commission for
children and young people
and child guardian

Level 17, 53 Albert Street, Brisbane Qld 4000
PO Box 15217, Brisbane City East Qld 4002
Ph: **07 3211 6700** Fax: 07 3035 5900
www.ccypcg.qld.gov.au

Telephone: 07 3211 6948
Reference: SMRP/DN51110

The Honourable Tim Carmody SC
Commissioner
Queensland Child Protection Commission of Inquiry
PO Box 12196
GEORGE STREET QLD 4003

Dear Commissioner

I write in relation to the *Options for reform* paper recently issued by the Queensland Child Protection Commission of Inquiry (the Inquiry). The purpose of this correspondence is to provide feedback in relation to the issues raised in the *Options* paper.

In observing the Inquiry's proceedings to date, it is evident that many opinions have been offered as to perceived problems with the current child protection system, and suggestions have been made as to alternatives which may be pursued. In particular, I note that many examples have been cited of alternative models being used by other jurisdictions that might be relevant to Queensland.

While consideration of approaches taken by other jurisdictions may be instructive, it is important that they are reviewed having regard to the peculiar issues sought to be addressed and that consideration is given to whether formal evaluations have been conducted to confirm that they are achieving set purposes. Further, whether these purposes may then translate to the Queensland context is a critical consideration.

In the absence of evidence of the outcomes achieved through models implemented in other jurisdictions, I would suggest that the extent to which they can be relied on is limited.

Accordingly, in response to the questions raised in the *Options* paper, it is recommended that considerations relating to options for reform take an evidence-based approach and be mindful of the Queensland context. While there is a need to balance time and resources between tasks associated with 'doing' and 'reporting', it is crucial that there is a shared understanding of the outcomes sought in commencing any initiative so that relevant data can be captured to enable appropriate evaluation to be conducted. Outputs alone will not sufficiently inform discussion on the contribution of interventions for families; the Queensland system should have clear outcomes established, so that informed discussion and analysis can be undertaken as to whether the expenditure has achieved value for money.

Appropriate data collection also facilitates ongoing adjustment of policy and expenditure to meet newly identified and revised needs.

I have outlined my more detailed consideration in relation to the issues raised below.

Investment in intake and secondary intervention services

Much of the evidence led before the Inquiry at the outset of its proceedings concerned the significant increase in intake that is reportedly preventing the Department from managing its investigations and assessments and other work. However, as one example of where greater evidence is required, the effort to complete an intake referral remains unclear. For example, the Inquiry has heard that an intake should take, on average, each of the following:

- one hour[1]
- two-three hours,[2] or
- up to four-five hours.[3]

In relation to the volume of this work, the number of intake referrals has increased by some 152 per cent since the CMC Inquiry (from 44,631 in 2003-04 to 112,518 in 2010-11). The number of children in out-of-home care has also increased substantially since 2003 (a 113 per cent increase, from 3,787 as at 30 June 2003 to 8,063 at 30 June 2011).

Correspondingly, the Child Safety Services budget has increased by 302 per cent over the period 2003-04 to 2011-12.[4]

Based on the available evidence, it is uncertain whether the concerns raised relating to the increasing volume of intake stems from the large number of referrals, or the management of the intake process itself; particularly given there does not seem to be an agreed understanding as to the average time this process would normally take (acknowledging that each case will have unique features impacting on the time taken to action a report, but calculation of an average is essential to adequately plan).

There has also been general consensus that, in some cases, the cumulative value of information received at intake is important in ensuring appropriate decisions are made as to whether an investigation should be undertaken into a child's need for protection. Accordingly, any recommendations which might be made relating to the high volume of referrals to the Department will need to be clear as to what is the specific problem that is being addressed.

The Commission for Children and Young People and Child Guardian (CCYPCG) does not have a specific mandate in relation to monitoring and reporting on the provision of secondary services, other than is available in its general research and advocacy functions, and I am of the view that this important area of service delivery in the child protection continuum currently suffers from a lack of attention and coherent and coordinated effort.

---

[1] See *Workload Management Guide for Child Safety Service Centres*, November 2011, attached to the statement of Alexander Scott, Secretary, Together Union, page 31.
[2] See evidence of Michelle Susan Oliver, Acting Manager, South East Queensland Regional Intake Service, Transcript of Proceedings, 3 October 2012, page 112.
[3] See evidence of Bradley Swan, Executive Director, Child Safety Services, Transcript of Proceedings, 13 August 2012, page 53; 14 August 2012, pages 9-10; and 16 August 2012, pages 66-67; and Michelle Susan Oliver, Acting Manager, South East Queensland Regional Intake Service, Transcript of Proceedings, 3 October 2012, page 112.
[4] See Statement of Bradley Swan, affirmed 10 August 2012, paragraphs 21, 22, 162, 176.

As indicated in CCYPCG's first submission to the Inquiry, and as many witnesses before the Inquiry have stated, it is important that any distribution of resources towards secondary services must not be at the expense of adequate resourcing for the tertiary system, until there is a quantifiable reduction in the demand for tertiary services. It is also important to recall that while secondary services are considered likely to be the best way to assist many families and to ultimately divert them from the child protection system, there are unfortunately cases where government intervention is required and in these cases it is important that decisions made and action taken is focused on the best interests of the child.

Accordingly, while services designed to divert families from the child protection system need increased emphasis and effective management, it is important that there is an ongoing commitment to proper resourcing of the tertiary system to ensure that children who are taken into out-of-home care have adequate support mechanisms to contribute to positive long-term outcomes.

It is recommended that a stocktake of existing secondary services be undertaken by Government, to identify any gaps or overlap in current service provision. It is concerning that evidence has been provided to the Inquiry to date that data in relation to certain initiatives is "not sufficiently reliable to be reported".[5] Proposals for the future should be based on known trends in relation to the needs of at-risk families, with services then funded based on their ability to meet identified need. Further, ongoing needs should be regularly reviewed at a systemic level to ensure the right mix of services is available and targeted to the types of issues faced by at-risk families.

It will be important that a lead agency is identified to manage this process to firstly identify and then address gaps and duplication in current service delivery. There should also be a long term commitment to effective coordination and monitoring of these services to ensure needs continue to be matched with services.

Increasing Aboriginal and Torres Strait Islander self-determination

The *Options* paper identifies some issues and proposals raised by Inquiry witnesses since July 2012. The Inquiry has also received written submission from peak bodies such as the Queensland Aboriginal and Torres Strait Islander Child Protection Peak Ltd (QATSICPP) and the Aboriginal and Torres Strait Islander Legal Service (Qld) Ltd (ATSILS), which propose significant innovation to the governance, management and frontline service delivery model for Aboriginal and Torres Strait Islander children in out-of-home care.

In a context where issues of over-representation, lack of preferred placement options and concerns about maintenance of cultural identity persist, proposals of this nature require serious and detailed consideration, including evidence informed analysis and decision making. For example, flexibility is clearly required to effectively meet the needs of Aboriginal and Torres Strait Islander children in out-of-home care; this is reflected in the various provisions of the *Child Protection Act 1999* (CP Act) specific to Aboriginal and Torres Strait Islander children. At the time of its commencement, the CP Act created a new focus on the delivery of child protection services to

[5] See for example, Statement of Nicola Linsey Jeffers to the Queensland Child Protection Commission of Inquiry, affirmed 20 September 2012, paragraph 20; Statement of Bernadette Harvey to the Queensland Child Protection Commission of Inquiry, affirmed 21 September 2012, paragraph 21, both relating to data on referrals to the Referral for Active Intervention Ancillary services, Targeted Family Support program and Safe Havens.

Aboriginal and Torres Strait Islander children.[6] These provisions helped highlight the unique values and cultures of Aboriginal and Torres Strait Islander people within the broad principles of the CP Act and identified some specific decision making processes that should take account of these principles. The focus on these principles was strengthened in subsequent amendments to the CP Act.[7] This included introducing additional principles about Aboriginal and Torres Strait Islander children and case planning processes that were more encompassing of their cultural needs.

The increased focus was a necessary reflection of contemporary community understanding of, and commitment to, the unique values and cultures of Aboriginal and Torres Strait Islander peoples. The written submissions to the Inquiry by ATSILS and QATSICPP identify alternative approaches and options for innovation in service delivery, much of which can be achieved within the existing legislative framework.

However, the absence of a suitable evidence base to inform the serious consideration of such proposals and evaluate their potential outcomes will act as a barrier to innovation in a context where fresh approaches are required. Proposals for addressing over-representation must be robust and evidence-based and subject to ongoing review and adjustment to ensure identified goals are being worked towards.

As one example of where innovation and a specialised focus would help drive quality services, CCYPCG's first submission to the Inquiry highlighted the fact that cultural support plans (CSP) are not currently mandated under the CP Act (but should be). A recent CCYPCG review of 327 case plans for Aboriginal and Torres Strait Islander children identified that 240 (73.4%) had CSPs included as part of their case plans. A review of the quality of these CSPs, including reviewing the contact arrangements for each Aboriginal and Torres Strait Islander child, found that there were some positive findings about the development of CSPs.

One such positive finding (outlined in Table 1 in the attached summary) is that 114 (83.8%) children and young people placed with a family member or an Aboriginal or Torres Strait Islander foster carer had CSPs included as part of their case plans.

Another positive finding was that of those Aboriginal and Torres Strait Islander children with a CSP, the vast majority of CSPs included the planned contact for the child or young person with their:

- parents (94.6%), and
- siblings and extended family (90.8%).

However, the review also identified a number of issues with the quality of these CSPs. One such issue, outlined in Table 2, is that 55 (33.1%) Aboriginal and Torres Strait Islander children residing in non-Indigenous placements outside of their family did not have a CSP included as part of their case plan.

The review also raises concerns about the number of Aboriginal and Torres Strait Islander children whose case plan goal was long term guardianship or short term custody, but who did not have a CSP included as part of their case plan. Table 3 shows that 79 (25.4%) children whose case plan goal was long term guardianship or short term custody did not have a CSP.

---

[6] See, for example, sections 6, 7(1)(f), 7(1)(o), [formerly section 7(1)(n) (Reprint 1], 11(3), 11(4), 70(4) [6 Formerly section 67(4) (Reprint 1)] , and 83 [Formerly section 80 (Reprint 1)].
[7] See, for example, sections 5C, 21A(3), 51B(f), 51D(1)(c)(iv), 51E(6), 51L(1)(c), 51L(1)(f), 51W(1)(c), 51W(1)(f), 99H, 159K and 246I.

The review also looked at the type of information recorded about an Aboriginal and Torres Strait Islander child's cultural background, namely their clan or Island and language. Table 4 shows that 96 (40%) children and young people did not have any information about their cultural background recorded in their CSP and only 15 (6.3%) had information about both their clan or Island and language recorded.

Furthermore, the review looked at the arrangements for activities, maintenance and support of the Aboriginal and Torres Strait Islander child's cultural identity. Table 5 shows that only 60 (25%) of the CSPs identified involvement with specific cultural activities, for example Aboriginal art and/or dance, hunting, fishing or passing down of stories by relatives. 160 (66.7%) of the CSPs identified only general cultural activities such as family contact and participating in National Aborigines and Islanders Day Observance Committee (NAIDOC) week activities.

Finally, the review also found the following issues (outlined in Table 6 in the attached summary) about the quality of the CSPs, including the contact arrangements for each Aboriginal and Torres Strait Islander child, namely:

- 91 (37.9%) of the CSPs did not identify the support that would be required by the Aboriginal and Torres Strait Islander child's carer to maintain and support the contact arrangements and activities identified to maintain cultural identity
- 50 (20.8%) of the CSPs did not identify the names of family members and/or significant people who would assist that Aboriginal and Torres Strait Islander child in maintaining and supporting their cultural identity, and
- of those Aboriginal and Torres Strait Islander children with a CSP, 216 (90%) of the CSPs did not discuss the contact details of the children with other significant people in their lives (not including immediate and extended family members).

Elevating the status of CSPs to be a mandatory element of a case plan for Aboriginal and Torres Strait Islander children would represent a clear commitment to support their cultural needs. However, exploring ways to improve the quality and effectiveness of CSPs (and other tailored services to Aboriginal and Torres Strait Islander children) will require innovation and collaboration.

While CCYPCG does not support the creation of a second or separate child protection system for Aboriginal and Torres Strait Islander children, responding to their over-representation and the identification and ongoing support of their cultural needs (as part of case planning and transition processes) is an area where there is significant scope for increased engagement of Aboriginal and Torres Strait Islander-controlled agencies.

Decision-making models

CCYPCG supports the use of tools designed to support professional practice and consistency in decision-making.

As with many issues identified during the Inquiry to date, a number of opinions have been offered that the current Structured Decision Making (SDM) tools are not meeting their intended purpose. Research on SDM tools is limited, apart from the reports of the USA-based Children's Research Center, which developed the tools. CCYPCG is aware of a review conducted by Gillingham and Humphreys that suggested some practitioners believed the current tools overestimate risk and

oversimplify the complex nature of families' circumstances and in doing so restrict professional practice.[8]

Support for SDM tools during the Inquiry has included that they remind officers of relevant risk factors to be considered, which is particularly useful for less experienced officers. However, there is general support for the notion that the tools may require adjustment, given they were developed in and for the United States.

Given that the SDM tools currently used by the Department were imported from the United States with little modification, it seems appropriate that an independent review be undertaken of their efficacy and utility in the Queensland context, including their cultural appropriateness.

It is therefore suggested that the Inquiry consider recommending an independent evaluation of the existing tools be undertaken, to determine their fit for the Queensland child protection context.

Effective coordination of services

To date the Inquiry has heard some significant examples that highlight the fact that difficulties remain in relation to the coordination of child protection service delivery.

At its outset, the Inquiry heard that the Department was struggling to manage the intake referrals received from other agencies, such that the volume of intake was impacting the Department's ability to complete investigations and assessments within the required performance benchmarks. The problem has been known and understood for some years, but no resolution has yet been found by the agencies.

In its regional hearings the Inquiry was also informed of significant issues detracting from effective collaboration in the delivery of services by the Department, Queensland Police Service and Queensland Health.

These matters highlight that greater collaboration and collective problem solving is required across the child protection continuum.

The many issues manifesting in the local service delivery context appear to have their genesis in a lack of effective governance at more senior levels within the agencies responsible for child protection service delivery. That is, the absence of clear and collective accountability for effective collaboration and integration of services has enabled well know service delivery issues to persist.

The development of an annual report on the performance of the child protection system, including multi-agency collaboration to achieve meaningful reporting about the delivery of services, was an important reform arising from the CMC Inquiry. It represented a mechanism and opportunity for driving data capture across the child protection continuum, the strategic analysis of service system performance and collective accountability for achievements and action.

Despite the development of the Department's web based publication of activity (and some performance) data, the s.248 CP Act report recommended by the CMC remains underdeveloped; it contains little actual performance data and its release has not been consistent or timely, for example, the 2010-11 financial year report was

[8] Gillingham, P & Humphreys, C. (2010). Child Protection Practitioners and Decision-Making Tools: Observations and Reflections from the Front Line. *British Journal of Social Work*. 40, 2598-2616.

not published until October 2012 (one year after government service providers are required by the CP Act to have provided their contributions to the Department).

The Inquiry has also heard evidence that the Directors-General Co-ordinating Committee (that was also recommended by the CMC) has "evolved" into a broader human services CEO committee,[9] which raises questions as to the extent and focus of governance related to whole-of-system service delivery, including the accountability and drive for action in response to service delivery issues that may be identified.

Overall, an important need remains for a robust annual report on the delivery of mandated and essential services by all government service providers. In the absence of robust reporting and governance, there will likely be insufficient drive for the necessary levels of collaboration to achieve the desired change.

Court models

CCYPCG's first submission to the Inquiry stated that, given the gravity of the decision to place a child in out-of-home care, it is important there be an independent final decision maker with responsibility for assessing the evidence about the child's protective needs (and that the action proposed to be taken is necessary to protect the child from harm).

Alternative approaches may be appropriate in some circumstances, particularly where parents are willing to work with the Department to address the child protection concerns notified. However, to ensure that such a model was effective in meeting the needs of children, it would require a commitment to appropriate resourcing to achieve best outcomes, including ensuring that any alternative process didn't lessen the protection for the child and was managed (chaired) by appropriately skilled and independent officers.

The Inquiry has heard evidence about the need for the right decision to be made as early as possible to effect stability and security for children who have been harmed or who are at risk of harm. Where an alternative dispute resolution process is not successful, it is important that a decision is then made in the best interests of the child as quickly as possible, and it is the CCYPCG view that this should be the responsibility of a judicial officer.

An option to address identified deficiencies in existing practice would be alternative resourcing in Child Safety Service Centres, so that court work is undertaken by specialist officers, with CSOs concentrating on work within their area of expertise.

Adoption as one response to permanency planning

Adoption is currently available as an option in cases where it is evident that a child is not able to be reunited with their family. The notion of forced adoption is highly contentious; the Inquiry has heard that the available research demonstrates the unintended consequences and potential detrimental effects of forced adoption. Notwithstanding, there may be cases where it may be appropriate, and the current system allows for this to occur. However, it is crucial that any consideration of adoption as an option for a child who has been taken into care be undertaken having regard to the best interests of the child, both in the long and short term.

[9] QCPCI transcript: Brad Swan, Brisbane, 2-56, 14 August 2012.

Evidence given to the Inquiry suggests that the long term impacts of such a decision may be significant and adverse.

Therefore, while adoption is a potential long-term option, and may reduce the strain on the tertiary system, such decisions must be made in the best interests of the child and other considerations, such as the child protection system workload, are extraneous and obtuse reasons for hastening any decision favouring adoption, given the potential long term impacts for children and families.

I trust this information is of use to your Inquiry. If you have any queries, please do not hesitate to contact me via CGCOITeam@ccypcg.qld.gov.au.

Yours sincerely

Elizabeth Fraser
Commissioner for Children and Young People and Child Guardian

Table 1: The number of children and young people with and without Cultural Support Plans by placement in kinship or Indigenous placements

Placement type	CSP included in case plan	CSP not included in case plan
Non-Indigenous kinship carer	7 (5.1%)	0 (0%)
Indigenous kinship carer	62 (45.6%)	17 (12.5%)
Indigenous foster care	45 (33.1%)	5 (3.7%)
Total	**114 (83.8%)**	**22 (16.2%)**

Table 2: The number of children and young people with and without Cultural Support Plans by placement in non-Indigenous placements outside of their family

Placement type	CSP included in case plan	CSP not included in case plan
Non-Indigenous foster care	30 (18.1%)	18 (10.8%)
Indigenous status of foster carer unknown	64 (38.6%)	29 (17.5%)
Residential care	17 (10.2%)	8 (4.8%)
Total	**111 (66.9%)**	**55 (33.1%)**

Table 3: The number of children and young people with and without Cultural Support Plans by case plan goal

Case plan goal	CSP included in case plan	CSP not included in case plan
Long term guardianship	81 (26%)	37 (11.9%)
Short term custody	151 (48.6%)	42 (13.5%)
Total	**232 (74.6%)**	**79 (25.4%)**

Table 4: Information about a child or young person's cultural background recorded in their Cultural Support Plans

Type of cultural background information	Provided in CSP
No information provided	96 (40%)
Only area family from identified	66 (27.5%)
Yes both clan/island and language provided	15 (6.3%)
Yes but only for one parent	8 (3.3%)
Only clan/island provided	7 (2.9%)
Only language provided	48 (20%)
Total	**240 (100%)**

Table 5: Information about the arrangements for activities and maintenance of a child or young person's culture as recorded in their Cultural Support Plans

Type of arrangements for activities and maintenance of culture	Provided in CSP
No	20 (8.3%)
Yes – information about specific involvement provided	60 (25%)
Yes – information about general involvement provided	160 (66.7%)
Total	**240 (100%)**

Table 6: Other aspects of the Cultural Support Plans where issues were found with the amount of information provided

	Support required by carer identified	Significant people to maintain and support culture identified	Contact with significant others identified
Yes	149 (62.1%)	190 (79.2%)	24 (10%)
No	91 (37.9%)	50 (20.8%)	216 (90%)
Total	**240 (100%)**	**240 (100%)**	**240 (100%)**