inquiry relating to the operation of youth detention centres.

Commission to report

5. AND directs that the Commissioner make full and faithful report and recommendations on the aforesaid subject matter of inquiry, and transmit the same to the Honourable the Premier by 30 April 2013.

Commission to make recommendations

6. IN making recommendations the Commissioner will chart a new road map for Queensland's child protection system over the next decade. The recommendations should take into consideration the Interim Report of the Queensland Commission of Audit and the fiscal position of the State, and should be affordable, deliverable and provide effective and efficient outcomes. The recommendations should include:

a) any reforms to ensure that Queensland's child protection system achieves the best possible outcomes to protect children and support families;

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;

c) any legislative reforms required; and

d) any reforms to improve the current oversight, monitoring and complaints mechanisms of the child protection system.

Application of Act

7. THE provisions of the *Commissions of Inquiry Act 1950* shall be applicable for the purposes of this inquiry except for section 19C – Authority to use listening devices.

Conduct of Inquiry

8. THE Commissioner may hold public and private hearings in such a manner and in such locations as may be necessary and convenient.

Endnotes

1. Made by the Governor in Council on 28 June 2012.
2. Notified in the Gazette on 29 June 2012.
3. Not required to be laid before the Legislative Assembly.
4. The administering agency is the Department of Justice and Attorney-General.

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Endnotes

1   Statement of Bradley Swan, 10 August 2012 [p48: para 184]
2   Transcript, Bradley Swan, 13 August 2012, Brisbane [p25: line 10]
3   The Queensland Child Protection Guide can be accessed at http://www.communities.qld.gov.au/resources/childsafety/partners/government/child-protection-fact-sheet.pdf
4   Transcript, Bradley Swan, 13 August 2012, Brisbane [p49: line 40]
5   Transcript, Correlle Davis, 22 August 2012, Brisbane [p16: line 50]
6   Statement of William Hayward, 24 August 2012 [p5: para 24]
7   Transcript, Linda Apelt, 14 August 2012, Brisbane [p30: line 50]
8   Statement of Bradley Swan, 10 August 2012 [attachment 6]
9   Statement of Bradley Swan, 10 August 2012 [p45: para 179]
10 Statement of Clare Tilbury, 20 August 2012 [p3: para 10]
11 Statement of William Hayward, 24 August 2012 [p15: para 57]
12 Recognised Entities, funded to actively participate in significant decisions made by Child Safety Services in relation to Aboriginal and Torres Strait Islander children and to assist Child Safety Services comply with the Indigenous Child Placement Principle.
13 Submission of Australian Association of Social Workers, Queensland Branch, 14 August 2012 [p2]
14 Statement of Bradley Swan, 10 August 2012 [p124: para 539]
15 Statement of Bradley Swan, 10 August 2012 [p124: para 540]
16 Statement of Clare Tilbury, 20 August 2012 [p4: para 12]
17 Transcript, Bob Lonne, 28 August 2012, Brisbane [p66: line 1]
18 Transcript, Bob Lonne, 28 August 2012, Brisbane [p64: line 10]
19 Transcript, Lyn MacKenzie, 22 August 2012, Brisbane [p106: line 20]
20 Transcript, Bradley Swan, 13 August 2012, Brisbane [p62: line 30]
21 Transcript, Bradley Swan, 13 August 2012, Brisbane [p62: line 50]
22 Submission of Australian Association of Social Workers, Queensland Branch, 14 August 2012 [p5]
23 Statement of Bradley Swan, 10 August 2012 [p97: para 427]