Queensland Child Protection Commission of Inquiry

Discussion paper

February 2013

Published by the

Queensland Child Protection Commission of Inquiry
PO Box 12196
George Street
QLD 4003

Tel: 1300 505 903
Fax: 07 3405 9780
Email: info@childprotectioninquiry.qld.gov.au
www.childprotectioninquiry.qld.gov.au

This publication is available for download from the Commission's website.

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.

Contents

Discussion Paper questions

Chapter 3: Reducing demand on the tertiary system

1. What is the best way to get agencies working together to plan for secondary child protection services?

2. What is the best way to get agencies working together to deliver secondary services in the most cost effective way?

3. Which intake and referral model is best suited to Queensland?

4. What mechanisms or tools should be used to assist professionals in deciding when to report concerns about children? Should there be uniform criteria and key concepts?

Chapter 4: Investigating and assessing child protection reports

5. What role should SCAN play in a reformed child protection system?

6. How could we improve the system's response to frequently encountered families?

7. Is there any scope for uncooperative or repeat users of tertiary services to be compelled to attend a support program as a precondition to keeping their child at home?

8. What changes, if any, should be made to the Structured Decision Making tools to ensure they work effectively?

9. Should the department have access to an alternative response to notifications other than an investigation and assessment (for example, a differential response model)? If so, what should the alternatives be?

Chapter 5: Working with children in care

10. At what point should the focus shift from parental rehabilitation and family preservation as the preferred goal to the placement of a child in a stable alternative arrangement?

11. Should the Child Protection Act be amended to include new provisions prescribing the services to be provided to a family by the chief executive before moving to longer-term alternative placements?

12. What are the barriers to the granting of long-term guardianship to people other than the chief executive?

13. Should adoption, or some other more permanent placement option, be more readily available to enhance placement stability for children in long-term care?

14. What are the potential benefits or disadvantages of the proposed multi-disciplinary casework team approach?

15. Would a separation of investigative teams from casework teams facilitate improvement in case work? If so, how can this separation be implemented in a cost-effective way?

16. How could case workers be supported to implement the child placement principle in a more systematic way?

17. What alternative out-of-home care models could be considered for older children with complex and high needs?

Chapter 6: Young people leaving care

18. To what extent should young people continue to be provided with support on leaving the care system?

19. In an environment of competing fiscal demands on all government agencies, how can support to young people leaving care be improved?

20. Does Queensland have the capacity for the non-government sector to provide transition from care planning?

Chapter 7: Addressing the over-representation of Aboriginal and Torres Strait Islander children

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

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

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

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

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

Chapter 8: Workforce development

26. Should child safety officers be required to hold tertiary qualifications in social work, psychology or human services?

27. Should there be an alternative Vocational Education and Training pathway for Aboriginal and Torres Strait Islander workers to progress towards a child safety officer role to increase the number of Aboriginal and Torres Strait Islander child safety officers in the workforce? Or should this pathway be available to all workers?

28. Are there specific areas of practice where training could be improved?

29. Would the introduction of regional backfilling teams be effective in reducing workload demands on child safety officers? If not, what other alternatives should be considered?

30. How can Child Safety improve the support for staff working directly with clients and communities with complex needs?

31. In line with other jurisdictions in Australia and *Closing the gap* initiatives, should there be an increase in Aboriginal and Torres Strait Islander employment targets within Queensland's child protection sector?

Chapter 9: Oversight and complaints mechanisms

32. Are the department's oversight mechanisms – performance reporting, monitoring and complaints handling – sufficient and robust to provide accountability and public confidence? If not, why not?

33. Do the quality standards and legislated licensing requirements, with independent external assessment, provide the right level of external

checks on the standard of care provided by non-government organisations?

34. Are the external oversight mechanisms – community visitors, the Commission for Children and Young People and Child Guardian, the child death review process and the Ombudsman – operating effectively? If not, what changes would be appropriate?

35. Does the collection of oversight mechanisms of the child protection system provide accountability and transparency to generate public confidence?

36. Do the current oversight mechanisms provide the right balance of scrutiny without unduly affecting the expertise and resources of those government and non-government service providers which offer child protection services?

Chapter 10: Courts and tribunals

37. Should a judge-led case management process be established for child protection proceedings? If so, what should be the key features of such a regime?

38. Should the number of dedicated specialist Childrens Court magistrates be increased? If so, where should they be located?

39. What sort of expert advice should the Childrens Court have access to, and in what kinds of decisions should the court be seeking advice?

40. Should certain applications for child protection orders (such as those seeking guardianship or, at the very least, long-term guardianship until a child is 18) be elevated for consideration by a Childrens Court judge or a Justice of the Supreme Court of Queensland?

41. What, if any, changes should be made to the family group meeting process to ensure that it is an effective mechanism for encouraging children, young people and families to participate in decision-making?

42. What, if any, changes should be made to court-ordered conferences to ensure that this is an effective mechanism for discussing possible settlement in child protection litigation?

43. What, if any, changes should be made to the compulsory conference process to ensure that it is an effective dispute resolution process in the Queensland Civil and Administrative Tribunal proceedings?

44. Should the Childrens Court be empowered to deal with review applications about placement and contact instead of the Queensland Civil and Administrative Tribunal, and without reference to the tribunal where there are ongoing proceedings in the Childrens Court to which the review decision relates?

45. What other changes do you think are needed to improve the effectiveness of the court and tribunal processes in child protection matters?

Chapter 11: Funding for the child protection system

46. Where in the child protection system can savings or efficiencies be identified?

Chapter 12: Conclusion

47. What other changes might improve the effectiveness of Queensland's child protection system?

Call for submissions

Submissions made in response to these questions should be provided to the Commission by no later than 5.00 pm, **15 March 2013**.

Submissions can be made on the Commission's website at: www.childprotectioninquiry.qld.gov.au/submissions or emailed to submissions@childprotectioninquiry.qld.gov.au.

For those who do not have internet access, submissions can be mailed to:
Queensland Child Protection Commission of Inquiry
PO Box 12196
George St 4003

Commissioner's Overview

This Inquiry was commissioned to review the overall performance of the state's current child protection system to ascertain whether it is protecting children and supporting families as intended and to report its findings and any proposals for change.

The Commission's final report will, no doubt, inform and hopefully help the government's search for the most effective, cost efficient and sustainable public child protection system and restore public confidence in the system's capacity to meet the protective needs of vulnerable children and families in Queensland.

This discussion paper is published for the purpose of creating a constructive debate around some of the more significant issues and reform options. The opportunity for anyone with a genuine interest in child protection to contribute positively to the exchange of ideas and views should not be missed.

The phrase 'current child protection system' as used in the terms of reference is taken by the Commission to refer to the intervention services that the Director-General of the Department of Communities, Child Safety and Disability Services (the department) funds, provides, coordinates or delivers as chief executive, as well as related court proceedings and oversight mechanisms. The details of the system are described throughout this paper.

The challenges facing our system

Based on national studies, it could be estimated that 5 per cent to 10 per cent of Queensland's nearly 1.1 million children will be abused at some time during their childhood, and many of them will be left scarred for life by the experience. Many of these children will not enter the child protection system in Queensland. Of those who do, many will be screened out at an early stage, and only 20 per cent of reports will be classified as notifications warranting investigation and assessment.

Our Queensland intake (reports and notifications) system is clearly overloaded with intakes, tripling in the past decade (from 33,697 in 2001-02 to 114,503 in 2011-12). In 2011–12, 22,894 notifications (20 per cent of intakes) were investigated and assessed while the remaining 80 per cent were screened out, many without any further action or assistance.

Of the 22,894 notifications in 2011–12, around 34 per cent were substantiated after investigation and assessment. Most substantiated matters involved emotional harm (35.2 per cent) or neglect (42.4 per cent) with physical harm substantiated in 17.9 per cent of cases and sexual harm in 4.6 per cent of cases.

The high number of children and young people being harmed has significant costs for the children themselves and for the protective system designed to respond to their needs, as well as wider social impacts.

Research shows that young people harmed during childhood are between two and eight times more susceptible than the general population to attempt or commit suicide, and the life expectancy of those who have six or more abusive experiences is up to twenty years shorter than those having none. According to one overseas study, male teenagers in state care are 18 times more likely to die before the age of 25 than those raised by their parents at home (Segal & Dalziel 2011).

Family disintegration through community disengagement and isolation, joblessness, alcohol and drug addiction, substandard education outcomes and career prospects, poorer physical and mental health, chronic domestic conflict and violence, pervasive guilt and lifelong feelings of hopelessness, self-recrimination and despair are also identified as costs. In a wider social context, there is the cost of social deterioration due to crime, long term unemployment, higher hospital attendance rates, increased dependence, and intermittent contact with social welfare agencies including the child protection and juvenile justice systems. Other economic costs are due to falling production and increased public funding of social security programs and benefits, and growing demand for expensive human services.

Being harmed in childhood also reduces future adult functioning and parenting capacities, which ultimately leads to the transmission of intergenerational risks of harm.

The total cost of child abuse and neglect substantially outweighs the cost to government of countering it. In dollar terms the total cost of harm to children (including publicly provided protection services) in Australia was estimated to be about $10.7 billion in 2007 (Segal & Dalziel 2011). It follows that preventing, responding effectively to and reducing the incidence and impact of child abuse and neglect is in everyone's interest.

While the overriding consideration is the welfare and best interests of children most in need, there remains a legitimate public interest in ensuring that the Department of Communities, Child Safety and Disability Services spends its total budget ($2.564 billion in 2012-13) and uses other available resources as cost efficiently as possible in investing in a strategic blend of effective risk reduction and harm minimisation interventions.

Approximately $735.5 million was expended in Queensland on direct child protection services in 2011-12 (an increase by 302 per cent from the $182.3 million in 2003-04). Internal departmental budgets (mainly wages) have grown by in excess of $200 million since 2003-04. One of the key challenges for the Commission is to identify whether this money could be used more cost-effectively and whether there is an appropriate balance between expenditure on responses involving coercive statutory interventions (see Chapter 4) and that on providing early intervention and prevention services for families (see Chapter 3). This challenge is explored in more depth throughout the paper.

Ultimately, however, the community expects the best interests of the child to be met, regardless of the expense, consistently with policy intents and statutory principles.

The legal framework

Although the family has traditionally fulfilled the primary moral and legal responsibility for meeting children's overall wellbeing needs and safeguarding them from preventable harm, the government has played an important but strictly limited role since the late 19th century by providing a 'safety net' for a child who, for one reason or another, does not have a protective parent.

Notwithstanding their common aim, the child protection interests of the family and the government often compete and sometimes conflict with each other. These awkward relationship tensions are formally regulated by specialist laws reflecting contemporary social values and basic community standards in an attempt to strike the delicate balance between too much and not enough government intervention. However, exactly when, to what extent and for how long family privacy and parental autonomy can be displaced on welfare grounds remains a vexed socio-political question.

Modern child protection in Queensland relevantly began in 2000 when the current *Child Protection Act 1999* replaced the 35 year old *Children's Services Act 1965*. The parliamentary debates make it clear that the Act was intended to transform child protection in line with international practice and improved delivery methods.

The tenor of the Act is distinctly holistic, child centred and family oriented rather than the medico-forensic fault-based approach it replaced.

The main focus is on children's overall wellbeing needs and what if any protection (including care) order is required to meet them appropriately, rather than on blaming parents for their shortcomings.

The Act is based on the premise that the least intrusive viable intervention option should be adopted: preferably, supporting the child's family or assisting a parent to safely care for the child at home.

It is important to note that the Act introduced a range of new orders so that the least intrusive protection option (including prevention as well as ongoing care) could be used as appropriate in each case when intervening in family life and relationships, to ensure that the overall safety, wellbeing and best interests of children are met. This expressly includes taking action to give the help a child needs, including giving support services to the child and his or her family, and ensuring that preventative and other appropriate supports are given to a child at risk to decrease the likelihood of protection becoming the child's primary need (see Chapter 3).

The standard interventions under the Act rely on what are known as secondary and tertiary levels of preventative response. Secondary interventions include prevention and early intervention services based on risk. Coercive or tertiary intervention (or so-

called statutory protection) is based on past, likely future or ongoing harm into the foreseeable future and includes court-ordered long-term guardianship (see Chapter 2). Tertiary interventions can also be based on parental consent. Coercive intervention is only available to children reasonably suspected of being in 'in need of protection' and a precondition to coercive intervention by the department is the inadequacy of a voluntary or any less intrusive intervention option.

The Act plainly envisages that protective action should usually take place with the consent and cooperation of parents and that the chief executive, whenever possible, will work with the family to assist them to protect the child concerned.[i]

Forced removal and separation from the family was intended to the be step of last resort and restricted to 'a minority of cases' where the chief executive is required to assume custody of children, or take other protective action, without parental consent to ensure safety or meet assessed protection needs, because prevention and early intervention services were insufficient to adequately protect their wellbeing.[ii]

Even when removal is necessary as a safety measure, assistance is supposed to be given to both the child and family to facilitate the child's return if, as will usually be the case, that is in his or her best interests. In the meantime the chief executive has to consider, as a first option, placing the child in the care of relatives and, to the extent possible, with siblings in stable and secure living arrangements that can meet all developmental and wellbeing needs and maintain a connection with the family and community.

The Act also gives statutory force to the Aboriginal and Torres Strait Islander placement principle, which requires Indigenous children to be placed, preferably with family, in or close to their community to preserve cultural, social, traditional and familial links.

In addition to functions associated with statutory intervention, the chief executive has numerous other functions under the Act including to:

- provide or help provide preventative and support services to assist vulnerable families
- reduce the incidence of harm to children, including children in Aboriginal and Torres Strait Island communities
- educate the public about child abuse and neglect
- develop coordinated responses to child harm allegations and related risk factors such as domestic violence
- help young people (financially and otherwise) in the transition from being a child in care to planned independence and encourage their development into responsible adulthood (and potential parenthood)
- collect and publish information and research into (i) the causes and effects of harm to children, (ii) the life outcomes of children in care, and (iii) the relationship between the criminal justice and child protection systems.

One view would be that these statutory functions and responsibilities amount to duties[iii] rather than mere authorities, in which case refusing to duly fulfil them at all is not an option, although shortage of funds may justify some prioritisation and reasonable delay.[iv]

The departmental service system

Child protection services are delivered across the state through 880 funded non-government organisations, and directly by the department through 55 service centres across 7 regions supported by a central corporate office.

The department's overall budget is $2.564 billion in 2012-13, of which $774.1 million is dedicated to the 'child safety' stream as distinct from 'social inclusion' and 'disability services'. [v]

In its annual report of 2011-12 the department claims to work closely with all levels of government and non-government bodies to 'deliver responsive and holistic services' to vulnerable clients.

Child Safety is described in the annual report 2011-12 as focusing on protecting children and young people via 'a range of statutory child protection services' and funding family support services where children are at risk.

The strategic policy intent is said to be to improve support services to vulnerable individuals and families and developing opportunities for children in care. Included in the 'range of prevention and early intervention services' mentioned by the department are a number aimed at reducing entry into the tertiary protection system, including:

- continued support for young people with complex and multiple needs that addresses risk factors
- establishment of the Evolve behaviour support service – early intervention which provides support services to children with a disability who have complex behaviours and support needs and who are at risk of being relinquished to the child protection system
- continuation of the Helping Out Families pilot with early indications suggesting that the initiative contributes to improved outcomes for families by connecting them with the right services at the right time, thus reducing demand on the tertiary child protection system
- successful implementation of regional homelessness community action plans in 7 regions.

The department also works with other allied agencies having a child protection function (such as health, education, disabilities, and police) within a broader social welfare sector to ensure the overall safety, wellbeing and best interests of children and young people are met.

Policy intents and expectations

There is no suggestion that the Act is unclear about the outcomes it intends the system to deliver. Nor is there any uncertainty about the statutory functions and responsibilities of the chief executive and, to my knowledge, it has not been contended by any interested party that the policy and priority settings of the Act are misguided or unrealistic. Indeed, the department's annual report 2011-12 suggests they are being implemented and given full practical expression.

However, the reality as described throughout this paper is that many of the expected outcomes are routinely not achieved and a yawning gap appears to have opened up in the years since 2000 between what the system should be doing and what it actually does.

For example, if the Act was working as intended, some of the many effects one would expect to see in Queensland are:

- preference given to early intervention and support rather than coercive tertiary intervention
- notifications decreasing yearly because of the cumulative success of preventative and early interventions in previous years
- children at risk of emotional harm or neglect having their safety and wellbeing ensured by the department supporting and assisting the child's family rather than by removal and retention
- having children in care stably placed, preferably with kin and siblings, and preferably near their parents and community
- the chief executive encouraging their development to responsible adulthood and adequately preparing them for transition to independence on reaching 18. This is critically important to breaking the intergenerational cycle of child protection risk factors
- providing preventative and support services to strengthen and support families and reduce the incidence of harm and to protect children if a risk of harm has been identified
- a coordinated preventative and early intervention service framework to respond to allegations of harm to children and domestic violence being developed and strengthened by the department yearly since 2001
- state, federal and local government entities with child protection related functions cooperating to provide statutory protection services
- protecting all children in need of protection and ensuring that no child is mistakenly identified as needing protection.

The information available to the Commission to date suggests that Queensland is falling short in achieving all of these aims. The published data gives the clear

impression of a system under stress struggling to meet ever increasing demand for tertiary level intervention in a market of rapidly reducing supply and scarce resources. This is indicative of failures in the system which could be the result of either design failures or failures in implementation.

Of particular concern to the Commission is the increasing number of children in out-of-home care, and the overrepresentation of Aboriginal and Torres Strait Islander children in the system.

As Chapter 2 shows, the number of children in out of home care in Queensland has more than doubled from 3,257 in 2002 to 7,999 in 2012. Nearly a fifth of these children have needs that are classified as 'high support needs' or 'extreme support needs'. There is evidence that children are staying in out-of-home care for longer periods and that the stability of their placements is declining. At present there are 600 high needs young people in care pending transition to independence. The cost of providing out-of-home care continues to increase, especially for those children and young people with high needs, as does the cost of supporting them in transition to independence. The Commission is looking at ways to reduce this cost, while at the same time recognising the need to provide appropriate care which will enhance the opportunities for these children and young people, especially in the transition from care.

Indigenous children and young people are overrepresented in the child protection system at an increasing rate. As Chapter 7 shows, they are now five times more likely than their non-Indigenous counterparts to be notified, six times more likely to have harm substantiated and nine times more likely to be living in out-of-home care. More than 50 per cent of the Aboriginal and Torres Strait Islander children in the state are expected to have contact with the child protection system in 2012-13.

The reasons for such a high level of overrepresentation are multiple and complex, including systemic and chronic disadvantage stemming from historical factors and social factors such as alcohol and drug abuse as well as domestic and community violence. These broader issues have challenged all levels of government for decades and there is no simple solution to such complex problems. It is clear that any solution will require the Aboriginal and Torres Strait Island communities and organisations to work together with all levels of government to develop solutions to address the issue at a local level. It is important therefore that the Commission continue to encourage input from those stakeholders.

The problem of increasing demand on the system is not unique to Queensland – the Protecting Children: Evolving Systems Report 2011 states that the workload of all child protection authorities has increased since 1989 due to factors such as:

- the expectation and responsibility for supporting vulnerable families and keeping children safe shifting from communities to governments
- progressive introduction of mandatory reporting in all states and territories from the 1980s onwards
- development of risk-averse cultures

- expansion of the types of harm and severity of harm or risk of harm to which child protection systems are expected to respond, particularly in relation to emotional abuse, neglect and exposure to domestic violence.

The relevance of these factors in the Queensland context is explored throughout this paper.

Enhancing performance

A key challenge we face in this state is to strengthen universal and secondary services to families and communities to prevent and reduce the incidence of abuse and neglect, while at the same time having the capacity to provide statutory intervention when required and the therapeutic services to ameliorate the impact of harm on children and young people.

Shifting the focus of the system from a forensic investigative risk averse culture (where demand is pushed along the prevention-protection continuum as a mechanism across government to manage risk) to one focusing on supporting families is likely to be a more sustainable approach in the long term.

Clearly, even if future funding needs could be met from revenue and it was possible for services to expand enough to meet demand, it is clear that the problem cannot be solved by funding alone.

The key question is not how much tertiary intervention costs but whether the return on the investment in public child protection is a net welfare gain for Queensland children, their families and society in general.

Among the many impediments to answering this question is the lack of research and evaluation in Queensland to assist in measuring costs and benefits of various interventions. The economic evaluation of the best value, highest yield services and their delivery is lacking. In 2006 a recent Australia-wide audit (Cashmore et al. 2006) of child protection research found significant gaps in existing research, a shortage of research funding and an inadequate evidence base for sound policy and practice decisions. It identified seven crucial areas for development to build research capacity and promote a research culture in child protection agencies, including a 'roadmap' to identify priorities and provide some direction in a systemic framework. It also identified the need to situate this area of research within a broader context. The ultimate conclusion was that neither the evidence to inform child protection decisions and policies nor the use of the existing knowledge base is adequate.

Unsurprisingly, given this paucity of research, there is no clear consensus within the professional child protection community about which interventions consistently outperform rival options and represent the 'best buy' or 'highest yield' on investment. It is clear, however, that traditional analytical approaches do not work (Australian Public Service Commission 2007, p1).

Understanding what 'works, and what doesn't, and what represents good value is challenging. Furthermore, as successful implementation will require cross-portfolio – budget negotiations and the involvement of central agencies, the optimal mix of services will be difficult to realise' (Segal & Dalziel 2011, p276).

During the past months, the Commission has met with people who have experience in all aspects of the protection system, from academics and senior public servants to front-line workers and families who have been directly affected by the system. In addition, the Commission has received a number of submissions which have offered information and insight into the challenges faced by those negotiating the child protection system. Those who have taken the time to provide information to the Commission have made an important and valued contribution to the Commission's work.

In making its findings and recommendations, the Commission will endeavour to strike a balance between the competing demands of the community's expectations that the government will protect children from harm, and the damage that may be caused by acting in a risk-averse manner and intervening when it is not necessary to do so. The Commission is mindful that any recommendations must be realistic and cost-effective, and will continue to work to provide Queensland with a much-needed 'road map' for the next ten years.

Tim Carmody SC
Commissioner

---

[i] Explanatory Memorandum, Child Protection Bill 1998 (Qld), p16.
[ii] Explanatory Memorandum, Child Protection Bill 1998 (Qld).
[iii] See Padfield (1968) AC at 1010.
[iv] *Boe v Criminal Justice Commission* BC930403 (unreported, 10 June 1993) per de Jersey J, pp2-3.
[v] Department of Communities, Child Safety and Disability Services, *2012-13 Service Delivery Statement (Budget Paper 5)*, p6.

Chapter 1

Chapter 1

Introduction

The Queensland Child Protection Commission of Inquiry (the Commission) was established on 1 July 2012 to review the effectiveness and efficiency of the child protection system in Queensland and is headed by the Hon Tim Carmody SC (the Commissioner). The terms of reference require the Commission to:

a. Review the progress of implementation of the recommendations of the *Commission of inquiry into abuse of children in Queensland institutions* (the Forde Inquiry), apart from recommendation 39 of that Inquiry, and *Protecting children: An inquiry into abuse of children in foster care* (Crime and Misconduct Commission Inquiry).

b. Review the 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. Review the effectiveness of the child protection system in relation to a number of specific areas, including whether resources are adequate and whether they could be used more efficiently, the current response to children and families, the appropriateness and level of support for frontline child protection staff, tertiary child protection interventions (including case management, service standards, decision making frameworks and child protection court and tribunal processes) and the transition of children through, and exiting the child protection system.

d. Review the effectiveness of the monitoring, investigation, oversight and complaint mechanisms for the child protection system and identify ways of increasing public confidence in the child protection system.

e. Review the adequacy and appropriateness of any government response to allegations of criminal conduct associated with historic child sexual abuse in youth detention centres.

The terms of reference also require the Commission to make recommendations in the following way:

- chart a new road map for Queensland's child protection system over the next decade, taking into account the Interim Report of the Queensland Commission of

Audit and the fiscal position of the state and ensuring affordable, deliverable, effective and efficient outcomes

- include any reforms to ensure that Queensland's child protection system achieves the best possible outcomes to protect children and support families
- include strategies to reduce the over-representation of Aboriginal and Torres Strait Islander children at all stages of the child protection system, particularly in out-of-home care
- include any legislative reform required
- include any reforms to improve the current oversight, monitoring and complaints mechanisms of the child protection system.[1]

The Commission is required to report back to the Premier in the first half of 2013.

This Discussion Paper relates only to the work the Commission has been asked to do in relation to items (a) to (d) listed above, and not to item (e), which will be the subject of a separate report.

The Commission's approach

To date, the Commission has sought to inform itself in a number of ways:

- through the public hearing process conducted pursuant to the *Commission of Inquiry Act 1950* (Qld). In relation to items (a) to (d) listed above, the Commission has sat for 42 days and heard from 83 witnesses
- through written submissions made to the Commission by individuals and organisations. As at 11 February 2013, the Commission has received 244 submissions which it considers to be within the terms of reference
- through the statements of individuals who may or may not have appeared in a public hearing
- by reading the academic literature on child protection
- by convening meetings with a number of key individuals and stakeholders who have knowledge and expertise in the child protection system
- by engaging individuals with specialist skills or knowledge to provide intellectual input into discrete topics of interest to the Commission.
- by holding five focus group meetings with frontline child protection workers (held in Mount Isa, Ipswich, Mt Gravatt, Caboolture and Labrador) and by sending an online survey to approximately 1,700 frontline child protection workers in the Department of Communities, Child Safety and Disability Services
- by attending three focus group meetings with children in the care system organised and run by CREATE Foundation

- by convening a meeting of an advisory group – a group of professionals with specialist expertise – who provided feedback on early reform ideas being considered by the Commission, and who will meet again prior to the Commission developing its final report (a list of the members of the advisory group is included in Appendix 1).

This Discussion Paper follows two earlier papers published to the Commission's website in September (*Emerging issues*) and October (*Options for reform*). These earlier papers presented information about issues of relevance to the Queensland child protection system and were intended to provide information about the progress being made by the Commission

The Discussion Paper aims to provide a more comprehensive exploration of the key issues facing Queensland's child protection system and some preliminary ideas that aim to address or solve the problems identified. The intention is to provide insight into the Commission's early thinking and to seek feedback on potential ideas for reform of the system. It should be noted that these are early ideas and the Commission may alter, discard or adopt these or other reforms for its final report.

The paper is structured to cover the central areas that have to date presented themselves as requiring the Commission's attention. These are:

- investing in secondary services for children and families who are at risk of entering the statutory child protection system
- decision-making processes involved in investigating and assessing child protection reports
- working with children and families who have entered the statutory child protection system, to either re-unify them with their families or to provide long-term stable care
- assisting and supporting young people when they exit the care system and transition to independence
- increasing self-determination for Aboriginal and Torres Strait Islander communities in the child protection system to reduce over-representation
- ensuring the system has a stable workforce that is fully supported to perform its role within the child protection system
- strengthening courts and tribunals processes, to ensure fairness and accessibility
- ensuring that the public has confidence in the system because it is fully accountable, without being constrained by a culture of compliance
- ensuring the child protection system is efficient and cost effective.

A number of questions have been posed throughout the Discussion Paper. These questions seek the opinions and views of respondents about the issues and proposals for reform outlined. The Commission anticipates a range of views to be submitted, and encourages and welcomes input.

[1] The terms of reference specifically exclude:

- 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 was, as at 1 July 2012, the subject of police, coronial, misconduct or disciplinary investigation or disciplinary action.
- The appropriateness or adequacy of:
- any settlement to a claim arising from any event or omission
- 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
- 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 1 July 2012, is settled, compromised or resolved by the State of Queensland or any of its agencies or instrumentalities; and

- The operation generally of youth detention centres, including but not limited to the progress of implementation of recommendations 5 to 15 of the Forde Inquiry relating to the operation of youth detention centres.

Chapter 2

Chapter 2

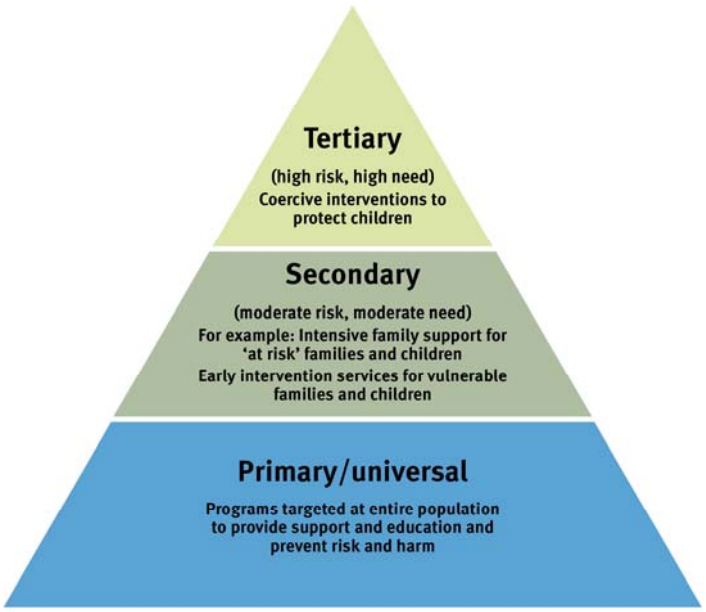
The child protection system in Queensland

This chapter describes the current child protection system in Queensland. It begins by outlining the public health model, which has become increasingly used by academics, policy makers and practitioners as a way of describing the full continuum of pre-emptive to reactionary child protection services. The chapter then describes the *Child Protection Act 1999*, which provides the statutory framework guiding the child protection system in Queensland.

2.1 The public health model as a depiction of child maltreatment prevention

In 2009, the Council of Australian Governments agreed to use the public health model as part of its endorsement of the *Protecting children is everyone's business: national framework for protecting Australia's children 2009–2020* (Hunter 2011). The model encompasses primary, secondary and tertiary strategies (Scott 2006) and is often illustrated using a pyramid (see Figure 1).

Figure 1: A service delivery system for protecting children



The primary, secondary and tertiary levels differentiate between prevention services targeted at different parts of the population based on the level of need, risk and harm. All services (except coercive state intervention, which must be authorised by statute) could potentially have a statutory or a non-statutory basis. Primary or universal prevention services, at the base of the pyramid, are available to all children and families in the community. These include the Triple P parenting program and maternal and child health services. Enhancing access for vulnerable children to high quality early education and care services is also viewed as a positive way to prevent child abuse and neglect.[1]

Secondary prevention services comprise programs, including intensive family support services and early intervention services, for vulnerable families and children who have additional needs and may be *at risk* of requiring a tertiary child protection response in the future. Intensive family support services work with families who have complex needs that, if unmet, are likely to lead to harm and a requirement for tertiary intervention (Council of Australian Governments 2009). In Queensland these services are targeted at families that have been reported to Child Safety, usually multiple times, and aim to work with families on a range of problems, often in their homes. Programs administered by Child Safety that aim to fulfil this function include Helping Out Families and Referral for Active Intervention (Chapter 4 provides a detailed description of these). Secondary prevention also includes early intervention to provide general family support, including parenting programs, anger management programs, youth services, child and family counselling and other specialist services. Programs that deliver family violence services, and drug and alcohol services, are also available to families within this part of the system.

At the apex, the tertiary prevention response is the service system's intervention with

families where harm has *already* occurred (Hunter 2011), or where there is unacceptable risk of harm occurring, and aims to prevent future harm to children. Queensland's statutory service operates primarily at the tertiary level, providing for investigation and assessment of abuse and neglect, court processes, case management and the out-of-home care system.

A robust service system that is integrated across the child protection continuum enables children and families to easily traverse both the primary and secondary, or the secondary and tertiary, levels of intervention (composite prevention services) (Hunter 2011). The ACT for Kids safe houses are an example of composite prevention services; two of the safe house communities, for example, provide both short-term accommodation for children and young people during departmental investigations (tertiary and/or secondary intervention), and early childhood education and care services for community members (secondary and/or primary intervention).[2]

Government and non-government organisations are progressively recognising the benefits of providing both composite prevention (Bromfield & Holzer 2008) and early intervention services (Hunter 2011). The *National framework for protecting Australia's children 2009–2020* is based on the premise that a more comprehensive and coordinated approach to delivering child protection services, with a focus on early intervention, would reduce child abuse and neglect and ultimately enhance long-term family outcomes (Council of Australian Governments 2009; Bromfield & Holzer 2008).

Submissions to the Commission also reflect strong support for the public health model for child protection. For example, Anglicare Southern Queensland states: 'A continuum of service delivery and care of this type would enable families to access the right service, at the right time, before escalation to crisis point, and without the stigma associated with contact with the statutory system.'[3]

2.2 The Child Protection Act 1999

The Child Protection Act outlines the tertiary system for responding to children in need of ongoing protection, including the system of case management that directs work with children and young people in the care system. The Act, along with the *Family Services Act 1987*, also outlines the system of secondary service provision that aims to work intensively with families at risk of being subject to state intervention.

The Child Protection Act recognises that the family has the primary moral and legal responsibility for child protection (s 5B(b)), which it discharges informally and usually in private. The role of the state in child protection is governed by the Act and is strictly limited, mainly providing for a range of protective services, funding arrangements and multiple oversight mechanisms.

A series of principles guide the administration of the Act (ss 5B to 6), all of which are subject to the paramount principle laid down in section 5A, 'that the safety, wellbeing and best interests of a child are paramount' (s 5A).

The threshold for statutory intervention, as set out in the Act, is that the chief executive has a reasonable suspicion that a child is 'in need of protection' (s 14). The test for whether a child is in need of protection has two limbs, namely that 'a child (a) has suffered harm, is suffering harm, or is at unacceptable risk of suffering harm,' and '(b) does not have a parent able and willing to protect [her or him] from the harm.' Both criteria need to be met for a family to reach the legislative threshold. Harm itself is defined under s 9(1) of the Act as 'any detrimental effect of a significant nature on the child's physical, psychological or emotional wellbeing,' and is understood to have unlimited causes, including '(3)(a) physical, psychological or emotional abuse or neglect,' and '(b) sexual abuse or exploitation.'

The Act is jointly administered by the Minister for Communities, Child Safety and Disability Services and the Attorney-General and Minister for Justice. The Director-General of the Department of Communities, Child Safety and Disability Services is the chief executive under the Child Protection Act and the Family Services Act.

'Help' or 'intervention' (s 51ZA) under the Child Protection Act is provided at two levels: prevention (including family support) and protection (including interim, temporary or ongoing care).

Protection services (or tertiary prevention) include intake and screening, forensic investigation (including court-approved medical examination) and assessment, crisis or interim care, casework, custody and short-term (up to two years) or long-term (up to 18 years) guardianship, out-of-home placement, reunification, permanency planning and support for transition to independence. These services collectively comprise what is commonly called the statutory system. The system of out-of-home care is not specifically prescribed in the Act, but is set out in administrative policy documents underpinning the Act.

Services provided at the primary and secondary prevention level are essentially precautionary or pre-emptive: that is, they target current risk to prevent future harm. They are:

- primary or universal – services available to the general population such as health, education or welfare support
- secondary – provided more selectively to discrete populations or households identified as having one or more co-existent risk factors commonly linked with child abuse or neglect.

The aim of these services is to prevent harm from occurring in the first place by removing or reducing causes or contributing factors such as poverty, welfare dependence, social alienation, parental substance abuse, lack of support for young single-parent families, a history of mental health problems, inadequate housing and overcrowding, relationship conflict, domestic violence and parents with a criminal record.

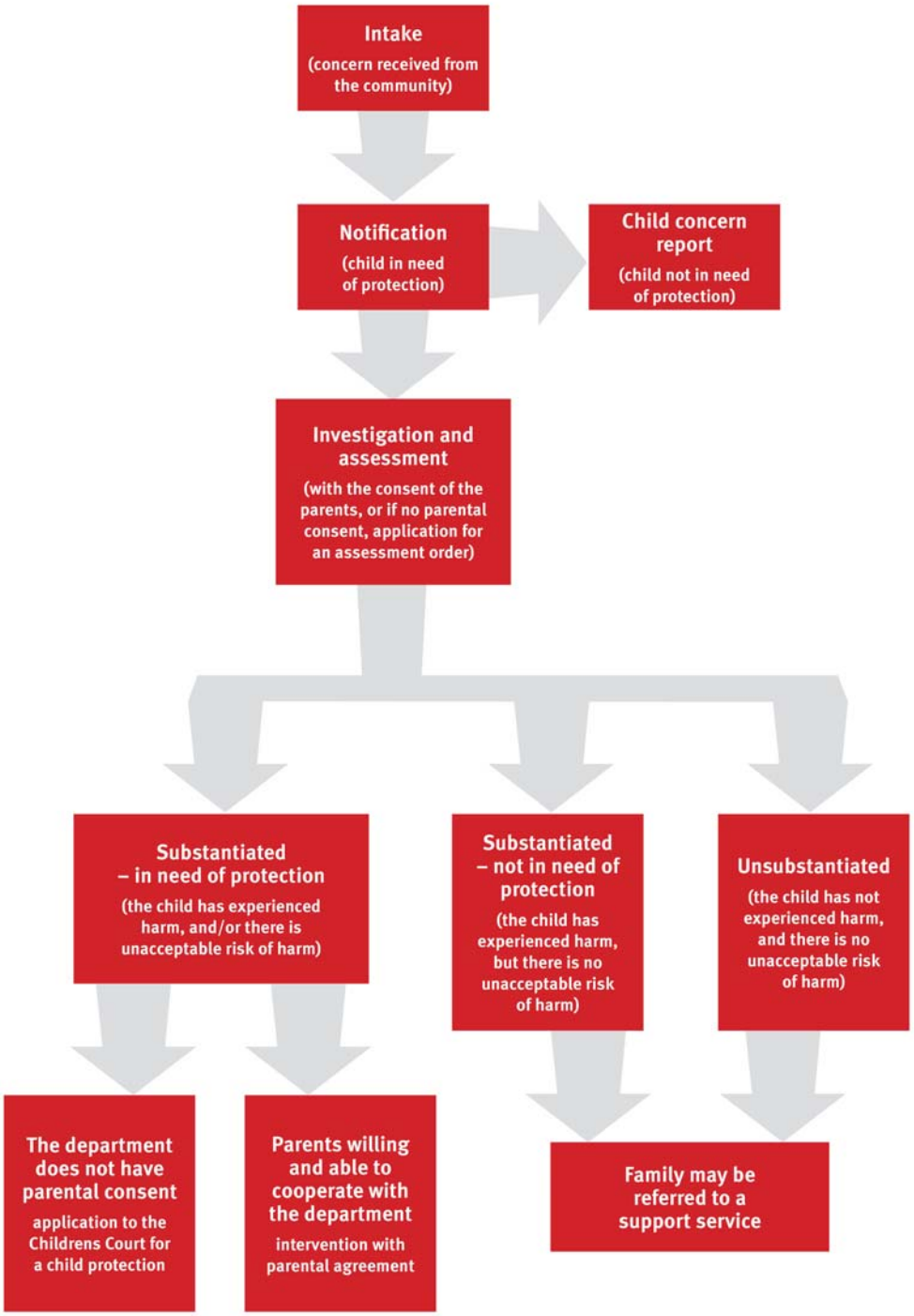
In theory, effective early intervention decreases demand for long-term guardianship orders and care placements by creating or maintaining a safe living environment within the family home. A major drawback, however, is that this assistance is largely optional or voluntary, and often parents most in need do not access it when it is available.

The chief executive has overall responsibility for the functioning and operation of the system and the corresponding duty to ensure that the system does what it is intended to do. The chief executive has the powers, authority, functions and ultimate responsibility for ensuring that the system delivers the right mix of secondary and tertiary services to children and families to promote, achieve and protect their overall wellbeing.

2.3 The statutory child protection system

The statutory system, depicted in Figure 2, provides for three key phases to the process – intake, investigation and assessment, and intervention.

Figure 2: The statutory child protection system



2.3.1 The intake phase

Reports to the Department of Communities, Child Safety and Disability Services of harm or risk of harm to a child are processed in the intake phase. Reports to Child Safety come from a range of sources, including members of the general public, family

members themselves and organisations. The largest group of reporters to Child Safety are workers in public sector positions who are required by legislation to report suspected physical, sexual or other abuse and neglect. These include:

- child safety officers (Child Protection Act s 148)
- doctors and registered nurses (*Public Health Act 2005* s 191)
- the Children's Commissioner (Commission for Children and Young People and Child Guardian Act 2000 s 25)
- teachers, required to report suspected child sexual abuse to their school principal, who in turn must report to police (*Education (General Provisions) Act 2006* ss 365-366).

Police officers are subject to operational policies about the reporting of harm to Child Safety. In particular, officers attending any incidents of domestic violence where children normally reside are required to make a report on the police database detailing relevant particulars of the incident and children involved. This information is then referred to the Department of Communities, Child Safety Services.

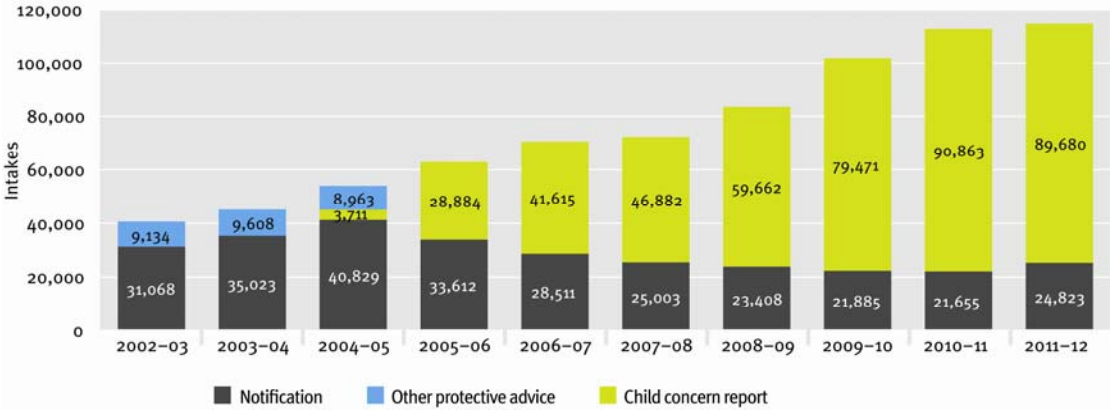
Once a report to Child Safety has been made, a set of screening criteria is used to assist staff to determine whether the report indicates the child is in need of protection (refer to a description of the Structured Decision Making tools in section 2.3.2). A notification is recorded where the department has a reasonable suspicion that a child may be in need of protection, in which case an investigation must be conducted or other appropriate action taken (s 14(1)(b)). A child concern report is recorded when the information received does not suggest a child is in need of protection. Possible responses to a child concern report include:

- providing information and advice to the person reporting the concern
- making a referral to another agency
- providing information to the police or another state authority
- no further action.

Reports of child harm or risk of harm

Figure 3 shows the levels of intakes and outcomes as recorded by the department over the last decade. Total intakes increased from 40,202 in 2002–03 to 114,503 in 2011–12. Counter-intuitively, the large increase in intakes over the period has not corresponded with an increase in notifications. The number of intakes recorded as notifications has generally decreased since 2004–05. The increase in intakes has largely resulted in an increase in child concern reports, which were introduced in 2005. In 2011–12, 24,823 notifications were recorded, representing only 21.7 per cent of intakes. This means there is a significant and ongoing increase in reports to Child Safety, but the increase is due overwhelmingly to reporting of incidents which do not raise issues serious enough to require an investigation.

Figure 3: Child protection intakes by outcome type, Queensland, 2002–03 to 2011–12



Source: Department of Communities, Child Safety and Disability Services, *Our Performance,* Table SS.2

Notes: If an intake report relates to more than one child, an intake is counted for each child. If a child was subject to more than one report during the period, an intake is counted for each instance. Recording of child concern reports commenced in 2005. Previously, protective advice responses were recorded as a notification or as other protective advice. The source also lists a number of other changes in legislation, policy, practice and recording information over the period.

When a report to Child Safety is deemed to be a notification, it will usually be subject to an investigation and assessment. The Child Protection Act requires the chief executive to either investigate allegations of harm or risk of harm concerning a child suspected of being in need of protection, or take other appropriate action, for example referral to a support service.

In 2011, provision for a temporary custody order was introduced to enable a child to be taken into custody and protected from immediate harm until Child Safety decides what further statutory intervention is required.[4] The temporary custody order is available when it has been assessed that the child is in need of protection and forensic investigation is not required. For example, Child Safety may apply for a temporary custody order when the child or their parent is already known to the department, either because a sibling is already in the department's care or the family is the subject of voluntary departmental intervention, but the situation has escalated to the point where coercive intervention is necessary (s 51 AB(2)). An order lasts for up to three business days and does not require an assessment to be undertaken.

As at 30 June 2012, 1,078 temporary custody orders had been granted.[5]

2.3.2 The investigation and assessment phase

The investigative powers conferred on authorised officers and police include powers to:

- interview children at educational facilities (s 17)
- have contact with children at immediate risk (s 16)
- consult with the recognised entity when the investigation relates to an Aboriginal or

Torres Strait Islander child (s 6)

- take children at immediate risk into the custody of the chief executive (s 18)
- move children to a safe place (s 21)
- investigate allegations relating to unborn children (s 21A)
- make applications for temporary assessment orders and court assessment orders (ss 23–51)
- use care agreements (ss 51ZD–51ZI)
- obtain a person's criminal history (s 95)
- carry out medical examinations or treatment (s 97).

The underlying purposes of the investigation are to:

- determine whether the child is safe
- investigate allegations of harm and risk of harm
- undertake a holistic assessment of the child and family in their home
- determine if the child is in need of protection
- decide whether there are supports that Child Safety or other agencies can provide to the child and family (Department of Communities, Child Safety and Disability Services 2012c).

The decision-making framework used by Child Safety includes the Structured Decision Making tools. The *Child safety practice manual* nominates multiple points across the child protection continuum, from intake to reunification or permanent out-of-home care, for the mandatory use of Structured Decision Making tools.

The eight Structured Decision Making tools implemented in Queensland are:

- screening criteria
- response priority assessment
- safety assessment
- family risk evaluation for abuse/neglect
- parental strengths and needs assessment/re-assessment
- child strengths and needs assessment/re-assessment
- family risk re-evaluation for in-home cases
- family reunification assessment (Wisconsin Children's Research Center 2009).

The tools, which are predictive rather than forensic, are based on the actuarial risk assessment model. More detail about the Structured Decision Making tools and about the decision-making process more generally is provided in Chapter 4.

Agreements and orders for assessment and investigation

Care assessment agreement

An assessment is preferably undertaken with the consent of parents and can occur with the assistance of a care assessment agreement where the department suspects a child is in need of protection and considers an investigation is necessary to assess that fact. The care assessment agreement operates where the department is satisfied that it is necessary to provide interim protection for the child while the investigation is being completed. By entering into an agreement, the parent agrees to:

- have the child placed by the department with an approved carer, Licensed Care Service, or another entity
- authorise the department to act in all day-to-day matters including decisions about urgent medical attention
- have contact with the child at such times and in such a manner as is mutually acceptable to themselves, the carer and the department.

A care assessment agreement operates for a maximum of 30 days and cannot be extended.

Temporary assessment and court assessment orders

The Child Protection Act also provides that where a parent does not consent, Child Safety can apply to the court for a temporary assessment order (maximum of 3 business days) and/or a court assessment order (up to 28 days), to allow an investigation to be undertaken.

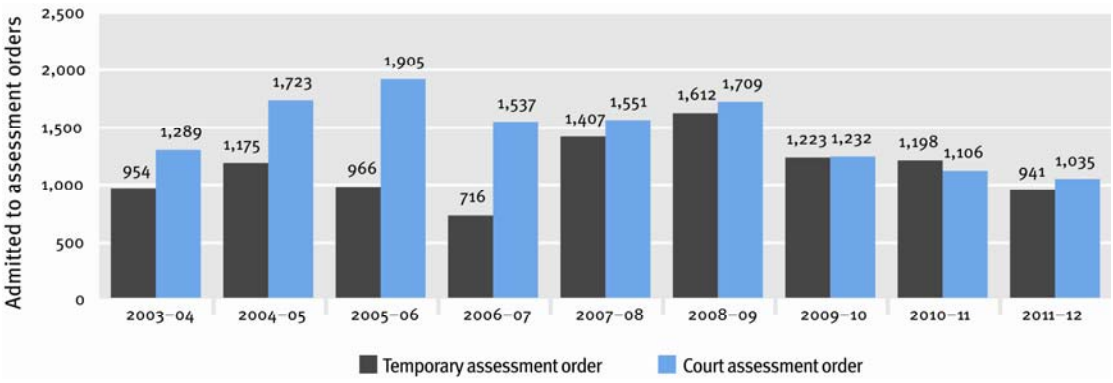
In deciding an application for a temporary assessment order, a magistrate must be satisfied that reasonable steps have been taken to obtain parental consent or it is not practicable to take steps to obtain the consent.

When making a temporary assessment order, a magistrate has the power to:

- direct an authorised officer or a police officer to have contact with a child
- direct restricted contact between the parent and the child
- grant custody if necessary to provide interim protection for the child while the investigation is carried out
- require a medical examination of the child
- authorise an officer or a police officer to enter and search a place to find a child.

Figure 4 shows that just under 1,000 temporary assessment orders were granted in 2011–12.

Figure 4: Admissions to assessment orders by type of order, Queensland, 2003–04 to 2011–12



Source: Department of Communities, Child Safety and Disability Services, *Our Performance*

Notes: Where a child is the subject of more than one admission to an assessment order during the period, an admission is counted for each instance.

If more than three business days are required to complete an investigation and assessment, a court assessment order (s 44) may be sought. The order can last up to 28 days and provides for the same arrangements as a temporary assessment order. A court assessment order can be extended for a further 28 days if required. Figure 4 above shows that just over 1,000 court assessment orders were granted in 2011–12.

Investigation outcomes

Forensic investigation of child abuse and neglect allegations is undertaken by local teams based in Child Safety service centres.

In Queensland, investigation outcomes comprise three key assessments: risk, harm and need for protection. Conclusions are reached through the analysis of risk and protective factors in the family, and evidence of harm having actually occurred to a child (for example, broken bones or significant bruising). The following definitions are used in this process:

- Cumulative harm is defined (in the *Child safety practice manual*) as harm experienced by a child as a result of a series or pattern of harmful events and experiences that may have occurred in the past or are ongoing. There is a strong possibility that there will be multiple interrelated risk factors over critical developmental periods. The effects of cumulative harm can diminish a child's sense of safety, stability and wellbeing (Department of Communities 2010a).
- For unacceptable risk of harm, the Child Protection Act (s 10) refers to harm which has not yet occurred but is likely to in the future, if existing risk factors are not reduced or removed. A child may be assessed as in need of protection if the level of assessed future risk is probable as opposed to merely possible, if the identified likely harm will have a significant detrimental effect on the child's wellbeing if it

does occur, and if there is not a parent able and willing to protect the child from future harm (Department of Communities 2010a).

- A child in need of protection is defined as one who has suffered harm, is suffering harm, or is at unacceptable risk of suffering harm and does not have a parent able and willing to protect the child from harm (Child Protection Act s 10) (Department of Communities 2010a).

There are six possible assessment outcomes, described below.

Unsubstantiated

This outcome is recorded when it is assessed that:

- no actual harm has occurred, the child is not at an unacceptable risk of harm and the child has a parent willing and able to protect them, or
- an unborn child will not be at an unacceptable risk of harm after birth (Department of Communities, Child Safety and Disability Services 2012c).

Substantiated – child not in need of protection

This outcome is recorded when it is assessed that a child has suffered significant harm as defined in the Child Protection Act, but the child is not at an unacceptable risk of future harm because they have a parent who is willing and able to protect them (Department of Communities, Child Safety and Disability Services 2012c).

Substantiated – child in need of protection

This outcome is recorded when it is assessed that:

- a child has experienced significant harm and there is an unacceptable risk of future harm to the child because they do not have a parent willing and able to protect them, or
- a child is at an unacceptable risk of harm because the child does not have a parent willing and able to protect them, although no actual harm has occurred, or
- an unborn baby will be at an unacceptable risk of harm after birth (Department of Communities, Child Safety and Disability Services 2012c).

No investigation and assessment outcome

This outcome is recorded in any of the following situations:

- the investigation and assessment has not commenced because the child and family could not be located
- the investigation and assessment has commenced, but is not able to be completed, as there is insufficient information to decide on an outcome, and the

family cannot be located

- a child has died before the completion of an investigation and assessment and there is insufficient information to decide on an outcome
- a woman believed to be pregnant advises that she is no longer pregnant and this is confirmed with her medical practitioner (or reasonable attempts have been made to do so)
- the pregnant woman has not been located and two months have passed since the estimated date of delivery (Department of Communities, Child Safety and Disability Services 2012c).

Unsubstantiated – ongoing intervention continues

This outcome is recorded when a child is already subject to ongoing intervention at the time of the investigation but no actual harm has occurred and an unacceptable risk of harm has not been identified during the current investigation. Ongoing intervention is a generic practice term that encompasses support service cases,[6] intervention with parental agreement cases, supervision orders, directive orders and child protection orders granting custody and guardianship to the chief executive or another person. This outcome can also be recorded for an unborn baby where it is assessed they will not be subject to unacceptable risk of harm after birth (Department of Communities, Child Safety and Disability Services 2012c).

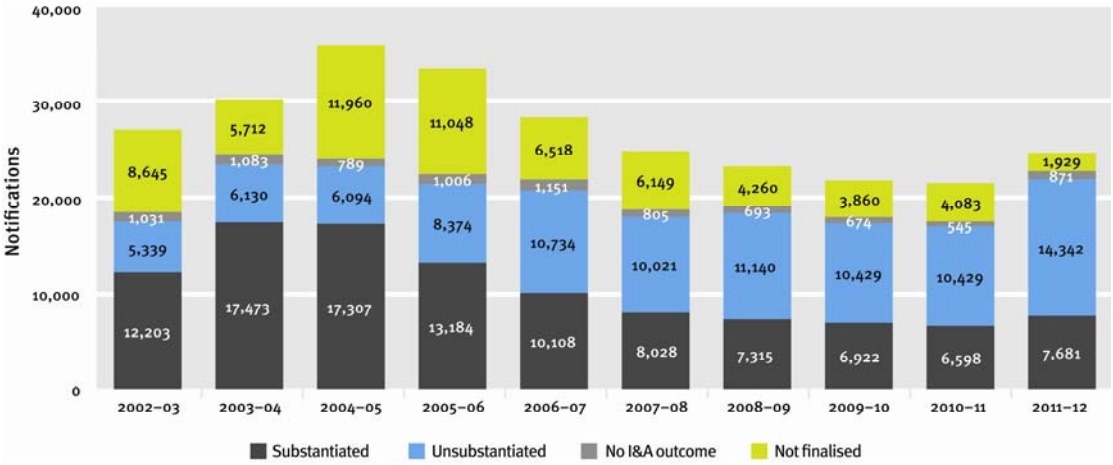
Substantiated – ongoing intervention continues

This outcome is recorded when a child is already subject to ongoing intervention at the time of the investigation and:

- the child has suffered actual harm but no unacceptable risk has been identified as part of the current investigation, or
- the child has not suffered actual harm but an unacceptable risk of harm is present, because the child does not have a parent willing and able to protect them, or
- the child has suffered actual harm and an unacceptable risk of harm is present, because the child does not have a parent willing and able to protect them, or
- an unborn child will be at unacceptable risk of harm after its birth (Department of Communities, Child Safety and Disability Services 2012c).

In 2011–12, 24,823 notifications were recorded of which 7,681 were substantiated (30.9 per cent) and 14,342 were unsubstantiated (57.8 per cent). An investigation was not able to be progressed for 871 notifications (3.5 per cent) and a further 1,929 investigations were not finalised (7.8 per cent) at the time of data extraction. Figure 5 shows that both notifications and substantiations peaked in 2004–05 (after the Crime and Misconduct Commission Inquiry), with a downward trend following that, although a slight increase has been experienced in 2011–12.

Figure 5: Notifications requiring investigation by outcome, Queensland, 2002–03 to 2011–12



Source: Department of Communities, Child Safety and Disability Services, *Our Performance*

Notes: *No I&A outcome* is recorded where it is determined that the investigation was unable to be commenced or completed due to insufficient information or inability to locate a child or family. *Not finalised* is recorded for investigations which are not finalised by the cut-off date for national data collection (31 August).

The role of SCAN

The Child Protection Act requires the chief executive to establish a SCAN (Suspected Child Abuse and Neglect) system to enable a coordinated, multi-agency response to children for whom statutory intervention is required to assess and meet their protection needs. This is achieved by:

- timely information sharing between SCAN team core members
- planning and coordination of actions to assess and respond to the protection needs of children who have experienced harm or risk of harm
- holistic and culturally responsive assessment of children's protection needs (Department of Communities, Child Safety and Disability Services 2012i).

The SCAN team system comprises representatives of core member agencies:

- Department of Communities, Child Safety and Disability Services
- Queensland Health
- Department of Education and Training
- Queensland Police Service
- the local recognised entity.

The SCAN process is described in more detail in Chapter 4.

2.3.3 The response phase

Types of interventions for children in need of protection in Queensland

The Child Protection Act outlines the range of interventions (defined as actions to help meet needs, s 51ZA) for children where actual past harm is proved, or the risk of future harm is assessed as being at an unacceptable level (having regard to the likelihood of its occurrence) and no parent is willing and able to protect the child. These include:

- intervention with parental agreement (child protection care agreements)
- child protection orders (comprising directive orders, supervision orders, custody orders, short-term or long-term guardianship orders).

These are described below in order of increasing levels of coercion and intrusiveness, along with any available data outlining the numbers of each order type.

Voluntary arrangements

Intervention with parental agreement

The chief executive is required to give consideration to undertaking intervention with parental agreement (s 51ZB). The *Child safety practice manual* states that an intervention with parental agreement is a short-term (maximum of 12 months) intervention aimed at building the capacity of the family to meet the protective needs of the child, typically while the child remains in the family home. It further states that all of the following factors must be present to open an intervention with parental agreement:

- the child is in need of protection
- the parents are able and willing to work actively with Child Safety to reduce the level of risk in the home
- a child protection order is not appropriate
- it is assessed that the child is safe to remain at home for all or most of the intervention
- it is likely that the parents will be able to meet the protection and care needs of the child once the intervention is complete (Department of Communities, Child Safety and Disability Services 2012c, Chapter 6).

During an intervention with parental agreement, a child may be placed temporarily in out-of-home care using a child protection care agreement if this is deemed necessary to ensure their care and protection needs are met, or if the provision of respite for the caregiver is agreed during case planning (case planning and management is described in more detail below).

Child protection care agreement

Under an intervention with parental agreement the relevant parties have the power to enter into a 'voluntary' child protection care agreement. The agreement is signed by a parent and allows a child to be placed away from home with an approved carer. The agreement can only be entered into if the child has been deemed to be in need of protection and there is no child protection order in force. Unlike the assessment care agreement, the department retains custody of the child under a child protection care agreement (s 51ZG). This agreement can last for a period of 30 days and can be extended (for periods of 30 days), however such agreements cannot be in force for more than six months in a 12 month period.

Court orders

The Childrens Court has jurisdiction to determine applications for assessment and child protection orders. The majority of these applications are heard by a magistrate with an avenue of appeal to a District Court judge (refer to Chapter 10).

The Childrens Court can make one of several child protection orders. These are directive orders, supervisory orders, custody orders, short-term guardianship orders and long-term guardianship orders (s 61).

The court can only make an order if it is satisfied that:

- the child is in need of protection and the order is appropriate and desirable for the child's protection
- there is a case plan for the child that has been developed or revised and that is appropriate for meeting the child's assessed protection and care needs
- in a contested case, a conference has been held or a reasonable attempt has been made to hold one
- the child's wishes or views, if ascertainable, have been made known to the court
- protection is unlikely to be achieved by less intrusive means.

Additional requirements apply to the making of custody or guardianship orders (see s 59(5)–(8)).

Directive orders

Directive orders comprise two types of order. The first type directs a parent to do or refrain from doing something directly related to the child's protection (s 61(a)). The second type places restrictions on parental contact with the child, either by directing that no contact occur, or by directing that it occur only in the presence of a specific person or category of person, such as a child safety officer (s 61(b)). A directive order may be applied for in conjunction with a supervision order or other child protection

order and can be in place during an intervention with parental agreement, in limited circumstances (Department of Communities, Child Safety and Disability Services 2012c).

The *Child safety practice manual* states that a directive order may be applied for when all of the following circumstances are present:

- the parents will not take the action required on a voluntary basis
- the child can safely remain at home, as long as the parents take certain actions
- the action is able to be clearly defined, and what is required of parents is easily understood by them
- a specific order is able to be made by the court
- failure on the parents' part to comply with the order will not place the child at unacceptable risk of harm
- the parents are likely to adhere to the recommended order (Department of Communities, Child Safety and Disability Services 2012c, Chapter 3).

The *Child safety practice manual* states that a directive order placing conditions on parental contact with a child (contact order) may be applied for when in one of the following circumstances:

- the child could remain at home with a protective parent if the other parent who may be at risk of harming the child was subject to restricted or no contact
- a protective parent consents to the child being cared for by another person (for example, a relative), and the parent to whom the child protection concerns apply was subject to restricted or no contact
- there is a Family Court of Australia parenting order that needs to be overridden for child protection reasons, allowing the protective parent to apply for variation of the Family Court of Australia order
- there is a need to prevent a parent from harassing the child in a significantly harmful way (for example, by making telephone threats), and prosecution may be required to enforce the contact order – in this case, the order may be made in conjunction with any other child protection order
- the child's safety could be secured through the supervision of the parent to whom the child protection concerns apply, and there is a person assessed as able and willing to provide the supervision (Department of Communities, Child Safety and Disability Services 2012c, Chapter 3).

Supervision orders

A supervision order requires the chief executive to supervise a child's protection in relation to the matters stated in the order (s 61(c)).

The *Child safety practice manual* states that a supervision order may be applied for when all of the following circumstances are present:

- the child is in need of protection, but supervision and direction by Child Safety will enable:
  - the child to safely remain at home
  - Child Safety to monitor the situation to ensure that the matters specified in the order are addressed by the parents
- it is possible to specify the areas relating to the child's care that are to be supervised by Child Safety
- failure on the parents' part to comply with Child Safety requirements will not place the child at immediate risk of harm
- the intervention needed, with the child residing in the home, will not be accepted by the parents on a voluntary basis
- it is appropriate for the parents to retain their custody and guardianship rights and responsibilities (Department of Communities, Child Safety and Disability Services 2012c, Chapter 3).

As with intervention with parental agreement, a child or young person may be placed in out-of-home care using a child protection care agreement while the child's parents are subject to a supervision order.

Custody orders

A custody order can be granted to a suitable person who is a member of the child's family, or to the chief executive (s 61(d)).

The *Child safety practice manual* outlines strict conditions relating to an application for a custody order. Preference is given to the granting of a custody order to a member of the child's family. This is granted where:

- the child cannot remain at home under a less intrusive order
- Child Safety is working towards the reunification of the child and family
- there is an appropriate relative able and willing to assume short-term custody for the purpose of protecting the child and is also willing to work with Child Safety in planning for the child to return to the care of the parents
- there is no significant conflict between the parents and the relative, and the relative will facilitate appropriate family contact between the child and the parents
- it is not necessary to impose a 'no contact' decision on a parent
- the member of the child's family is able and willing to assume full financial responsibility for the care of the child.

If there is uncertainty about one of the above factors, it may be appropriate to seek an order granting custody to the chief executive while still placing the child with the relative.

If it is necessary to restrict a parent from all contact with the child, or to actively remove guardianship from a parent due to the very serious nature of the harm, an order granting short-term guardianship to the chief executive will be sought.

Guardianship orders

A short-term guardianship order can only be granted to the chief executive (s 61(e)) and only for up to two years.

The *Child safety practice manual* instructs staff that it is preferable to allow parents to retain guardianship unless there are reasons why this is not in the child's best interests. The manual goes on to say that an application for a short-term guardianship order to the chief executive should be made when:

- the child cannot be safely left at home using a lesser order
- Child Safety is working towards the reunification of the child with the family, and one of the following circumstances apply:
  - there is no available parent to exercise guardianship and be involved in case planning
  - it is necessary to actively remove guardianship from the parents, due to the very serious nature of the harm, or because they are incapable of exercising guardianship
  - it is assessed that the parent will fail to make appropriate guardianship decisions, such as schooling and health care, and therefore it is in the child's best interests for guardianship to be vested in the chief executive.

A long-term guardianship order can be granted to the chief executive or to someone other than the chief executive (s 61(f)), up until the child turns 18 years. The court must not grant long-term guardianship to the chief executive if it can grant such guardianship to some other suitable person (s 59(7)). The Child Protection Act provides that before making a long-term guardianship order, the court must be satisfied that

- There is no parent able and willing to protect the child within the foreseeable future, or
- The child's need for emotional security will be best met in the long term by making the order (s 59(6)).

The Explanatory Notes to the Child Protection Bill 1998 provide an example of circumstances which might meet the child's need for emotional security:

> If an older child in care has been with the same care provider family for many years, it may best meet the child's emotional needs in the long term to remain with the care

> providers, even though the child may now have a parent able to provide adequate care. To move the child now may cause lasting emotional damage to the child.

The *Child safety practice manual* outlines that a long-term guardianship order is sought only after a period of case planning has been undertaken, and family reunification has been attempted but has failed:

> Once a decision is made to pursue an alternative long-term stable living arrangement, it is not appropriate for a child to remain on a short-term custody or short-term guardianship order (Department of Communities, Child Safety and Disability Services 2012c).

In practice, long-term guardianship orders are sought if:

- efforts have been made to locate both parents
- significant work has been undertaken to assist the family to care for the child
- the department's assessment is that a long-term stable living arrangement should be pursued, and that the child's need for emotional security and stability will be best met in the long-term by the order (Department of Communities 2011b).

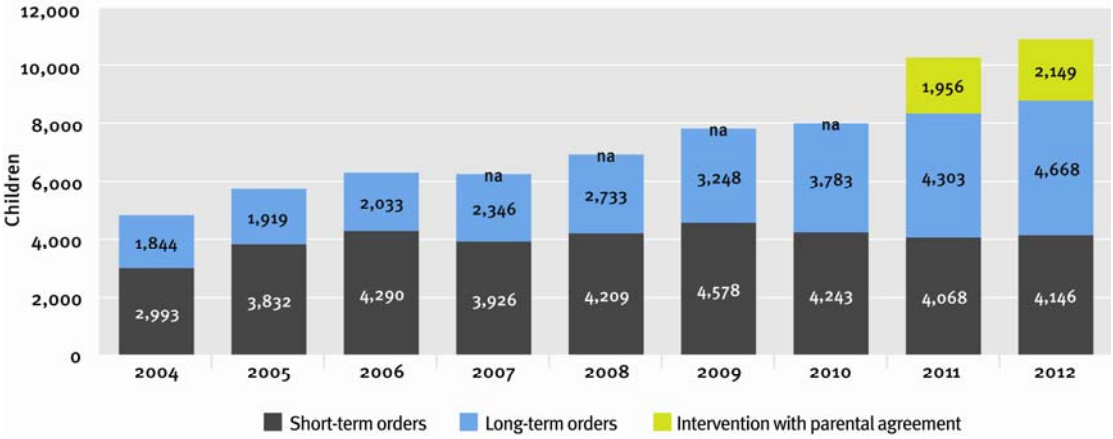
The *Child safety practice manual* establishes that a long-term guardianship order granted to a person other than the department's chief executive gives that person:

- the right to care for the child on a daily basis
- the right and responsibility to make decisions about the child's daily care
- all the powers, rights and responsibilities in relation to the child that would otherwise have been vested in the person having parental responsibility for making decisions about the long-term care, welfare and development of the child (Department of Communities, Child Safety and Disability Services 2012c).

The long-term guardian is legally obliged to inform the child's parents where the child is living and provide opportunity for contact between the child and the parents. The long-term guardian must also notify the department immediately should the child no longer reside in their direct care (Department of Communities, Child Safety and Disability Services 2012c).

Figure 6 shows that the number of children on child protection orders in Queensland has been steadily growing, with 8,814 children on child protection orders in June 2012. Voluntary arrangements for children in need of protection have been used to a much lower extent, with only 2,149 children on interventions with parental agreement in June 2012.

Figure 6: Children in ongoing interventions by type of intervention at 30 June, Queensland, 2004 to 2012



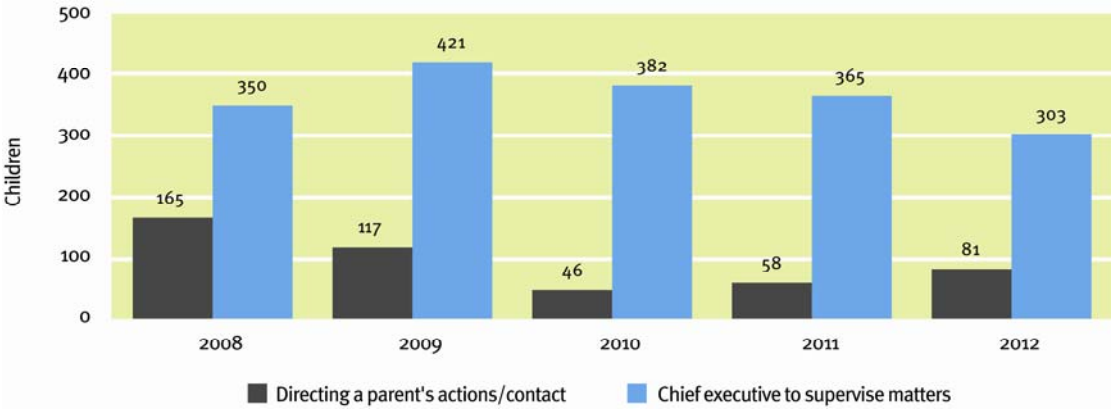
Source: Department of Communities, Child Safety and Disability Services, *Our Performance*; Department of Child Safety 2008, *Child Protection Queensland 2007–08 Performance Report*

Notes: Different types of child protection orders can be granted by the Childrens Court – *short-term* child protection orders (directive, supervision and short-term custody or guardianship to the chief executive or a suitable person who is a member of the child's family) and *long-term* child protection orders (guardianship to the chief executive, a relative of the child or 'another suitable person'). An *Intervention with parental agreement* (IPA) is opened following an assessment that the parents are able and willing to work actively with Child Safety Services. Comparable data on IPAs prior to 2011 are not available.

Child protection orders are most likely to be used for children subject to ongoing intervention. Intervention with parental agreements accounted for 20 per cent of cases in June 2012, whereas 80 per cent of children were on child protection orders (Department of Communities, Child Safety and Disability Services 2012n).

The Commission is not aware of the reasons for the limited use of intervention with parental agreement. However, it would appear that the less coercive orders are generally decreasing across the board. Directive orders and supervision orders both decreased in 2010 (Figure 7). Between 2010 and 2012, supervision orders continued to decrease from 382 cases to 303 cases, while there was some increase in the relatively small number of children on directive orders, from 46 to 81 at 30 June 2012 (see further discussion in Chapter 5).

Figure 7: Children subject to directive or supervisory short-term orders by order purpose at 30 June, Queensland, 2008 to 2012

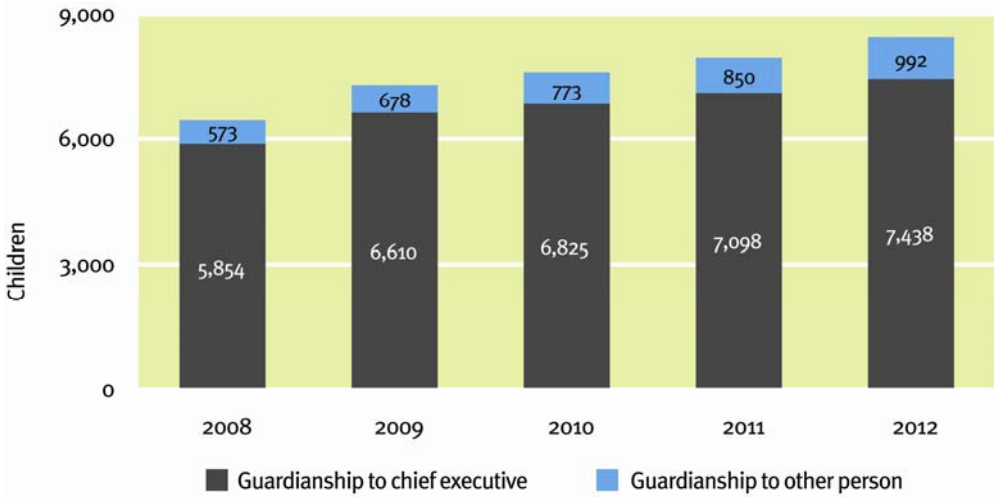


Source: Department of Communities, Child Safety & Disability Services, *Our performance*, Table CPO.4.

Notes: If a child is subject to more than one type of order they are counted once according to their most serious order/directive.

Figure 8 shows the steady increase in the use of custody and guardianship child protection orders (Department of Communities, Child Safety and Disability Services 2012h, Table CPO.4). This is in the context of a declining use of assessment orders,[7] which peaked in 2008–09 at 3,321 orders and fell to 2,304 in 2010–11 (Department of Communities, Child Safety and Disability Services 2012h, Tables Ao.1 and Ao.2). This means that the percentage of investigation cases resulting in custody or guardianship orders is steadily increasing.

Figure 8: Children subject to short and long-term orders granting guardianship/custody by guardian at 30 June, Queensland, 2008 to 2012



Source: Department of Communities, Child Safety & Disability Services, *Our performance*, Table CPO.4.

Notes: If a child is subject to more than one type of order, they are counted once according to their most serious order/directive.

Case planning and management

When a child has been deemed to be in need of protection, and Child Safety will be providing ongoing assistance, the Child Protection Act requires the child to have a case plan.

A case plan may include (s 51B):

- a goal or goals to be achieved by the plan
- arrangements about where the child will live
- services to be provided to meet the child's care and protection needs and to promote the child's wellbeing
- those matters for which the chief executive will be responsible, including any support services, and those matters for which the parent or carer will be responsible
- the contact arrangements with the child's family or any other person with whom the child is connected
- arrangements for maintaining the child's ethnic and cultural identity
- a proposed review date for the plan.

A case plan, under s 51D of the Act, is intended to facilitate timely decision-making and the participation of the child, their parents, other members of the child's family, and Aboriginal or Torres Strait Islander agencies and people (where relevant). It provides an opportunity to involve other appropriate organisations in the care and protection of the child, and aims to give priority to the child's need for stable care and continuity of relationships. It is a requirement that the case plan can be understood by those subject to it.

Family group meetings must be convened by the chief executive to develop the case plan and to ensure its review (s 51H). For children where there is no long-term guardian, the case plan must be reviewed 'regularly' (s 51V), but in any case at least every 12 months. A child who has a long-term guardian may request the case plan to be reviewed at any time (although the chief executive is not obliged to undertake a review on request), but the chief executive must contact the child every 12 months to give them an opportunity to seek a review (s 51VA). Family group meetings are described in more detail in Chapter 10.

Case management responsibilities for all ongoing intervention types are allocated to a child safety officer. Case management is defined by the *Child safety practice manual* as 'a way of working with the child, family and other agencies to ensure that the services provided are coordinated, integrated and targeted to meet the goals of the case plan' (Department of Communities, Child Safety and Disability Services 2012c, Chapter 3).

The *Child safety practice manual* further states that, during ongoing intervention, the allocated child safety officer is responsible for facilitating actions to implement the case plan, and supporting and monitoring progress toward the case plan goal and outcomes. This is to be carried out with the support of the child safety support officer, team leader, other Child Safety staff and service providers (for a description of these roles see Chapter 8).

The out-of-home care system

Out-of-home care is used for children and young people who cannot safely remain in their family home, either during the investigation and assessment phase, or following formal intervention by the department as part of a child protection order.

Once a child is taken into long-term care, the Child Protection Act emphasises the importance of stability and security as central considerations when deciding on their living arrangements. The Act is administered according to the principle that 'if a child does not have a parent able and willing to give the child ongoing protection in the foreseeable future, the child should have long-term alternative care' (s 5B(g)). The Act also recognises that 'a child should have stable living arrangements', which includes arrangements that provide for 'a stable connection with the child's family and community' and 'for the child's developmental, educational, emotional, health, intellectual and physical needs to be met' (s 5B(k)). The child's need for emotional security can be a factor for consideration by a court when deciding whether or not to make a long-term guardianship order (s 59(6)). Furthermore, 'a delay in making a decision in relation to a child should be avoided, unless appropriate for the child' (s 5B(n)).

Queensland's *Child safety practice manual* requires that a long-term out-of-home care placement be pursued for a child under three years of age when the child has been in an out-of-home placement for 18 of the past 24 months and:

- the risk level has remained 'high' for 12 consecutive months
- the contact has been rated as 'fair', 'poor' or 'none' for 12 consecutive months
- the household has been deemed 'unsafe' for 12 consecutive months.

For a child over the age of three, a long-term out-of-home care placement must be pursued when the child has been in an out-of-home placement for 24 of the past 30 months and:

- the risk level has remained 'high' for 18 consecutive months
- the contact has been rated as 'fair', 'poor' or 'none' for 18 consecutive months
- the household has been deemed 'unsafe' for 18 consecutive months.

A long-term out-of home care plan may involve:

- arranging for the child to live with a member of the child's family or another suitable person under a child protection order granting long-term guardianship of

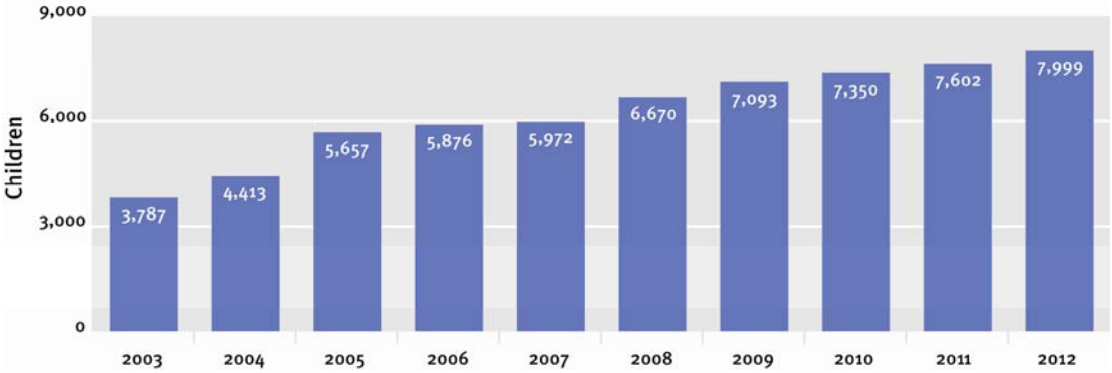
the child to the chief executive or to another

- arranging for the child's adoption under the *Adoption Act 2009*
- arranging for the child's transition to independent living (for a child aged 15 years or over).

The Child Protection Act also recognises the importance of the role of the family and the need to preserve it, by facilitating reunification after protective removal, where possible and in a child's best interests. The Act assumes that the preferred way of ensuring a child's safety and wellbeing is through supporting the child's family (s 5B(c)), and if a child is removed from his or her family, support should be given to the child and the family for the purpose of allowing the child to return to his or her family, if the return is in the child's best interests (s 5B(f)).

Figure 9 shows that, as with the number of child protection orders, the number of children in out-of-home care has been steadily increasing since 2003, with 7,999 children in out-of-home care in 2012.

Figure 9: Children in out-of-home care at 30 June, Queensland, 2003 to 2012



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

Notes: Data prior to 2004 on children in out-of-home care include the following categories of children even if they do not meet the definition of 'out-of-home care': wards, children under a guardianship order, protected persons (including overseas adoptees) and pre-adoption placements. The scope for out-of-home care was expanded in 2007–08 to include children in care where a financial payment was offered but was declined by the carer.

Transition from care

The Child Protection Act provides for planning and assistance to be given to a child who is or who has been in care to transition to independence. The Act does not specify an age limit on the provision of assistance or the time period over which assistance can be provided. Relevant provisions include:

- the chief executive providing, or helping to provide, services that encourage children in their development into responsible adulthood (s 7(1)(e))

- a child protection order ends when the child turns 18 (s 62(4))
- the framework for case planning and management up to age 18 (s 51A-Y)
- a charter of rights for a child in care that includes the right to receive appropriate help with the transition to independence – including, for example, help with housing, access to income support, and training and education (s 74, sch 1K)
- a requirement for the department to provide help in the transition to independence (s 75)
- a requirement for the department to provide financial assistance to support the transition to independence (s 159(2)).

The *Child safety practice manual* provides for child safety officers to start planning for transition from care with a young person from 15 years of age.

[1] Submission of Queensland Council of Social Services, 28 September 2012 [p4].

[2] Submission of ACT for Kids, 'Keeping Indigenous children and young people connected to community, culture and country', September 2012 [p4; p6].

[3] Submission of Anglicare Southern Queensland, November 2012 [p4].

[4] If the chief executive becomes aware (whether because of a report made to the chief executive or otherwise) of alleged harm or risk of harm to a child and reasonably suspects that the child is in need of protection, the chief executive must immediately:

- have an authorised officer investigate the allegation and assess the child's need of protection; or
- take other action the chief executive considers appropriate (*Child Protection Act 1999* (Qld) s 14(1)).

[5] Statement of Brad Swan, 26 October 2012.

[6] A support service case is a type of voluntary intervention offered to families by Child Safety aimed at reducing the likelihood of future harm to a child, or an unborn child after birth, or to provide ongoing support and assistance to a young person who is transitioning from care, after their 18th birthday. A support service case can be opened following assessment where it is decided the child is not in need of protection, but the level of risk in the family is 'high.' Support service cases are also opened after investigations where it is assessed that an unborn child will be in need of protection after its birth (Department of Communities, Child Safety and Disability Services 2012c).

[7] An assessment order is a short-term order that is granted by either a magistrate or the court, under the Child Protection Act, to allow a range of activities to occur to complete an investigation and assessment, when a parent refuses to give consent for certain parts of an investigation to occur.

Chapter 3

Chapter 3

Reducing demand on the tertiary system

It is generally accepted that the best way to deal with child abuse and neglect is to prevent it from occurring in the first place (Council of Australian Governments 2009). One of the key challenges for all child protection systems is to achieve the right balance between supporting families (through preventative interventions) and delivering reactive tertiary child protection services when required. This chapter examines increasing demand on the tertiary sector and explores ways to reduce that demand: by improving access to and availability of secondary prevention services and by reviewing the referral and intake processes that are the gateway to the tertiary system.

3.1 Current status in Queensland

3.1.1 Increasing demand on tertiary child protection services

The tertiary sector is the service system's principal response to families where harm has *already* occurred (Hunter 2011). Queensland's statutory service operates primarily at the tertiary level, providing for investigation and assessment of abuse and neglect, court processes, case management and the out-of-home care system.

Chapter 2 shows that the demands on this level of the system have increased markedly over recent years with the number of reports (or intakes) to Child Safety regarding concerns about child abuse and neglect rising by almost 60 per cent over the last five years, from 71,885 in 2007–08 to 114,503 in 2011–12.[1]

The majority of these intakes are assessed as child concern reports because the issues raised do not reach the threshold for further assessment and investigation. In 2011–12, about 80 per cent of intakes (89,680 of the 114,503) were recorded as child concern reports, while the remaining 24,823 progressed for further departmental investigation through a notification.

The overall growth in intakes is even more marked when it is noted that the number of

intakes before the Crime and Misconduct Commission Inquiry in 2003–04 was only 44,631.[2]

A pressing concern for Queensland is the over-representation of Aboriginal and Torres Strait Islander children at all stages of the child protection system. In 2011–12 one in every 2.2 Aboriginal and Torres Strait Islander children were known to Child Safety, and this is anticipated to increase to every second child being known to Child Safety by 2012–13[3]. This projection represents a marked increase from 2007–08, when 1 in 4.6 Aboriginal and Torres Strait Islander children were known to the department.[4]

Aboriginal and Torres Strait Islander children are increasingly more likely to be subject to a notification which reflects an increasing degree of over-representation. As a rate per 1,000 of the Queensland population aged 0 – 17 years, 82.0 in 1,000 Aboriginal and Torres Strait Islander children were subject to a notification in 2011–12, compared with 16.1 in 1,000 non-Indigenous children. While the number of non-Indigenous children subject to a notification has decreased by 10.8 per cent since 2007–08, the number of Aboriginal and Torres Strait Islander children subject to a notification has increased by 35.5 per cent.[5]

The numbers of Aboriginal and Torres Strait Islander children in out-of-home care are also growing exponentially, with Aboriginal and Torres Strait Islander children entering care at an earlier age and staying longer. Given the significance of this problem, a specific set of options for responding to over-representation of Aboriginal and Torres Strait Islander children and families is outlined in Chapter 7.

Some of the factors said to have influenced the growth in reports to Child Safety in Queensland are:

- greater public awareness about the safety of children following the Crime and Misconduct Commission of Inquiry in 2004
- more professionals being mandated to report concerns about child abuse and neglect to Child Safety (nurses became mandatory reporters in 2005, in response to the Crime and Misconduct Commission Inquiry)
- a police policy of notifying Child Safety of all domestic violence incidents when children live in the residence, introduced in 2005[6]
- an increase in the scope for intakes in 2004, when legislative amendments introduced unborn child notifications aimed at enabling Child Safety to provide preventative support to pregnant women
- increases in reporting and re-reporting to Child Safety because of a lack of secondary services to help families where there is a concern about a child's welfare, but tertiary intervention is not required.

The analysis offered by the department in its submission to the Commission suggests that the current mandatory reporting regime, particularly as it applies to government agencies such as Queensland Health, the Department of Education, Training and

Employment and the Queensland Police Service, contributes to the high volumes of child concern reports received by Child Safety. In 2011–12, reports from schools, health and police sources amounted to about 60 per cent of all intakes to Child Safety.[7]

Increasing demand on tertiary child protection services is not unique to Queensland; other jurisdictions are also experiencing an increase in reports to tertiary child protection authorities that do not meet the threshold for tertiary intervention. Some jurisdictions, including Victoria, Tasmania, New South Wales and New Zealand, are responding to increasing intakes to tertiary child protection services by increasing the access of vulnerable families to family support services, particularly intensive family support services, and by establishing referral pathways that divert families from coercive tertiary intervention where possible. These strategies are examined later in this chapter.

3.1.2 Underinvestment in secondary services

Historically, Queensland has under-invested in secondary services (Tilbury 2005). The Queensland system has been described as fundamentally lacking in both elements of a secondary service system: intensive family support services for at-risk families and early intervention services for vulnerable families and children whose needs are not as complex and entrenched as 'at risk' families. Stakeholders have suggested that the absence of secondary services has contributed to the increased demand experienced by tertiary child protection services. Members of the Queensland Law Society have identified the effect of a lack of services:

> … there is a lack of services, and funding for those services that exist, in this sector. The result of which is that children and their families cannot get access to these services, particularly in rural and regional areas. Our members' experience is that support/intervention is generally not able to be provided by departmental officers, either due to the specific expertise/skill required, or their own significant workload. Generally, referrals are made for government or non-government organisation services. Therefore funding of such services is critical to effective casework with children and families. The Society calls for more funding so that there are more services available and more education and support for the community, staff and workers. In the experience of our members, the use of psychologists and social workers has been a critical and significant part of aiding care decisions and the Society would like to see this continue. The Society also renews calls for more education and counselling services for children and their support networks.[8]

The current balance of tertiary and secondary child protection services is best understood in the context of past inquiries into the child protection system in Queensland.

3.2 The Forde Inquiry and the Crime and Misconduct Commission Foster Care Inquiry

Although Queensland faces many of the same challenges as child protection services

in other states and territories of Australia, it has been slower than other jurisdictions to develop and invest in secondary family support services.

In 1999, the Queensland Commission of Inquiry into abuse of children in Queensland institutions (the Forde Inquiry) noted that child welfare in Queensland had been under-funded compared with the rest of Australia. The Forde Inquiry recommended that the Queensland Government increase the budget of the department by $103 million to permit it to meet the national average per capita welfare spending for children. It also recommended that these additional resources should focus on the prevention of child abuse through supporting at-risk families with respite care, parenting programs, and other early intervention and preventative programs.

In 1999–2000, the first major funding boost for child protection was directed towards responding to the Forde Inquiry recommendations. In 2002, new funds were tied to *Queensland families: future directions*, a policy statement aimed at delivering new prevention and early intervention services. New services were piloted, with the intention that those demonstrating success would continue and be implemented throughout the state (Tilbury 2005).

However, two years later, this policy direction was interrupted with the Crime and Misconduct Commission Inquiry into abuse of children in foster care. The Crime and Misconduct Commission found that the Queensland system had failed the children in its care and made a range of sweeping recommendations to reform tertiary child protection services while recommending a sustained focus on prevention and early intervention. The conclusion of the Crime and Misconduct Commission was that a single-agency focus on tertiary child protection was required to implement the transformational change necessary to ensure the safety of children in the future. The responsibility of early intervention and prevention was assigned to the then Department of Communities, which was required to deliver the final instalment of *Future directions* funding through the Referral for Active Intervention program (Tilbury 2005).

Following the 2004 Crime and Misconduct Commission Inquiry, Queensland's investment in tertiary child protection has increased from $314.9 million in 2004–05 to $735.5 million in 2011-12. The chapter on child protection in the 2013 Report on Government Services documents a total of $306.2 million allocated to child protection, $396.1 million for out-of-home care and $33.1 million for intensive family support in 2011-12.

The implementation of the recommendations of the Crime and Misconduct Commission Inquiry has markedly improved tertiary child protection services and there is now a greater capacity to investigate and assess risk of abuse and neglect, place children in alternative care and support children in safe and adequate out-of-home placements. However, when Queensland's investment in intensive family support is compared with that of Victoria and New South Wales it is lagging, with $163.7 million committed to these services in New South Wales and $63 million in Victoria (Steering Committee for

the Review of Government Service Provision 2012). The Commission notes that intensive family support is only one component of secondary child protection services and does not fully capture the range of early intervention and prevention services funded across jurisdictions.

Since 2004, academics and commentators have argued that the practical effect of the child protection model derived from the Crime and Misconduct Commission recommendations was to expand a 'one size fits all' child rescue model of child protection that pushed resources to tertiary child protection and out-of-home care (Humphreys et al. 2009). In its submission, the department also acknowledges that 'over time, departmental intervention has become more reflective of a forensic, investigative approach to child protection rather than a family support approach'.[9]

Stakeholders agree that what is needed now is a better balance between the efforts of government and those of the community across the secondary and tertiary child protection systems. Mission Australia describes this perspective in the conclusion to its submission to the Commission: 'In our view a fundamental policy shift is required to ensure that approaches are focused on child protection *before the fact* rather than child protection *after the fact.*'[10]

3.3 Existing programs for secondary prevention in Queensland

This section describes existing secondary prevention programs in place in Queensland at two levels:

- intensive family support services for at-risk families
- early intervention services for vulnerable families.

This section presents evaluations of these programs, then examines the scope for expansion of the programs.

3.3.1 Initiatives already in place that provide intensive family support services to Queensland families

Queensland's current investment in intensive family support is funded by the department and delivered by non-government agencies. These services are provided to families in contact with Child Safety, or at risk of coming into contact with Child Safety, through the following programs:

- Referral for Active Intervention services
- Aboriginal and Torres Strait Islander Family Support Services
- Family Intervention Services
- Helping Out Families Initiative.

Both Referral for Active Intervention and Helping Out Families were designed to divert

families from the tertiary child protection system by providing intensive support to families with multiple and complex needs.

Most recently the Queensland Government has committed $5.5 million over four years for the Fostering Families initiative from 2012–13, to provide family support services to specifically address neglect (Davis 2012).

Referral for Active Intervention Services

Referral for Active Intervention (commenced 2005–06) provides intensive family support to children and families at risk of entering the tertiary child protection system. Services include brokerage funding to purchase items such as children's beds, specialist counselling and payment of overdue rent to avoid eviction. In Queensland there are 12 Referral for Active Intervention services and 12 Referral for Active Intervention Ancillary services, with a total funding of $12 million annually.

The department conducted a three-year evaluation of the Referral for Active Intervention program. The evaluation identified that:

- most families referred had multiple problems and multiple strengths
- services were successful in working with families to reduce their challenges in areas such as parenting, family violence, social isolation, child mental health problems, access to community supports and recreation, and parent–child relationships
- most families required at least six months of intervention, with Aboriginal and Torres Strait Islander families showing that a three-month engagement was least effective for them
- brokerage funding was an effective way to engage families who are often reluctant to agree to receiving help and are suspicious of whether they will be helped in a practical way (Department of Communities 2010b).

Aboriginal and Torres Strait Islander Family Support Services

These services (commenced in 2010–11) provide intensive family support to Aboriginal and Torres Strait Islander families. They are available to vulnerable children and families, those at risk of entering the tertiary child protection system, and children and families where abuse has been confirmed and children may have been removed, or are at risk of removal, and there is ongoing intervention by Child Safety. In Queensland there are 11 Aboriginal and Torres Strait Islander Family Support Services, with a total funding of $9.4 million annually. (See further discussion in Chapter 7.)

Family Intervention Services

Family Intervention Services are intensive family support, family preservation and reunification services that work with children and families where abuse or neglect have been confirmed and children are at risk of removal, or they have been removed from their families and there is ongoing intervention by Child Safety. In Queensland there are 50 Family Intervention Services, with a total funding of $19.8 million annually.

Helping Out Families

The most significant investment in intensive family support in recent years has come through the Helping Out Families initiative. Helping Out Families commenced in three trial sites in 2010 at a cost of $55 million over four years (Department of Communities 2011a).

The Helping Out Families model originated from an internal analysis undertaken by the former Department of Child Safety in 2008. This analysis examined the trends and issues faced by the department since implementation of the Crime and Misconduct Commission Inquiry recommendations. The analysis demonstrated that Child Safety had experienced a substantial increase in reports as well as in children entering out-of-home care. At that time it was projected that, should this trajectory continue, by 2012 the number of reports to Child Safety would increase to 108,000 and the number of children in out-of home care could reach 9,000.[11]

Work was then undertaken to develop a new direction to better manage the growing demand on the tertiary child protection system. This involved examining referral pathways in and out of Child Safety, increasing the capacity of early intervention and prevention services, and identifying efficiencies within tertiary child protection services.[12]

At the time, the initial model developed to divert children and families from tertiary child protection was based on the Child FIRST initiative operating in Victoria.[13] This model offers reporters, particularly those from government agencies such as police, education and health, an alternative referral pathway when they have concerns about a child's wellbeing. That is, they can choose whether to report significant concerns about a child's safety to tertiary child protection services for a statutory assessment or intervention, or they can report concerns about a child's wellbeing to Child FIRST for a family support response. A child protection officer is stationed in each Child FIRST service to provide expert child protection advice and identify any children who may meet the threshold for tertiary child protection intervention.

However, because of concerns across government that a child may 'fall between the cracks', the final model (Helping Out Families) required all children to be referred to Child Safety for a tertiary child protection assessment (and recording on the child protection database) before being referred to a non-government Family Support Alliance for a family support assessment. This required legislative amendment to allow

child safety officers (based in the Regional Intake Service) to refer families' information without their consent to the Family Support Alliance.[14]

The Helping Out Families initiative is delivered at three sites in South-East Queensland (Beenleigh, Logan and the Gold Coast). It includes the following elements:

- Child Safety refers details of child concern reports to a non-government organisation (a Family Support Alliance funded at three sites for a total of $1.3 million annually) to pro-actively make contact with a family to assess their needs and refer them to family support, intensive family support, family violence services or other services available in the community. The Family Support Alliance makes a number of attempts to engage families if they are reluctant to accept help.
- The Family Support Alliance, together with the department, has responsibility for establishing a network of agencies to coordinate service delivery across the sites as well as to facilitate effective referrals.
- New Intensive Family Support services work closely with families who have a range of needs and challenges (funded at three sites for $7.4 million annually).
- New investment in family violence services includes counselling and advocacy, perpetrator programs and court support (funded for $2.5 million annually).
- A health home visiting service delivered by Queensland Health provides universal access for up to six contacts with maternal and child health staff for parents of newborn children up to three years of age. For families assessed as vulnerable, up to 12 intensive visits in the first year are available, with ongoing visits up to a child's third birthday (funded at $3.8 million annually).

On commencement, families were referred into the Helping Out Families initiative solely through the Regional Intake Service to the Family Support Alliance. However, in 2011 the model was changed to allow for direct referrals from Queensland Health and schools as well as self-referrals from families.[15]

In 2011, the evaluation of Helping Out Families reported early indications that the initiative was showing positive results – for example:

- families were accessing services (just under 50 per cent of those families referred) and as a result there had been a local reduction in intakes to Child Safety
- those families who had received services from Helping Out Families demonstrated less re-reporting to Child Safety
- a small number of families who had received services and whose cases were closed had reported reduced risks to children
- there was improved collaboration between government and non-government agencies through establishing the formal networks at multiple levels
- referrals to family violence services had been lower than expected (approximately 50 in the first seven months of operation across the three sites), with most families having multiple problems and opting to take up offers of assistance from Intensive

Family Support Services

- there were high levels of satisfaction in families who received the universal and targeted health home visiting services
- an increasing range of strategies was developed by the Family Support Alliances to make contact with families and gain their trust to take up services (Department of Communities 2011a).

The department's submission refers to the promising initial data that has emerged from the Helping Out Families trial region, which suggests that this model of intensive family support is meeting the needs of families. The department reports that, in this region, notifications have decreased by 3 per cent (compared with a 15 per cent increase for the rest of the state) and suggests that admissions to out-of-home care are projected to decrease by 7 per cent while admissions in the rest of Queensland are expected to increase by 18 per cent.[16]

3.3.2 The availability of earlier intervention services in Queensland

A robust secondary services system also incorporates early intervention services which are available to vulnerable families whose needs are not as complex and entrenched as those of 'at risk' families. These services include general family support services and targeted or specialist services for particular problems such as family violence or for vulnerable populations such as young parents. Although it appears there is agreement that the Referral for Active Intervention and Helping Out Families programs are successfully supporting families with multiple and complex needs, service providers have questioned this focus and identified that it remains difficult for families to access early intervention services before their needs become complex and entrenched.

UnitingCare Community, a service provider that delivers both Referral for Active Intervention and Helping Out Families services, shares this view:

> … the threshold for referring to Referral for Active Intervention and Helping Out Families programs is too high resulting in only highly complex cases being referred instead of families whom we regard as genuine early intervention cases. Most families referred to the Helping Out Families program present with multiple and complex problems developed over a number of generations. While the program is well placed to support these families, the needs of families who require low-to-medium levels of support remain unaddressed. As a result, early intervention services are not available to these families at a point when they would be effective and the Referral for Active Intervention and Helping Out Families programs are congested with referrals that have already had multiple notifications to Child Safety.[17]

Early intervention services in Queensland that do exist are provided by a range of agencies that cross a number of portfolios. For example, the Department of Communities, Child Safety and Disability Services currently funds 126 services at a total of $20.8 million annually to deliver Targeted Family Support services.[18] These services support vulnerable children, young people (unborn to 18 years) and their

families to improve the safety and wellbeing of children, help preserve families and prevent entry or re-entry into the tertiary child protection system.

Queensland Health, the Department of Education, Training and Employment and the Australian Government all deliver family support services. In addition, services provided in relation to maternal and child health, early childhood education and care, substance misuse, family violence, mental health, disability, housing and homelessness, young people at risk, emergency relief and social support all have a direct impact on family functioning.

Anglicare Southern Queensland points out that, in Queensland, families who need support are often unable to access it in a timely or responsive way and navigating the complexity of this service system is challenging for both families and professionals.[19]

3.4 Secondary services in Queensland – addressing the gaps

Although submissions to the Commission acknowledge that both the Referral for Active Intervention and Helping Out Families programs are delivering promising outcomes for vulnerable families, stakeholders also advise there remains a significant gap across the secondary services sector in Queensland. A consistent message from the majority of submissions is that existing services do not adequately meet demand and that Queensland families simply do not have sufficient access to the types of support they need to care for their children.[20] There is a need for intensive services to be more widely available across the state and for more services to be available to families at an earlier stage and/or for a longer period.

3.4.1 Expanding intensive family support services

Non-government agencies have been critical of the fact that the Referral for Active Intervention and Helping Out Families initiatives do not provide statewide coverage. Referral for Active Intervention services are available in 12 locations and the more comprehensive Helping Out Families program is available in only three locations. Fostering Families,[21] which is due to commence early in 2013, will also be available only in specified locations.

The Churches of Christ Care submission to the Commission points out that:

> … the current approach to child protection concerns involves an assessment of the information received against a threshold. If the threshold is not deemed to require statutory investigation, the department may or may not refer to a Referral for Active Intervention service. This approach is to block the system as pro-active responses to families are only sometimes referred to an agency, and then only a Referral for Active Intervention service. Referral for Active Intervention is only located in larger centres and not in most areas.[22]

Stakeholders have also suggested that, because the services provided by Referral for Active Intervention and Helping Out Families are time-limited, families are unable to

access support for a sufficient time period to fully meet their needs.[23] The Australian Association of Social Workers states that 'time-limited services have little effectiveness for families experiencing inter-generational issues related to child abuse and neglect'[24] and UnitingCare Community suggests that 'intervention timeframes with families are too often driven by the terms established in Service Agreements rather than according to family needs'.[25]

Despite this criticism of the current model, ACT for Kids, the Queensland Council for Social Service and UnitingCare Community all call for an expansion of the Referral for Active Intervention and Helping Out Families programs.[26] Similarly, the Ipswich Women's Centre Against Domestic Violence expresses the view that:

> One of the best ways to address child abuse and neglect is via well-resourced intensive early intervention support services. There are simply not enough of these in existence, and the demands experienced by the existing services is enormous.[27]

The department acknowledges that services to support families to address parental risk factors are not available everywhere in Queensland.[28]

3.4.2 Increasing the availability of early intervention services

As well as advocating an expansion of intensive family support services, a number of submissions have called for additional investment in prevention and early intervention services.[29]

A consistent theme in a number of submissions to the Commission is the benefits that could be achieved by helping families earlier with prevention and early intervention services. This theme was mirrored in consultations with frontline child protection staff employed by Child Safety who stressed the need for a stronger emphasis on intensive family support and early intervention services to prevent families entering the statutory system. Many child protection workers recognise the need for a stronger secondary services sector and have spoken about families they have worked with who could have been helped at an earlier stage when problems might have been easier to address.[30]

3.4.3 Coordinating and resourcing intensive family support and early intervention services in Queensland

The main options to fund an expansion of intensive family support services are to commit to new funding, to re-direct existing funding from the tertiary system or use some of the $2.6 billion departmental budget to comply with the expectations of the *Child Protection Act 1999* and *Family Services Act 1987*.

Both the Commission for Children, Young People and Child Guardian and the department note that funding should be maintained in the tertiary sector while secondary services are further developed. The Commission for Children and Young People and Child Guardian argues that while evidence for the effectiveness of

prevention and early intervention services has been well established in the overseas context, Australia is yet to conduct research that is rigorous enough to conclusively establish the effectiveness of Australia's efforts to intervene at this point.[31] The department suggests that tertiary funding is needed until secondary services are able to meet demand.[32]

An alternative is a combination of both options. A former Director-General of the Department of Communities, Linda Apelt, said that:

> … there is no other way other than to have some sort of 'hump-funding' approach like the Helping Out Families in the hotspot areas and then it would be reasonable to assume that you could then make savings in what it's costing in the statutory end.[33]

This transition phase – that is, the phase where increased investment is targeted at secondary services while at the same time servicing demand at the tertiary end – is where the real challenge for government lies.

Some submissions argue that another challenge to providing adequate resourcing of early intervention services is that the current range and mix of early intervention services in Queensland are less well understood and not easily identified. Given the fragmentation of the sector, some submissions suggest that a review of the current resourcing of prevention and early intervention services is needed. The Commission for Children, Young People and Child Guardian comments:

> There is limited understanding of, and no comprehensive reporting on, the total amount of funding directed towards secondary services. Also, there is no agency responsible for coordinating these services, including planning, coordination and delivery of the right secondary services in the right areas.[34]

Accordingly, the Commission for Children, Young People and Child Guardian suggests that a stocktake is required of the services that already exist (across government) and that an assessment of demand for services is needed to ensure that funds are best directed to children and families who need them.[35] The Australian Association of Social Workers also recommends greater accountability by government in reporting on funding for primary, secondary and tertiary child protection services to ensure there is an appropriate balance in service provision.[36]

UnitingCare Community recommends similar action, although more narrow in scope: that existing departmental funding should be reviewed and reassigned to more effectively support vulnerable children and families.[37] This recommendation is mirrored by the department, which proposes to review and re-purpose its suite of secondary and tertiary family support programs into one over-arching child and family support program.[38]

Forming local alliances

The department suggests that another way to improve the coordination and capacity of

the secondary service system is to establish local alliances of services. Local alliances of this nature would bring together a range of services to develop innovative responses to document service delivery trends, as well as facilitate a coordinated case management process for individual families. Such an approach could be underpinned by a place-based planning and investment process that aligns and integrates child and family services across agencies.[39]

However, although UnitingCare Community agrees that real improvements need to be delivered at a local level, its experience has been that attempts in the past to formalise service networks have been less than successful. For example, it advises that the membership of the action network teams that supported the Referral for Active Intervention initiative lacked the authority to drive change within their organisations.[40]

Coordinated delivery linking primary and secondary services

Improvements to the coordination and capacity of secondary services will be most effective if they are also linked to primary prevention services. Primary services (available to all children and families), including maternal and child health services, early childhood education and care services, and schools, are increasingly being viewed in the literature as unstigmatised platforms from which to reach vulnerable families (Scott 2009). In Queensland, primary services are mainly provided by, or funded through, Queensland Health and the Department of Education, Training and Employment.

Queensland provides a maternal and child health service that establishes an initial contact with parents who have had a child born in a public hospital, along with Triple P parenting programs available in a number of locations throughout Queensland. There have been recent changes to the delivery of Triple P (Davis 2012) as well as an election commitment for the Queensland Government related to maternal health home visiting. The extent of these changes is yet to be outlined by Queensland Health. There is a limited amount of targeted health home visiting for vulnerable families in some locations in Queensland, as well as a more intensive element in the health home visiting services provided under the Helping Out Families initiative.

Submissions emphasise the benefits of parent education and health home visiting schemes[41] as well as high-quality early childhood education and care services for children, particularly for vulnerable and at-risk children. Mission Australia suggests that high-quality education and care services can identify vulnerable children, link families to support services and provide vulnerable parents with respite, as well as provide a stable and therapeutic environment for children who have experienced child abuse and neglect.[42] The Queensland Council of Social Service agrees that one of the most cost-effective ways of supporting young children and families is through early childhood education and care services. However, it suggests that, despite the development of the early childhood education and care sector in Queensland in recent years, many vulnerable families who are most likely to benefit still find it difficult to access services.[43]

The Australian Government also delivers universal support and services to help families raise their children, along with a range of targeted early intervention services to families and children (Council of Australian Governments 2009). One of the programs funded by the Australian Government is the Family Support Program, which incorporates three streams: Family and Children's Services, Family Law Services and National Services. For 2011–14 the Australian Government funded 350 organisations at more than $1 billion to provide support in 2,300 sites throughout Australia (Department of Families, Housing, Community Services and Indigenous Affairs 2012b).

In October 2012, the Australian Government released the *Family Support Program future directions discussion paper* (Department of Families, Housing, Community Services and Indigenous Affairs 2012b) which suggests that the Australian Government may increase the focus of the program to provide more intensive support for vulnerable children and families experiencing entrenched disadvantage. Changes to primary services funded by the Australian Government are likely to have an impact on child protection in Queensland.

In the context of a potentially growing role for the Australian Government, strong coordination and linkages are critical across all levels of government, each of which plays a vital role in identifying and responding to vulnerable families.

3.5 Diverting children and families from the tertiary sector at intake

So far this chapter has examined one approach to reducing the demand on the tertiary services sector: by increasing the availability of secondary services. Access to these services can be enhanced by improving the intake process to more effectively link families and children to secondary services.

3.5.1 Current intake and referral in Queensland

As Chapter 2 describes, in Queensland anyone with a child protection concern is required to report to Child Safety. This has resulted in an increasing number of intakes, the majority of which are not assessed as notifications and therefore do not progress through the tertiary sector. Changes could be made to the intake and referral process to enable many of these intakes to be reported via another pathway and linked to secondary services without any need to come into contact with the tertiary system.

Existing referral pathways into intensive family support services have been described in submissions as a significant barrier for families trying to access the support they need in a timely or responsive manner.44 Some further identify that contact with tertiary child protection services (that is, Child Safety) is the only entry point into services for many Queensland families45 and that the predominance of this referral pathway, as well as the strong association between the Referral for Active Intervention and Helping Out Families initiatives and Child Safety, attaches a stigma to these services which prevents families from voluntarily seeking help because they fear

departmental involvement.46 This is particularly so for the most vulnerable and hard-to-reach families.

The department also acknowledges that families are more likely to engage with a support service when it is offered to them in a non-stigmatising, non-threatening way and without the service being provided as the result of a report to a statutory child protection agency.47

3.5.2 Intake models in other jurisdictions

Child FIRST (Victoria)

Victoria's Family Service Innovation Projects trial in 2003 demonstrated the benefits of connections between child protection and local community-based organisations, using a centralised intake process for the family service sector to identify the most vulnerable families, coordinate resources and refocus on working with parents to meet children's needs (KPMG 2011). This approach resulted in a reduction in notifications, investigations and court applications. Following the success of this model, Victoria implemented Child FIRST and Integrated Family Services in 24 locations between 2007 and 2009 (KPMG 2011).

This model has a visible point of access for families and other services for referral of families to secondary services. Clients targeted for assistance were vulnerable children and families where there were concerns about the child's wellbeing but the child was not in need of protection. The intake service assesses and prioritises a family's risks and needs and services are organised and integrated through the establishment of a Family Support Alliance. Agencies work closely with Aboriginal and Torres Strait Islander agencies, including joint visits to clients (KPMG 2011). Child FIRST actively encourages intakes for vulnerable children and families from government agencies, non-government agencies and self-referrals.

The Child FIRST model includes a tertiary child protection worker also known as a community-based child protection worker who is co-located within the community integrated family support service for a period each week, providing consultation and advice to community workers and undertaking joint home visits where required. The evaluation of the program found that the role was a core strength of the reform process, assisting in improved information sharing, more comprehensive risk assessment, prioritisation and management, assistance in diverting families from tertiary child protection, and improved relationships between agencies (KPMG 2011).

Gateway (Tasmania)

In 2009, Tasmania also implemented a community intake model for the secondary services sector. Gateway provides a single community intake point in each catchment area to establish a visible entry point and referral pathway for families and professionals (including mandatory reporters) to access family services. As in Victoria,

a community-based child protection worker is based in the Gateway service to provide tertiary child protection support and advice.

The 2012 mid-term review of Gateway found that the model has slowed the rate of entry into out-of-home care, and a large number of children have been referred to and received family support rather than being the subject of child protection services. Stakeholders also reported improved relationships between sector organisations, Gateway and Child Protection Services. However, professionals expressed some confusion about how to implement the information-sharing provisions that were developed to support the model (Department of Health and Human Services 2012).

Keep Them Safe (New South Wales)

New South Wales has also implemented a range of strategies to divert families from tertiary child protection services and increase their access to family support services. From January 2010, the Keep Them Safe (NSW Department of Family & Community Services 2012) reforms in New South Wales have included:

- increasing the threshold for tertiary child protection intervention from 'risk of harm' to 'risk of significant harm'
- establishing Child Wellbeing Units within government agencies to help professionals respond to concerns about a child's wellbeing
- introducing the Mandatory Reporter Guide to help mandatory reporters to decide whether to report to the Child Protection Helpline or the Child Wellbeing Unit, or to refer a family to a family support service
- expanding family support services.

A review of the implementation of Child Wellbeing Units was finalised in August 2011. The review found that the units have contributed to a reduction in reports to the Child Protection Helpline, encouraged mandatory reporters to contact their Child Wellbeing Unit for advice and support, and improved the knowledge and skills of both mandatory reporters and Child Wellbeing Unit staff (NSW Department of Family & Community Services 2012).

White paper for vulnerable children (New Zealand)

The New Zealand Government has recently released the *White paper for vulnerable children* (New Zealand Government 2012). The white paper notes that one of the reasons children and families are increasingly being referred to the Child, Youth and Family service is because professionals are not sure how to identify and act on concerns about children. As a result, children and families are referred to tertiary child protection services but receive little support because their situations fall short of the tertiary threshold.

In response, the white paper proposes the establishment of a single Child Protect Line

for all concerns or inquiries from members of the public, professionals and others about vulnerable children. Staff at the Child Protect Line will refer children and families to Child, Youth and Family (tertiary child protection services), Children's Teams (described at 3.6.2 below), early family support or universal services.

The white paper also notes that in New Zealand there is limited investment in intensive family support, and existing parenting support programs have developed incrementally over time. In response, the white paper proposes a review of the current parenting support initiatives to determine if the balance and mix of services are appropriate for meeting the needs of families.

3.6 Proposals for consideration

Reports of child abuse and neglect are expected to rise if there is not a significant increase in the accessibility and use of supportive rather than coercive services to respond to the needs of children and families. The under-investment in Queensland in secondary services will continue to result in worsening circumstances for families with unmet complex needs and their children entering out-of-home care in higher numbers. This has long-term individual and social costs, with an associated impact on government spending: children who have been in out-of-home care have poorer outcomes in terms of education, employment, health and mental health, and higher risks of entering the justice system and becoming homeless.

Queensland now faces the difficulty of building a coordinated secondary service system over the next 10 years. This system must provide statewide coverage and, at the same time, allow families to access the type and level of support they need. This includes a capacity for the system to provide both 'step up' intensive support as well as 'step down' services that maintain family functioning.

3.6.1 Some relevant issues and working principles for Queensland

The following issues are considered relevant to any consideration of options for strengthening the secondary service sector:

- Queensland's need to reduce public debt levels is resulting in loss of some government-funded programs.
- Population density has continued to increase in South-East Queensland and along the east coast from Brisbane to Cairns. There are also significant distances between small communities in the western, central and Gulf areas of Queensland.
- Different modes of service delivery are needed in regional, remote or rural communities to cope with differences of scale and infrastructure in those communities.
- The 19 discrete Aboriginal and Torres Strait Islander communities all have their own histories, which significantly affect current family and community life. Most of the communities are isolated, with limited access to employment opportunities and

business development. Current service delivery is predominantly on a fly-in and fly-out basis.

- For Torres Strait Islander communities there has been little investment in family support and other secondary support services.
- When compared with other jurisdictions in Australia, there is a lower base of funding to the non-government sector for the delivery of family support, intensive family support, and family violence and homelessness services. Over the last 10 years a significant number of prevention and early intervention programs have been trialled, but successful models such as Helping Out Families and Referral for Active Intervention have not been scaled up to provide statewide access.
- Though the problem of information sharing is not unique to Queensland, information sharing, particularly with and between allied departments and non-government organisations, needs to be made more effective.[48]

Enhancement of secondary support services to children and families is underpinned by the following working principles:

- no single service or agency is in a position to respond effectively to all the needs of vulnerable children and families all the time
- the range of available services should be accessible, with multiple pathways of access and with a focus on self-referral
- targeted services should have a capacity for proactive outreach to engage families who face significant challenges
- secondary services should allow for flexibility in the extent of service and support to families, but be disciplined by clear case goals for intervention, with pre- and post-assessments to enable reporting on client outcomes
- planning and coordination for the delivery of services is the responsibility of both government and non-government services and resources should be tailored and planned at regional and local levels, specifically targeting local drivers of child abuse and neglect
- responsibilities should be clear in the requirement for multi-agency work to support vulnerable children and families.

The strategies considered at this stage by the Commission as the best way to strengthen secondary services in Queensland are outlined in the rest of this chapter.

3.6.2 Coordinating and implementing local responses

Currently, local planning and coordination of secondary services is not occurring in any systematic way. The Commission can see merit in a more formalised approach to identifying local service needs, mapping the services that exist, planning future service delivery based on identified needs and then creating a means for multiple agencies to work together to deliver services to particular families that require them.

A local 'family support needs plan' could be developed on a three-year basis, and reviewed and reported on annually to the state government and other stakeholders such as local governments and the Australian Government. These plans would use local census data, local service demand data and perhaps other sources of data that identify service needs in the area, to prioritise the sorts of services required in a local area. The plans would inform changes to secondary service funding arrangements and the pooling of funds across government and non-government organisations to focus on local drivers and responses to abuse and neglect. For example, plans could identify the need for specific initiatives to deal with high levels of alcohol abuse or family violence

To support the 'family support needs plan', an annual 'family services plan' outlining the secondary services required to meet the identified needs, could be developed by the department in partnership with non-government organisations, key government agencies and local councils. This plan would address existing gaps in services, responding to the needs identified in the 'family support needs plan', and would re-orient services depending on local contact and changing demands. Non-government organisations hold 'critical on the ground' knowledge that should be used to improve services to vulnerable families, and are therefore key partners in developing local plans.[49] Community organisations delivering Australian Government–funded programs should also be invited to participate in planning (for example, Communities for Children programs are located in some high-need areas in Queensland). Local businesses with an interest in supporting vulnerable families would also be encouraged to participate in the development of the plans.

Finally, local planning of secondary services should involve a multi-agency approach to deciding which services are to be provided to which families, and could be delivered by using a single case plan (this would involve the development of a single case plan for a family across a number of government and non-government services). This approach is also consistent with a proposal detailed in the 2007 PeakCare paper which argued for a paradigm shift in child protection, including shared responsibilities for enhancing children's development, not only acting when children are harmed (PeakCare Queensland 2007).

This model is similar to one proposed in the recent *White paper for vulnerable children* released in New Zealand, which outlines an area for future reform through more effective multi-agency responses to vulnerable children and families. The white paper notes that although there is 'no extensive evidence to show the benefits of inter-agency working on outcomes for children, what is available is generally promising' (New Zealand Government 2012). The white paper argues that primarily making agencies responsible for delivering on their own portfolio fails to achieve results for vulnerable children and families whose needs are complex and entrenched and span a number of portfolios. Accordingly, the white paper proposes the establishment of Children's Teams, comprising professionals from health, education, justice and social services working together to provide intensive voluntary support to families with multiple and complex needs. Under this model, a lead professional from the most appropriate

agency will manage the case and develop and monitor a single integrated case plan.

A multi-agency approach is particularly important when responding to families with multiple and complex needs (Bromfield et al. 2010). The submission from the Family Inclusion Network cites research finding that 60 per cent of parents state that stress, mental health problems, financial difficulties, domestic and family violence and relationship problems, housing difficulties, and alcohol and drug problems have an impact on their children's lives. The network contends that support to help overcome these problems can only be achieved with 'workers who have a genuine interest in the whole of the family'.[50]

The submission from Powering Families argues that:

> Parents need to be able to retrieve independent confidential help when initially struggling with issues in the home, whether this be domestic violence, substance abuse, mental health and parenting strategies for different stages and households, before crisis develops and the need for Child Safety having to be involved.[51]

Under a multi-agency model, a lead professional is proposed to enhance collaboration and inter-agency delivery of services to children and families. A lead professional would act as a single point of contact for families who require a multi-agency response at the intensive family support end of secondary services (Children's Workforce Development Council 2007). The role would, in close collaboration with other agencies, develop a single case plan for the child and family that would outline the specific roles and services to be provided from the multiple agencies and coordinate the delivery of actions agreed by the practitioners involved.

Question 1

What is the best way to get agencies working together to plan for secondary child protection services?

Question 2

What is the best way to get agencies working together to deliver secondary services in the most cost effective way?

3.6.3 Expanding secondary services for high-needs children and families

Early evidence indicates that the Helping Out Families initiative is having a positive impact for children and families. Over the next 10 years the Queensland Government could gradually re-direct existing departmental funding to increase the capacity of the non-government sector to deliver:

- Family Support Alliance services to contact families and seek their agreement to participate in services
- Intensive Family Support Services
- health home visiting (both universal and intensive for vulnerable families); the requirement for new investment in these services will need to be considered in the context of the Queensland Government election commitment to deliver enhanced maternal and child health services
- the establishment and maintenance of a multi-agency network of government and non-government services, similar to the alliance used as part of the current Helping Out Families initiative.

Consideration needs to be given to whether increased funding under this initiative is required specifically for domestic and family violence services. The Helping Out Families evaluation indicated that referrals to family violence services were low (Department of Communities 2011a). One of the possible explanations for this was that most families referred to Family Support Alliance services have multiple and complex needs and therefore are more effectively able to be supported by Intensive Family Support Services.

The expansion of elements of a Helping Out Families model could commence in locations where there are Referral for Active Intervention services, to build these additional functions onto the Referral for Active Intervention program and expand its capacity to support more families. Where there are no Referral for Active Intervention services, then the elements of the Helping Out Families model would need to be established. An integral component of the expanded secondary services should be a strong case management model focused on integrated services, so that, while a family may access separate services, they are aligned with joint goals.[52]

3.6.4 Developing and coordinating early intervention services and their interface with primary services

Building the sector to provide early intervention services, including general family support, and coordinating these with other relevant services would be necessary as part of a 10-year development and expansion of Intensive Family Support Services. This would include ensuring lead agency responsibility for planning early intervention (and offers of early help) and possibly delivering arrangements for a SupportLink-type function (see 3.6.5, Option 2 below).

The intention of this proposed option is to better coordinate the delivery of primary services with early intervention services to provide vulnerable families with additional non-stigmatised support. This would mean coordination of primary programs offered across agencies including parenting, maternal and child health, early childhood education and care services and neighbourhood centre services. More targeted programs would also be needed such as Communities for Children,[53] the Management

of Young Children Program[54] in schools and early years services for vulnerable children and disadvantaged groups.

As well, stronger links could be established with private practitioners (social workers and psychologists funded under Medicare) who work with general practitioners to support individuals and families with mental health problems. Strategies to improve the sensitivity of adult-focused services – to see adults also as parents, so there is a greater focus on the parent–child relationship – is part of enhancing collaboration across prevention and early intervention services.[55]

3.6.5 Introducing new intake systems to direct children and families to secondary or tertiary child protection systems

Addressing the current challenges of intake is a matter for consideration for the Commission. Two possible options for intake in Queensland are (1) introducing regional community-based intake (including a dual referral pathway) or (2) establishing regional intake and referral services.

Option 1: Community-based intake through a dual referral pathway

A community-based intake model, similar to the Child FIRST model, could be a viable option for Queensland. Both the department and the Queensland Council of Social Services have suggested that a model of community-based intake in Queensland would reduce unnecessary reporting to Child Safety and, most importantly, encourage vulnerable families to voluntarily access support. [56]

This model for community-based intake would include a dual referral pathway where referrals could be made directly to Child Safety or, alternatively, to the community-based intake service. A range of resources would be developed to help reporters to determine whether to refer a child to Child Safety (where there are concerns of significant harm) or to the community-based intake service (where there are concerns about a child's wellbeing). As implemented in Victoria and Tasmania, an out-posted child safety officer should be available to support the agency to work with families and seek tertiary intervention when required.

Where the information provided to the community-based intake service indicated that a child may be at risk of significant harm, the community-based intake service would refer the concern to the Child Safety Regional Intake Service for further assessment. The Child Safety Regional Intake Service would respond to this referral according to current intake policies and procedures.

The community-based intake service would be managed by a non-government agency and each service across the region would be consistently named and easily identified. Under this model, professionals who have legislative or policy obligations to report concerns about children would be able to discharge these concerns through a referral either to the community-based intake service or to Child Safety.

In Queensland, the Family Support Alliance services in the Helping Out Families locations currently undertake this role, although their prime referral sources are Child Safety, Queensland Health and schools. This option could involve expanding the role of the Family Support Alliance into a community-based intake service that would take and assess referrals from other professionals, the community and families themselves.

It is worth noting that self-referrals have been growing in the Helping Out Families locations, particularly from those families who initially rejected help from the Family Support Alliance and then later sought assistance. For example, ACT for Kids suggests that its Helping Out Families Intensive Family Support Service demonstrates that parents will ask for help if they are not fearful of tertiary child protection involvement. It suggests that, since the opening of referrals into its Intensive Family Support Service, it has received significant self-referrals (25 per cent of all referrals to the service).[57]

This option would provide a direct referral pathway for children and families to access secondary support services without coming into contact with the tertiary child protection system. Community-based intake models in both Victoria and Tasmania have a legislative basis that incorporates expanded information-sharing provisions. A legislative framework to underpin community-based intake would need to be considered for the Queensland context.

Some of the benefits of community-based intake are:

- establishing a clear entry point into secondary services
- the ability for children and families to access secondary services without unnecessarily coming into contact with tertiary child protection services
- capacity for concerns to be reported directly to Child Safety when an immediate response to secure a child's safety is required
- enabling professionals to discharge their reporting obligations without unnecessarily reporting a family to Child Safety
- availability of an out-posted child protection officer to manage any child protection risks and facilitate the involvement of Child Safety where required.

In addition, Queensland is in a unique position to benefit from the experiences of other jurisdictions in implementing this model.

Some of the disadvantages of community-based intake are:

- requiring professionals who have a concern about a child to determine whether to refer to community-based intake or report to Child Safety
- there would be no change in the need for professionals to negotiate two separate intake systems: that is, the community-based intake process and/or Child Safety intake (see Option 2 below)

- the possibility that professionals may continue to refer the majority of matters to Child Safety rather than use the community-based intake option
- a possible increase in referrals, which would require increased capacity in intensive family support services and early intervention services
- the potential for inconsistency in responses to children, families and professionals in using a regional model.

Whether this is the best model is open to debate. New Zealand's recent white paper proposes using a central phone service to assess client needs and direct clients to general secondary services, intensive family support or tertiary child protection services. A regional model that establishes a single entry point into both secondary and tertiary services may be a viable option for Queensland.

Option 2: Non-government intake and referral services through a single referral pathway

Alternatively, Queensland could establish regional intake and referral services to manage all referrals to secondary and tertiary services, effectively replacing the role of existing Child Safety Regional Intake Services. Each regional intake and referral service would be managed by a non-government organisation and staffed by qualified and experienced caseworkers. Each service would be consistently named and easily identified.

The intake and referral service would respond to concerns about children from all sources (professionals, families through self-referrals and community members). This would include both referrals seeking support for families as well as reports concerning allegations of significant harm. The intake and referral service would screen and assess the information provided and determine the most appropriate response to the concerns. All reporting obligations of professionals would be discharged by referring to the intake and referral service.

The service would have the same statutory authority that is currently conferred on Child Safety to seek additional information, review previous history and determine if the information meets the tertiary threshold. Where the tertiary threshold is met, the intake and referral service would refer the matter to a child safety service centre for further action. The child safety service centre would not re-assess the information, but would take appropriate tertiary action such as opening an investigation and assessment. Referrals to Child Safety would only be able to be made by the intake and referral service.

The intake and referral service would also be responsible for referring callers to intensive family support services, early intervention and other relevant services. The service would have the capacity to follow up the referral and determine the engagement of families in services. Where the information indicates a possible criminal offence, the service would be obliged to refer this matter to the police.

A central database would be developed to record information, collect history and flag cumulative harm.

Some benefits of a non-government intake and referral service are:

- establishing a clear entry point into secondary and tertiary services
- the ability for families to more easily navigate the system and access the support they need through one portal
- that families will only come into contact with tertiary child protection services when matters have been assessed as meeting the threshold for tertiary intervention
- easy access for professionals to a single intake system when they have concerns about a child's wellbeing or safety
- averting 'double-handling' or duplication of assessments
- the ability for professionals to easily discharge their reporting obligations through one portal
- enabling tertiary child protection services to focus on casework rather than continuing to allocate resources to meet demand at intake
- recording information on a central database from a number of sources, tracking the access of children and families to services.

Some disadvantages of a non-government intake and referral service are:

- assessing all concerns about children, including risk of harm, would place significant responsibility on non-government services
- the capacity of non-government services would need to be developed to manage the function of tertiary child protection intake
- the possibility that a disconnection may develop between the two separate agencies managing the tertiary functions of intake on the one hand and investigation and assessment on the other
- the potential for increased calls involving low-level concerns about children due to highly visible call centres
- the current secondary services sector may become overwhelmed by referrals as a result of an increased number of calls to the service
- the potential for delay in the response of Child Safety to allegations of harm due to a requirement to report first to the intake and referral service (for example, police have advised the Commission that in some instances the need to report matters to Regional Intake Services has delayed the response by Child Safety and reduced opportunities for joint investigations by police and Child Safety)
- the potential for responses to children, families and professionals to be inconsistent in using a regional model
- difficulties staffing the service with appropriately qualified, knowledgeable and

experienced caseworkers

- establishing a costly database would require significant resources to resolve issues of privacy and confidentiality when tertiary involvement is not required.

The Queensland Police Service currently uses SupportLink to refer people to general family support services and other specialist services through a web-based and phone service. The state director of SupportLink states that this service enables staff to monitor referrals and the responsiveness of non-government organisations. Over 200 non-government organisations have signed agreements with SupportLink to receive referrals from police, with police now making over 100 referrals a day statewide through this process. A broader-based SupportLink may be useful to refer children and families with less complex needs to existing secondary and specialist services.[58] Families with multiple challenges and complex needs require more intensive follow-up and support to obtain their trust to participate in services.

Question 3

Which intake and referral model is best suited to Queensland?

3.6.6 Managing mandatory reporting

It is difficult for professionals across a range of disciplines and backgrounds, and often with limited information, to know how best to identify and respond to a child at risk or a child in need. In many cases, a report to tertiary child protection services may not result in a service being provided to a child and family; in an efficient and effective child protection system, these services are reserved as far as possible for children and families where protection is required. The department notes in its submission that the challenge for the broader service system is to focus on how, within the role and expertise of each professional who comes into contact with a child and their family, support can be provided early and often.[59]

To help professionals determine what level of intervention or support is needed by a child and family, Child Safety commenced a trial of the Queensland *Child protection guide* in the South East Region in January 2012. The guide is an online tool that assists professionals (health and education staff) to decide whether to report concerns to Child Safety or refer a family to a secondary service, in particular an intensive family support service.

There have been some early indications that the trial of the guide has assisted Queensland Health staff in their decision-making processes. The Commission has heard evidence from Anne Kimberley, child protection liaison officer from the Gold Coast Hospital, that the trial of the guide has been very positive for Queensland Health

staff as it provides a practical tool that both educates health staff and assists in their decisions about when to report to Child Safety.[60]

Feedback from regional employees of the Department of Education, Training and Employment also indicates that principals and guidance officers have found the guide to be useful, although it does not replace their professional judgement or their policy obligations. The Department of Education, Training and Employment also noted that referrals to intensive family support services (rather than reports to Child Safety) depend on the availability of those services in each location.[61]

Advice from the managers of the three Helping Out Families Intensive Family Support providers indicated to the Commission that it was still too early to assess the impact of the use of the *Child protection guide*.[62]

If the evidence for the effectiveness of the *Child protection guide* proves to be robust, then statewide implementation would contribute to reducing demand on the tertiary system as well as assisting the direct referral of children and families to suitable services. The department proposes a statewide implementation of the guide in the context of the provision of ongoing information, training and support to relevant staff.[63]

As noted earlier, New South Wales has adopted a model which includes a Mandatory Reporter Guide to help reporters decide whether to report to the Child Protection Service, or to the Child Wellbeing Unit or to refer a family to a family support service. The establishment of Child Wellbeing Units within government agencies appears to be an effective supplement to the guide with a 2011 review of the units finding that they have contributed to a reduction in reports to the Child Protection Helpline and encouraged mandatory reporters to contact the unit for advice and support.

Consideration could be given to whether the establishment of Child Wellbeing Units or similar in relevant Queensland government departments would assist the management of mandatory reports. Such units could possibly be built around the existing Child Safety Director role in those departments.

Question 4

What mechanisms or tools should be used to assist professionals in deciding when to report concerns about children? Should there be uniform criteria and key concepts?

[1] Submission of Department of Communities, Child Safety and Disability Services, December 2012 [p20].
[2] Exhibit 9, Statement of Brad Swan, 10 August 2012, Attachment 3.
[3] Submission of Department of Communities, Child Safety and Disability Services, December 2012 [p21].
[4] Exhibit 9, Statement of Brad Swan, 10 August 2012 [p5: para 20].
[5] Submission of Department of Communities, Child Safety and Disability Services, December 2012 [p21].
[6] The Queensland Police Service is the most common source of child protection intakes, comprising 38 per cent (34,353) of child concern reports in 2011–12. Health and schools sources comprised 11.6 per cent and 11.4 per cent of child concern reports respectively (Department of Communities Performance Data 2011–12).
[7] Submission of Department of Communities, Child Safety and Disability Services, December 2012 [p25].
[8] Submission of Queensland Law Society, October 2012 [pp14–15].
[9] Submission of Department of Communities, Child Safety and Disability Services, December 2012 [p18].
[10] Submission of Mission Australia, September 2012 [p14].
[11] Exhibit 9, Statement of Brad Swan, 10 August 2012 [p40: para 163].
[12] Exhibit 9, Statement of Brad Swan, 10 August 2012 [p41: para 166].
[13] Exhibit 9, Statement of Brad Swan, 10 August 2012 [p42: para 168].
[14] Exhibit 9, Statement of Brad Swan, 10 August 2012 [p43: para 172].
[15] Exhibit 9, Statement of Brad Swan, 10 August 2012 [p43: para 174].
[16] Submission of Department of Communities, Child Safety and Disability Services, December 2012 [p34].
[17] Submission of UnitingCare Community, October 2012 [p5: para 18].
[18] Exhibit 9, Statement of Brad Swan, 10 August 2012, Attachment 7.
[19] Submission of Anglicare Southern Queensland, November 2012 [pp3-4].
[20] Submission of Anglicare Southern Queensland, November 2012 [p3]; Submission of Queensland Council of Social Service, 28 September 2012 [p18].
[21] Fostering Families is a new initiative by the Queensland Government to provide family support services to specifically address neglect. Fostering Families services will commence in early 2013.
[22] Submission of Churches of Christ Care, September 2012 [p3].
[23] Submission of ACT for Kids, 'The critical importance of early intervention as evidenced by quantitative data', September 2012 [p8]; Submission of Queensland Council of Social Service, 28 September 2012 [p19].
[24] Submission of Australian Association of Social Workers (Queensland), August 2012 [p9].
[25] Submission of UnitingCare Community, October 2012 [p18: para 78].
[26] Submission of UnitingCare Community, October 2012 [p8: para 30]; Submission of Queensland Council of Social Service, 28 September 2012 [p18]; Submission of ACT for Kids, 'The critical importance of early intervention as evidenced by quantitative data', September 2012 [p3].
[27] Submission of Ipswich Women's Centre Against Domestic Violence, September 2012 [p5].
[28] Submission of Department of Communities, Child Safety and Disability Services, December 2012 [p34].
[29] Submission of Save the Children Australia, October 2012 [p6]; Submission of Australian Association of Social Workers (Queensland), August 2012 [p9]; Submission of Mission Australia, September 2012 [p11].
[30] Focus groups undertaken by QCPCI with Child Safety staff 2012.

[31] Submission of Commission for Children and Young People and Child Guardian, 21 September 2012 [p21].
[32] Submission of Department of Communities, Child Safety and Disability Services, December 2012 [p38].
[33] Transcript, Linda Apelt, 14 August 2012, Brisbane [p36: line 18].
[34] Submission of Commission for Children and Young People and Child Guardian, 21 September 2012 [p4].
[35] Submission of Commission for Children and Young People and Child Guardian, 21 September 2012 [p5].
[36] Submission of Australian Association of Social Workers (Queensland), August 2012 [p9].
[37] Submission of UnitingCare Community, October 2012 [p8: para 28].
[38] Submission of Department of Communities, Child Safety and Disability Services, December 2012 [p45].
[39] Submission of Department of Communities, Child Safety and Disability Services, December 2012 [p35].
[40] Submission of UnitingCare Community, October 2012 [p6: para 21].
[41] Submission of Royal Australian and New Zealand College of Psychiatrists, September 2012 [pp14-15]; Submission of Ethnic Communities Council of Queensland, September 2012 [p7]; Submission of Australian Association for Infant Mental Health Inc. Queensland Branch, September 2012 [pp5-6].
[42] Submission of Mission Australia, September 2012 [p5].
[43] Submission of Queensland Council of Social Service, September 2012 [p16].
[44] Submission of ACT for Kids, 'The critical importance of early intervention as evidenced by quantitative data', September 2012 [p3]; Submission of Australian Association of Social Workers (Queensland), August 2012 [p9]; Submission of Queensland Council of Social Service, 28 September 2012 [p25]; Submission of Anglicare Southern Queensland, November 2012 [p3]; Submission of Churches of Christ Care, September 2012 [p3].
[45] Submission of Australian Association of Social Workers (Queensland), August 2012 [p9]; Submission of Queensland Council of Social Service, 28 September 2012 [pp19–22]; Submission of Anglicare Southern Queensland, November 2012 [p4]; Submission of Churches of Christ Care, September 2012 [p3].
[46] Submission of ACT for Kids, 'The critical importance of early intervention as evidenced by quantitative data', September 2012 [p3]; Submission of Australian Association of Social Workers (Queensland), August 2012 [p9]; Submission of Queensland Council of Social Service, 28 September 2012 [p18]; Submission of Anglicare Southern Queensland, November 2012 [pp3–4].
[47] Submission of Department of Communities, Child Safety and Disability Services, December 2012 [p20].
[48] Submission of UnitingCare Community, October 2012 [p10: para 43].
[49] Submission of Queensland Council of Social Service, 28 September 2012 [p25].
[50] Submission of Family Inclusion Network Queensland (Townsville), 'Supporting families and stronger futures', September 2012 [p18].
[51] Submission of Powering Families, 18 July 2012 [p2].
[52] Submission of ACT for Kids, 'The critical importance of early intervention as evidenced by quantitative data', September 2012 [pp8–9].
[53] The Australian Government funds the Communities for Children initiative under their Family Support Program. Communities for Children aim to prevent child abuse and neglect by building parenting skills and stronger and more sustainable families and communities. Communities for Children are located in disadvantaged communities across Australia and the program has a focus on developing local service networks as well as providing direct services to families with children from birth to 12 years of age, and in some locations, families with adolescents.

Programs delivered include parenting support, family and peer support, facilitated playgroups, case management and home visiting services.

[54] The Management of Young Children Program provides an early and proactive intervention program for parents which promotes skill building and relationship development. In MYCP, parents are trained in multiple skills including praise, instruction giving, behaviour tracking, problem solving, and prompting and shaping desirable, purposeful behaviour. The program runs for about six weeks for parents of children aged two to seven (Department of Education, Training and Employment 2012).

[55] Submission of Mission Australia, September 2012 [p12].

[56] Submission of Department of Communities, Child Safety and Disability Services, December 2012 [pp36–8]; Submission of Queensland Council of Social Service, 28 September 2012 [pp19–22].

[57] Submission of ACT for Kids, 'The critical importance of early intervention as evidenced by quantitative data', September 2012 [p3].

[58] QCPCI meeting with State Manager, SupportLink, 20 September 2012.

[59] Submission of Department of Communities, Child Safety and Disability Services, December 2012 [p24].

[60] Transcript, Ann Kimberley, 4 October 2012, Beenleigh [p59: line 20].

[61] Exhibit 32, Statement of Lyn McKenzie, 22 August 2012 [p12: para 73].

[62] Commissioner's meeting with managers of Intensive Family Support Services, Helping Out Families initiative, UnitingCare Community, Benevolent Society and ACT for Kids, 2 October 2012.

[63] Submission of Department of Communities, Child Safety and Disability Services, December 2012 [p33].

Chapter 4

Chapter 4

Investigating and assessing child protection reports

This chapter reviews the Queensland tertiary child protection system's initial response to a notification – that is, where the department has a reasonable suspicion that a child or young person may be in need of protection. A child or young person is in need of protection if he or she has suffered harm or is at an unacceptable risk of harm, and there is no parent willing and able to protect the child.

In particular, it examines the decision-making framework and processes that assist in the assessment and investigation of reports at the front end of the tertiary system, including the Structured Decision Making tools and the SCAN (Suspected Child Abuse and Neglect) system. It examines mechanisms used in other jurisdictions in Australia and overseas, and presents some proposals for consideration in Queensland.

4.1 Current practice in Queensland

Child Safety receives reports (or 'intakes', as they are termed) about concerns from government agencies and other service providers, interstate child protection agencies and members of the public. Intakes meeting the legislated threshold (harm or likely risk) are progressed for statutory (or tertiary) protective services to be provided according to the legislative rules set out in the *Child Protection Act 1999* and the departmental practice framework contained in the *Child safety practice manual*.

4.1.1 Investigations in response to notifications

As discussed in Chapter 2, s 14(1) of the Child Protection Act requires the chief executive to either investigate allegations of harm or risk of harm to a child suspected to be in need of protection or take other appropriate action. The *Child safety practice manual*, however, requires that all notifications must have an investigative response.

Most investigations are conducted by Child Safety. Where the allegation involves a potential criminal offence, the investigation is conducted in collaboration with the Queensland Police Service, allowing both agencies to meet their respective statutory responsibilities (Department of Communities, Child Safety and Disability Services 2012a). Forensic investigations are also often undertaken across government agencies using the SCAN team process.

Child safety service centres have officers who undertake investigations and assessments. The allocation of staff and the distribution of work across child safety service centres differs considerably, however service centres typically have one team which is responsible for investigations and assessments. While these teams may be responsible for other types of intervention (predominately in-home interventions) investigation and assessment typically forms the vast majority of their caseload. Investigation and assessment teams vary in size, however each has an allocated number of child safety officers who report to a team leader. Investigation and assessment teams are not typically responsible for the case management of children in out-of-home care.

Child safety practice manual

The *Child safety practice manual* (Department of Communities, Child Safety and Disability Services 2012c) and a number of practice resources assist with investigating allegations of harm and risk of harm. The purpose of an investigation is to determine if a child is in need of protection. To assess this, child safety officers should undertake a holistic assessment of the child and family in their usual home environment and decide whether there are supports that Child Safety or other agencies can provide to the child and family (Department of Communities, Child Safety and Disability Services 2012c).

The manual also provides the following requirements for all investigations and assessments:

- All investigations and assessments are commenced within the response timeframe of the notification.
- Staff safety is prioritised in planning and conducting the investigation and assessment.
- The recognised entity is consulted for all Aboriginal and Torres Strait Islander children.
- All subject children are sighted and, where age and developmentally appropriate, interviewed during the investigation and assessment, except where the differential pathway response 'contact with other professional' is used.
- All alleged people responsible are interviewed during the investigation and assessment.
- The safety of all subject children within their usual home environment is assessed.

- A holistic assessment of the child's need for protection is conducted.
- All outcomes recorded clearly identify any unacceptable risk of future harm and a rationale for the assessment of the parent's ability and willingness to protect the child.
- At least one parent is informed of the allegations and outcome of the investigation and assessment.
- Any suspected criminal offence in relation to alleged harm to a child is immediately reported to the Queensland police (Department of Communities, Child Safety and Disability Services 2012c).

The decision-making framework

The decision-making framework used by Child Safety includes the Structured Decision Making tools, which are used at multiple points in the child protection continuum: at intake, at the investigation and assessment phase, and when providing ongoing intervention. Following the 2004 Crime and Misconduct Commission Inquiry report, the Department of Communities commissioned Dr Anna Stewart and Ms Carleen Thompson to review the available risk assessment tools. They recommended that the department adopt the Structured Decision Making system developed by the Wisconsin Children's Research Center (Stewart & Thompson 2004), to be implemented along with a range of support mechanisms to oversee and evaluate its use and effectiveness. Eight of the 10 Structured Decision Making tools that make up the system were put into use by the department in 2006 (see Chapter 2).

The tools, which are predictive rather than forensic, are based on an actuarial risk assessment model, which:

> … incorporat[es] measures that are demonstrated through prior statistical assessment to have high levels of association with recurrences of maltreatment. These criteria are included in a standardised risk assessment protocol only after the relationships among the variables have been quantified and thoroughly tested. The scoring for each measure in the instrument, and overall risk level for a family, are dictated by the previously determined statistical weighting of the variables included in the model. (Hughes & Rycus 2007, p101)

The principles underlying the Structured Decision Making policy statement are that:

- the safety, wellbeing and best interests of the child are paramount
- every child has a right to protection from harm
- consistent assessment and case planning enhance quality outcomes for children
- increased accuracy of critical decisions contributes to the safety of children
- resources are directed to families at highest risk
- the length of time taken to achieve permanency for children in out-of-home care is reduced (Department of Communities 2011a).

Although the tools are used for their supposed ability to support sound decision-making across the department, to provide a standard approach and to introduce consistency in decisions, they have been widely criticised on the basis that they:

- produce overly risk-averse decision-making and have therefore contributed to an increase in the numbers of children in care
- have been applied holus-bolus to the Queensland context, which may be inappropriate because the 'evidence base is entirely from the United States
- do not adequately assess Aboriginal and Torres Strait Islander children's 'spiritual, emotional, mental, physical and cultural holistic needs'
- can oversimplify situations and cannot deal with complexity (Gillingham & Humphreys 2010)
- undermine the 'development of skills and knowledge required in child protection' (Gillingham & Humphreys 2010)
- have added to the administrative burden placed on child protection workers (Gillingham & Humphreys 2010) and can make it harder for workers to focus on the 'human service' element of their roles (Healy & Oltedal 2010)
- are often used as accountability tools, rather than as tools to help in decision-making (Gillingham & Humphreys 2010)
- are based on statistical generalisations believed to be predictive of the behaviour of groups of like individuals. However, child protection services are not concerned with groups of individuals; they are expected to make reliable predictions about individual children in families (Gillingham 2006).

The Commission has heard evidence suggesting an over reliance on structured decision making tools in Queensland. Jan Connors, Director of the Child Protection Unit at the Mater Children's Hospital, indicates that the reliance on decision making tools is increasing.[1] While supporting the use of Structured Decision Making tools as a complement to professional judgement, the Australian Association of Social Workers (Queensland) states that the current overreliance of practitioners on decision making tools in Queensland has 'contributed to a demise in the level of knowledge, judgement and expertise of staff who do not possess a strong assessment framework'.[2] It further notes perceptions that the structured decision making tools are culturally insensitive.[3]

Professor Bob Lonne states in his statement to the Commission:

> …the use of the Structured Decision Making tools lend themselves to being incident based in their scope rather than being a holistic assessment of the circumstances and facts over time and over a number of abusive and neglectful episodes.[4]
>
> An evidence-based practice framework was heralded by the introduction of the Structured Decision Making instruments but these, in my view, have been a tragically failed experiment

> Putting aside his [Gillingham 2009, 2011] finding that the instruments were not used as intended by the developers, they are evidence-based tools which were based on the US experience. This, however, is substantially different to the Australian context with respect to significant factors including the extent of the use of drugs and firearms. In many ways USA research is substantially different to the context experienced in Australia and Queensland[5]

Documents obtained from the Department of Communities, Child Safety and Disability Services show that in 2008 and 2011, the Wisconsin Children's Research Center conducted reviews of the validity of the Structured Decision Making Family Risk Evaluation Tool[6]. The 2008 review examined the predictive validity of the tool on a sample of Queensland families. The study recommended changes in risk scores within the tool that resulted in more families being classified as low risk and recommended that data be collected on individual risk factors (Wisconsin Children's Research Center 2008). The recommended changes were implemented by Child Safety (Wisconsin Children's Research Center 2012).

The purpose of the 2011 Family Risk Evaluation validation study was to assess how well the tool classified families by their likelihood of future harm to a child, and if necessary, propose revisions to improve its ability to classify families. At the time of the report the Family Risk Evaluation tool comprised four risk levels (low, moderate, high and very high) that were used to categorise a likelihood of future abuse and harm. The study found that the tool classified families reasonably well, with families classified as high and very high risk being more likely to have subsequent investigations and substantiations then families classified as low or moderate risk. However, the study found that there was very little distinction between families classified as high risk and those classified as very high risk with respect to the likelihood of future investigations.

The study also examined the validity of the Family Risk Evaluation for Indigenous families and found that families categorised as high risk were more likely to have a subsequent investigation and subsequent substantiation than those categorised as very high risk. The study proposed changes to the amount of weight given to historical and other risk factors when determining the level of risk within a family, and proposed the introduction of three tiers of risk classification (low, moderate and high) in place of the current four levels. The modified tool was shown to increase the validity of classification for Indigenous and non-Indigenous families (Wisconsin Children's Research Center 2012). The modified tool has since been introduced into practice.

Recommendations from evidence received by the Commission regarding the future use of the Structured Decision Making tools range from the view expressed by the Australian Associations of Social Workers, which supports retaining the tools as an aid to professional decision-making,[7] through to abandoning the tools in their entirety[8].

In its submission to the Commission PeakCare offer the following recommendation:

> Either discontinue use of the SDM tools or develop strategies to ensure that:
>
> - the tools are properly used to 'inform' and not 'dictate' the outcomes of decision-making
> - the capacity to 'over-rule' the tools through the use of professional judgement and expertise is emphasised
> - the current focus placed on use of the tools in practice to determine whether or not a child is removed is replaced by a more appropriate emphasis given to use of the tools in assisting to determine what a child and their family need to live together in a well-functioning way
> - any cultural bias or over- or under-importance ascribed to various risk factors are redressed, and
> - the potential for collating the information recorded by the tools be investigated for purposes of identifying trends concerning the prevalence of various factors that may be impacting on the capacity of families to care safely for their children so that this information can be used to inform service planning at local, regional and state levels.[9]

4.1.2 The role of SCAN teams in decision-making

In 1980, the Queensland Government implemented the SCAN model to help bring government agencies together at a local level to enhance inter-agency work. As mandated in the Child Protection Act, the purpose of the SCAN team system is to enable a coordinated, multi-agency response to children for whom statutory intervention is required to assess and meet their protection needs. This coordination is achieved by:

- timely information sharing between SCAN team core members
- planning and coordination of actions to assess and respond to the protection needs of children who have experienced harm or risk of harm
- holistic and culturally responsive assessment of children's protection needs (Department of Communities, Child Safety and Disability Services 2012i).

The core representatives of SCAN teams are:

- Department of Communities, Child Safety and Disability Services
- Queensland Health
- Department of Education and Training
- Queensland Police Service
- the local recognised entity.

SCAN teams do not have distinct decision-making authority; however they are able to develop recommendations, based on consensus, for implementation by core representatives. In situations where consensus cannot be reached, an escalation process is initiated by sending the matter to senior management in each department to determine what action will be taken (Department of Communities (Child Safety Services) et al. 2010). SCAN team member agencies are accountable and retain responsibility for their actions in accordance with their respective governing legislation.

In 2009 the Queensland Government invested a total of $10.5 million in SCAN teams allocated to the various agencies as set out in Table 1 below.

Table 1: Investment in SCAN by agency, 2009

Member agency	Investment per year
Child Safety Services	$3.77m
Department of Education and Training	$1.46m
Queensland Health	$3.00m
Queensland Police Service	$2.27m
Total	**$10.5m**

A 2009 review, *Partnership in action – a shared vision for the SCAN system*, describes the key elements of the SCAN team system. At the time of that review, there were 21 SCAN teams across Queensland, each of which was chaired by a coordinator from Child Safety. Child Safety is represented by a team leader, manager or senior practitioner, Queensland Health is usually represented by a paediatrician and in some cases a child protection liaison officer, the Queensland Police Service is represented by a Detective Senior Sergeant, and the Department of Education and Training is represented by a senior guidance officer. Child Safety provides administrative and operational support. SCAN teams meet at least fortnightly with the majority meeting weekly (Department of Child Safety et al. 2009, p15).

The SCAN system was revised in October 2010 in response to a number of criticisms of the system including:

- SCAN agencies had consistently identified that, contrary to existing procedures, they were not being informed of report outcomes.
- The referral criteria were interpreted so broadly that it effectively meant that SCAN members could refer to SCAN any family reported to Child Safety.
- Cases remained open to SCAN pending the finalisation of an investigation by Child Safety, but where no further multi-agency response was required (Department of Communities (Child Safety Services) et al. 2010).

The 2009 review, *Partnership in action – a shared vision for the SCAN system*, describes the difficulties in the system as follows:

> Mistrust and lack of confidence in the perceived quality of DChS intake decisions, for example recording child concern reports as opposed to notifications, and the frustration of referring agencies at the perceived lack of response by the DChS to secondary level cases is a factor in the inability of the SCAN Team system to reach its full potential … (Department of Child Safety et al. 2009, p7)

After endorsement from the SCAN core member agencies the SCAN system was remodelled and split into two meetings:

- information coordination meetings (see below)
- SCAN meetings (Department of Communities (Child Safety Services) et al. 2010).

The reconfigured system introduced new procedures to support professional notifiers from SCAN agencies (such as teachers, police and nurses). These comprised a dedicated phone line for SCAN members and a reduction in the time for feedback to be provided on the outcome of the concern report or notification. The new procedures emphasised timely action by applying a five-day turnaround time on advice of outcomes. The agencies report that this improves their ability to fulfil requirements under the remodelled SCAN system which is described below.

The new SCAN model narrowed the referral criteria so that children had to be subject to an investigation or ongoing intervention to be referred, but introduced information coordination meetings to allow for the discussion of Child Safety responses to concerns received from core agencies. These meetings also allow for other core agencies to provide information to Child Safety to assist in decision-making about the concerns. As a result of information coordination meetings, Child Safety either:

- does not believe that the information provided changes the original decision to record a child concern report and the matter is closed, or
- believes that the additional information may affect the original decision and the matter is referred back to the Regional Intake Service (Department of Communities (Child Safety Services) et al. 2010).

The other significant change was to the closure criteria so that the case remains open only where a multi-agency response is still required. Where only one agency has recommendations that require action the case can be closed to SCAN (Department of Communities (Child Safety Services) et al. 2010).

In reviewing the SCAN model, Lamont, Price-Robertson and Bromfield (2010, p686) described the key strengths of the SCAN teams as including:

- a focus by teams on the holistic management of cases and not just the investigation processes

- effective information sharing between agencies
- increased accountability and management of child protection concerns
- better informed members due to the sharing of views and plans by other members
- the provision of advice by team members while retaining statutory obligations and powers.

Key limitations of SCAN teams observed by researchers include:

- investigative assessments are not jointly conducted and children and families may unnecessarily be interviewed on a number of occasions
- families are not included in SCAN team meetings
- to be successful meetings need to be regularly attended (at least every fortnight), which may prove difficult for time-poor professions. (Lamont, Price-Robertson & Bromfield 2010)

The Commission is exploring the option of providing a range of different responses to notifications which might involve the family, in certain cases, being provided with a family assessment and timely services without a formal determination or substantiation of child abuse or neglect. If such a model is considered suitable for Queensland, a review of the current SCAN model may need to be undertaken to ensure that families receiving a response from a 'differential pathway' can be referred to SCAN (see 4.3 below). Such a review should include provisions for the inclusion, as core members of SCAN, of non-government agencies that are responsible for specific pathways.

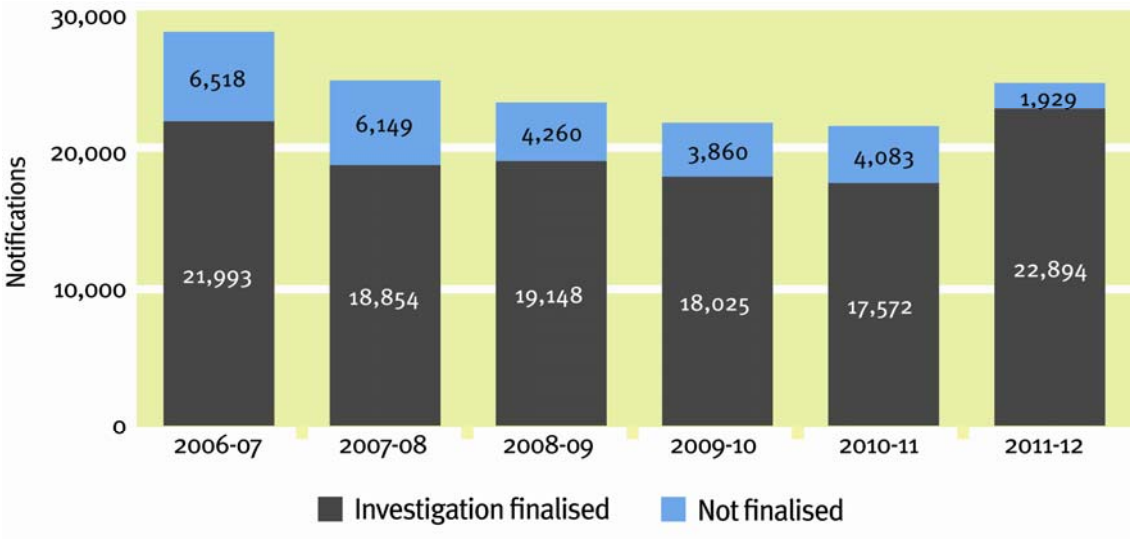
Question 5

What role should SCAN play in a reformed child protection system?

4.2 Decision-making in practice – what the data show in Queensland

During the 2011–12 financial year, the Department of Communities, Child Safety and Disability Services recorded 24,823 notifications requiring investigation. Of these notifications, Child Safety finalised 22,894 investigations (92 per cent of all incoming notifications). Figure 10 shows the total number of notifications requiring investigation and assessment from 2006–07 to 2011–12. The figure shows a decline in the number of notifications from 2006–07 (28,511 notifications) to 2010–11 (21,655 notifications). However, for the 2011–12 financial year the number of notifications recorded rose to 24,823.

Figure 10: Notifications requiring investigation by whether completed, Queensland, 2006–07 to 2011–12



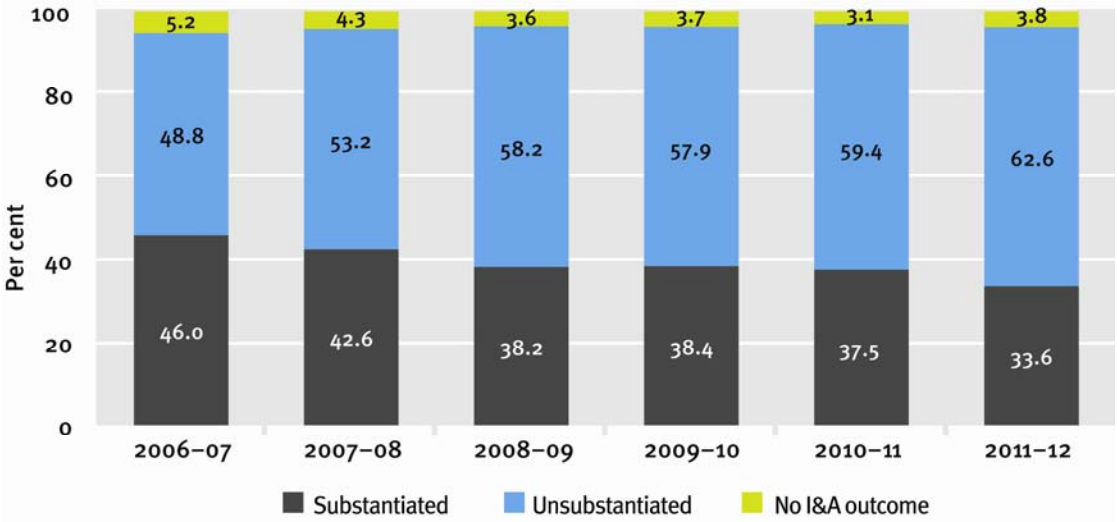
Source: Department of Communities, Child Safety & Disability Services, *Our performance*, Table IA.1.

Notes: *Investigation finalised* includes where an assessment has been finalised and the investigation outcome was recorded within two months of the end of the reference period, and outcomes where the investigation was unable to be commenced or completed because of insufficient information or inability to locate a child or family. *Not finalised* includes notifications where the investigation was still in progress or the outcome was not yet recorded.

4.2.1 Substantiation rates

The proportion of investigations completed with a substantiated outcome has declined steadily over the past six years – from 46 per cent in 2006–07 to 34 per cent in 2011–12 (see Figure 11). Over the same period the proportion of investigations finalised with an unsubstantiated outcome has increased from 49 per cent to 63 per cent.

Figure 11: Finalised investigations by outcome (proportions), Queensland, 2006–07 to 2011–12



Source: Department of Communities, Child Safety & Disability Services, *Our Performance*, Table IA.1

Notes: *No I&A outcome* is recorded where it is determined that the investigation was unable to be commenced or completed due to insufficient information or inability to locate a child or family.

The implications of the increasing rate of unsubstantiated cases are described by Scott (2006, p10) as:

> … very likely to reduce the coping capacity of parents by causing high levels of stress, and by reducing their informal social support and their use of services, as parents are left very suspicious about who in their kith or kinship circle, or who in their local service system, may have notified them to the authorities … Parental stress and low social support are two of the strongest correlates of child abuse and neglect. While this is an area in which it is hard to conduct research for ethical and privacy reasons, it is very likely, in my view almost certain, that our current unsubstantiated child protection investigations are actually increasing the risk of child abuse and neglect for many children. For this I believe we will one day be rightly held morally responsible, as the capacity of current policies and practices to cause further harm to families on such a massive scale is so self-evident. We have become so concerned about the 'false negatives' in child protection that we ignore the adverse effects of the 'false positives'.

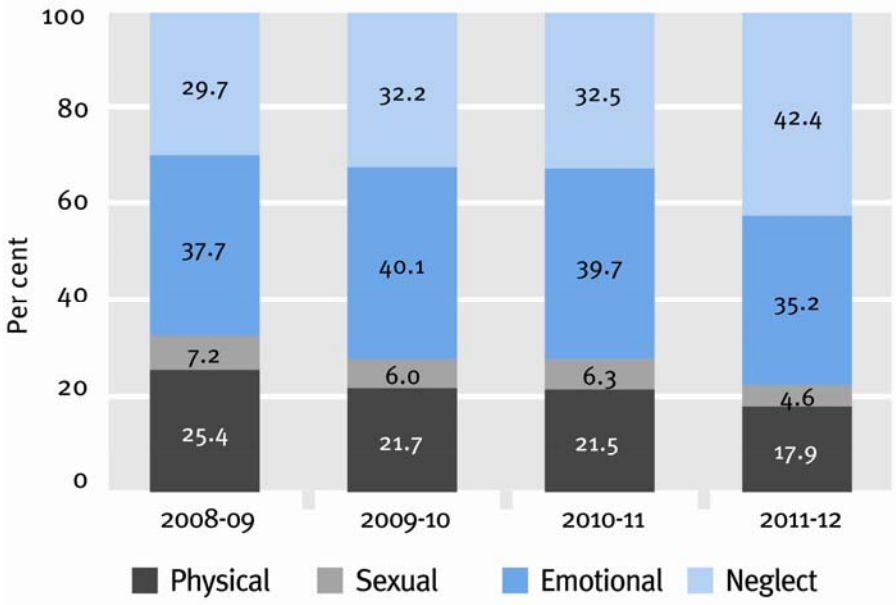
Professor Bob Lonne puts the corresponding decrease in the proportion of substantiated cases in context:

> Over the past two decades in particular, Australia and other Anglophone countries that have embraced these sorts of systemic approaches with their attendant focus on investigation as the primary form of service provided have experienced huge increases in the numbers of notifications of suspected child abuse and neglect. This has been a major issue in Queensland (Australian Institute of Health and Welfare 2012). The massive increases in demand have flowed through to major workload increases, primarily around investigations yet the typical trend is for the proportion of substantiated cases to steadily decrease (Lonne et al. 1989). What happens then is that

> the focus of the system becomes the hunt for incidents of harm, or risk of harm, rather than the provision of help to families and children in need. Essentially the organisational mission and dominant discourse alters over time to emphasise the criticality of ensuring resources are available to meet increasing numbers of reported notifications.[10]

Figure 12 describes substantiations by the most serious harm type identified during the investigation. This figure shows an increase in 2011–12 in the proportion of substantiations recorded as neglect, but this may be accounted for by a system change in August 2011 that expanded the neglect classification to include 'failure to protect' a child from abuse caused by another person. Neglect and emotional harm account for more than three quarters of substantiated outcomes.

Figure 12: Substantiated investigations by most serious type of harm (proportions), Queensland, 2008–09 to 2011–12



Source: Department of Communities, Child Safety & Disability Services, *Our performance*, Table S.4.

Notes: In August 2011, substantiated harm types recorded in the system were expanded to include 'failure to protect' a child from abuse caused by another person, resulting in an increase in the number of matters that can be recorded as neglect.

Earlier research conducted by Tomison (1995) may help explain the figures on neglect and emotional harm. Tomison argues that child protection workers use official case labels to misclassify cases:

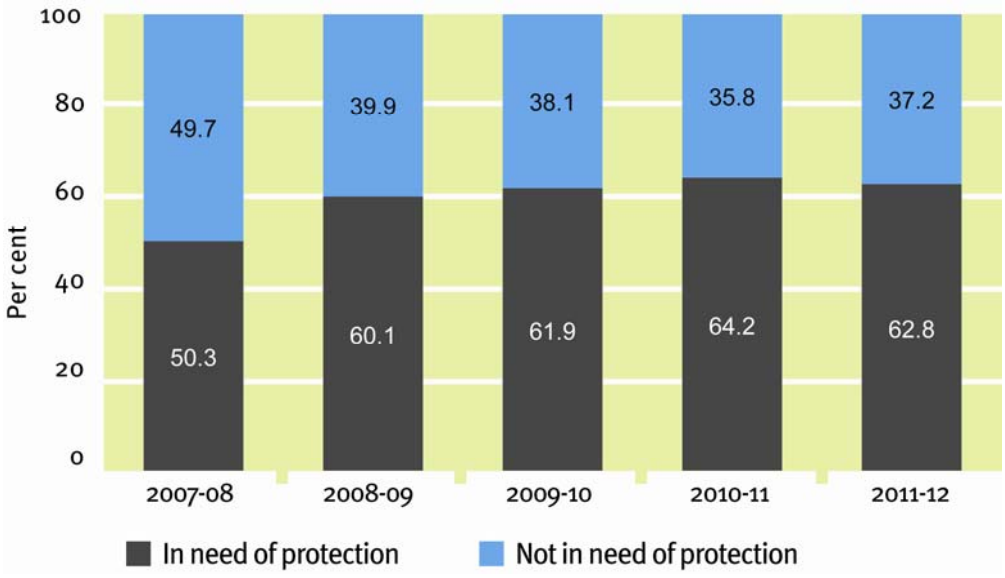
> It is contended that when dealing with cases involving both abusive and neglectful concerns, workers sometimes minimise the abuse and mislabel cases as neglect. It is argued that this misclassification occurs because neglect cases are generally dealt with by the provision of family support services, whereas abuse cases, particularly sexual and physical abuse cases, are likely to require more stringent protective intervention.

Thus, the perceived lesser severity of neglect may in fact be used by some workers to minimise child abuse and the level of protective intervention required.

Tomison states that almost half of all substantiated cases in Victoria in 1987–88 were labelled as emotional abuse and that between 14 and 22 per cent of these cases were inappropriately labelled. The findings led to changes in the way Victoria categorised abuse, with the category 'likelihood of significant emotional harm' being removed from the classification system altogether. The action is suspected to have contributed to a reduction of about 31 per cent in the proportion of substantiated cases of emotional abuse over the three years following the report.

Further analysis of substantiated outcomes is contained in Figure 13, which breaks down all substantiated outcomes by whether the child was assessed as being 'in need of protection' or 'not in need of protection'. Over the past five years the proportion of children found to be 'in need of protection' has increased (albeit less so in more recent years), while children found 'not in need of protection' decreased. This has resulted in a higher proportion of children and families being eligible for ongoing intervention (Wagner & Scharenbroch 2011a).

Figure 13: Substantiations by whether the child was in need of protection (proportions), Queensland, 2007–08 to 2011–12



Source: Department of Communities, Child Safety & Disability Services, *Our performance*, Table S.5.

Notes: Where a substantiated investigation relates to more than one child, a substantiation is counted for each child. If a child was subject to more than one report during the period, a substantiation is counted for each instance.

4.2.2 Frequently encountered families (high-level service users)

A core component in modern child protection systems is the provision of services to families to reduce the likelihood of future maltreatment. The 2012 Report on Government Services (Steering Committee for the Review of Government Service Provision) uses re-substantiation as an indicator of whether there has been improved safety for children after an investigation. Re-entry into the child protection system after an investigation or ongoing intervention is indicative of either the failure to correctly identify risk factors and needs within families, or the lack of success of support services in facilitating meaningful long-term change in families where risk and needs are identified.

Information provided by Child Safety shows that in 2010–11 between 60 and 70 per cent of households investigated for allegations of child maltreatment were previously known to the department. Further, 26 per cent of families had been subject to some form of ongoing intervention by the department. This ongoing intervention was a support service case,[11] intervention with parental agreement, supervision or directive order, or child protection order granting custody or guardianship of a child to the chief executive. Only 32 per cent of families investigated had no previous contact with Child Safety. This indicates there are failures in identifying families requiring support and the capacity of current support arrangements to facilitate sustainable change in families.

In December 2010, Child Safety requested that the Children's Research Center[12] undertake an examination of the case characteristics of families who had been subject to multiple investigations by the department. A sample of 5,847 children from 2,654 families involved in investigations between 1 April 2009 and 30 June 2009 was examined. The study found that 15 per cent of children (16 per cent of families) had been subject to three or more investigations in the past 36 months and for the purpose of the study were identified as frequently encountered. The researchers state that Queensland did not have an unusually high percentage of frequently encountered families, based on their review of related studies (Wagner & Scharenbroch 2011a).

The report also made the following findings relating to frequently encountered families:

- These families are typically larger than those with fewer than three prior investigations, have older children and are more likely to be single parents.
- A significant proportion of these families had more than three investigations conducted in the 36 months of the study period, with 25 per cent having four investigations and 12.8 per cent having five or more investigations.
- Prior substantiations for abuse and neglect were much more likely for families who were frequently encountered.
- Previous ongoing intervention with the department was substantially more likely for these families (52.3 per cent versus 7.1 per cent for families with fewer than three previous investigations).
- One-third of children in these families had been placed in out-of-home care

previously, compared with only 7 per cent of children from families with fewer than three previous investigations.

- These families were more likely to be investigated for allegations relating to neglect and emotional harm than were families with fewer than three previous investigations.
- Investigating officers assessed children in these families as unsafe at twice the rate of other families subject to investigations and assessed them as in need of protection at more than twice the rate of other families. However, 49.8 per cent of investigations of these families were unsubstantiated.
- These families have ongoing intervention by the department opened at more than twice the rate of families with fewer than three previous investigations (42.8 per cent versus 19.6 per cent).
- Parents from these families were more likely to have mental health problems, a history of childhood abuse and neglect and a criminal history. Parents were nearly twice as likely to have a substance abuse problem, and family violence was present in nearly one-third of households, compared with one-fifth in other families subject to investigation.
- Parents from these families were more likely to blame the child for events in the household, justify the abuse or neglect by reference to the child's behaviour, provide insufficient emotional support to the child and use inappropriate disciplinary methods.
- Parents from these families were more than twice as likely to have injured a child in a prior assessment (21.6 per cent versus 11 per cent).
- Children from these families typically have significantly higher incidence of behavioural and mental health problems, developmental delay and physical disabilities, and past juvenile offending.

Several things are clear from this study. Child Safety has been aware for some time that there is a cohort of families who are frequently in contact with the state and have multiple and complex needs. The current response to these families is failing to make sustainable changes and substantial resources are used in servicing them.

In an examination of frequently encountered families in St Louis, Missouri, Loman (2006) found similar family characteristics in frequently encountered families to those in Queensland. Of particular interest is the significant amount of resources used to serve a small number of families in the child protection system. Loman found that one-fifth of families in the child protection system in St Louis had undergone four or more investigations, but that half of all the departmental spending over five years was used on service provision to these families, including costs associated with foster care, residential care and treatment for children and parents. What this figure did not include was administrative and case management costs, which would also have been substantial given the time associated with casework, supervision and administration for multiple investigations and intervention services (Loman 2006).

These reviews highlight the urgent need for reform in responding to families where emotional abuse and neglect are identified as the primary concerns. An alternative response to these families is the provision of timely, effective support, and substantial support is essential for preventing subsequent notifications and investigations.

Question 6

How could we improve the system's response to frequently encountered families?

Question 7

Is there any scope for uncooperative or repeat users of tertiary services to be compelled to attend a support program as a precondition to keeping their child at home?

4.2.3 Family violence

The Commission recognises the unique challenges associated with family violence and the complexities of protecting children in these families. Responding to the protection needs of children in households where violence is present is a challenge faced by child protection systems throughout Australia and the developed world. Child Safety has recognised the complexity of this issue and in 2010 a study was undertaken by the Children's Research Center relating to family violence in Queensland families subject to an investigation by Child Safety (Wagner & Scharenbroch 2011b).

It is widely recognised that family violence incidents may or may not be directly related to child maltreatment or result in the child being physically harmed. However, these incidents can diminish a parent's capacity to care for children and being a witness to these incidents may cause emotional harm to the child (Wagner & Scharenbroch 2011b). James (1994) provides the following summary of the impacts of family violence on children:

> Infants are reactive to their environment; when distressed they cry, refuse to feed or withdraw and are particularly susceptible to emotional deprivation. They are extremely vulnerable. Toddlers, who are beginning to develop basic attempts to relate causes to emotional expressions, can often be seen to have behavioural problems such as frequent illness, severe shyness, low self-esteem and trouble in daycare as well as social problems such as hitting, biting or being argumentative. Gender differences can emerge at this stage. By preschool age, children believe that everything revolves around them and is caused by them. If they witness violence or abuse, they believe they have caused it. Some studies have shown preschool boys to have the highest ratings for aggressive behaviour and the most serious somatic difficulties of any age group. Primary school age children, particularly in the latter stage, begin to learn that violence is an appropriate way of resolving conflict in human relationships. They often have difficulties with schoolwork and girls in this age group have been found to have the highest clinical levels of both aggression and depression. Adolescents see the violence

> as their parents' problem and they often regard the victim as being responsible. Ongoing conflict between parents has a profound influence on adolescent development and future adult behaviour, and can be the strongest predictor of violent delinquency.

Wagner and Scharenbroch's (2011b) analysis of family violence in families subject to child protection investigations in Queensland dealt with 4,457 families, and identified that family violence incidents had occurred in about 29 per cent of families subject to investigation. As part of the study, a comparison was conducted between families subject to a child protection investigation where family violence had been identified, and families who were subject to an investigation where no family violence was identified. The study found that families subject to investigation where family violence was identified:

- tended to have a younger (aged under 30 years) primary caregiver
- were substantially more likely to have prior child safety services involvement and higher rates of substantiation
- tended to be larger and have younger children
- had higher numbers of allegations of emotional and physical abuse
- had higher rates of children entering out-of-home care
- used safety plans[13] twice as often, and children were found to be in need of protection more frequently
- had caregivers who were dramatically more likely to have current substance abuse problems (46.6 per cent versus 17.7 per cent), to have a criminal history, or to have previously caused an injury to a child.

These findings indicate that, although ongoing intervention is offered more frequently for families where family violence is occurring, the current mechanisms of support for these families are not meeting their complex needs. This is evidenced by the significantly higher risk of re-entry into the child protection system despite high levels of ongoing intervention opened by Child Safety. Substantial change to how Child Safety responds to families where family violence is present is required to reverse this trend.

Women's House Shelta, based at Woolloongabba in Brisbane, identifies a number of issues relating to child protection practice in Queensland and family violence. It contends that the dominant explanations of family violence in the child protection system perceive it as a matter of interpersonal conflict, relationship breakdown, poor anger management or substance abuse, and that it relates to people with low socio-economic status and particular cultural groups. Participants at a 2009 forum for family violence workers organised by Women's House Shelta observed that:

> within the child protection system, domestic violence is often framed as something that women participate in, or that they 'choose'; with women being accused of 'failure to protect', an 'unwillingness to protect' or that they are 'unable to protect' their children from domestic violence.[14]

The submission by Women's House Shelta further states that sufficient attention is not paid to the power dynamic inherent in family violence relationships, the control that perpetrators exert over women and children, or how support can be provided to women to enable them to keep their children safe. During a forum held by the Women's House Shelta, participants offered the following:

> In terms of the methodology of Child Safety assessments, problems identified included – workers relying on hearsay as evidence, an investigation stopped while the woman was in refuge, investigations being 'inappropriate' and lacking offers of appropriate support to the woman, children and other family members.[15]

4.2.4 Overview of investigative practice in Queensland

In reviewing investigation practices in Queensland, it is evident that the current response to alleged child maltreatment is not meeting the needs of all children and their families. The complex task of determining a response that meets the needs of vulnerable children and young people is further complicated by:

- the limited types of response that are available after the determination that tertiary action is needed (Tomison & Stanley 2001a)
- requirements for investigations to be conducted before the provision of support[16]
- community expectations and negative media attention leading to practitioners being more risk averse to avoid public condemnation for making the 'wrong' decision (Price-Robertson & Bromfield 2011)
- difficulties in engaging with families during and after the current adversarial approach to the assessment of child protection concerns[17]
- limitations of resources brought about by risk-averse intake decisions (Tomison & Stanley 2001a), as evidenced by high rates of unsubstantiated investigations and low conversion rates to ongoing intervention.

A submission from the Family Inclusion Network (Townsville) contends that the current approach to investigation:

- results in unharmed children entering out-of-home care via substantiation of risk alone
- is risk averse and relies on policies written in response to extreme cases rather than the majority of cases
- victimises mothers who experience domestic violence by holding them accountable for the protection of their children
- demonises fathers
- is adversarial and does not recognise positive changes in families
- results in assessments that are not thorough

- is unsupportive and disrespectful
- inconsistently listens to and acts on the views and wishes of children
- is feared by the community
- harms the children it removes under the guise of protecting them.[18]

The forensic nature of Child Safety investigations in Queensland has been identified as unduly delaying the provision of support to parents and children during the assessment phase,[19] and as being dangerous and harmful to children.[20]

Dr Phillip Gillingham argues that, in Queensland, the separation of support services from the child protection function by creating a department focused on forensic investigation has severely limited the ability of the tertiary system to prevent child abuse and neglect. Dr Gillingham also contends that this forensic focus and inability to provide support 'may, in part, account for observations that the department is overwhelmed, as it struggles to deal with high numbers of children identified as requiring out-of-home placements, re-notifications, multiple investigations about the same children and, most unfortunately, re-substantiations of abuse and neglect'.[21]

4.3 Developing a better model for Queensland

4.3.1 Understanding the complexity of decision-making in child protection

The Commission recognises the crucial role that investigation and assessment workers play in the child protection system. The workers in these roles make difficult decisions that can have a lifelong impact on a child and family. These decisions are rarely clear-cut and the possibility of making a 'wrong' decision and attracting negative attention, both personally and organisationally, adds stress to the role. Given the importance of this aspect of child protection work, it is essential to understand the complexity of decisions being made and the errors that can occur.

The difficulty of decision making in this area is well recognised in the social work literature as Mansell (2006, p103) notes:

- On the basis of [notification] information elicited some cases are clear-cut. However there are 'grey area' cases caused by complex, unclear, ambiguous or unreliable information. Decisions in these circumstances can be characterised as 'decision making under uncertainty'.
- Caseworkers must distinguish between child neglect, bad parenting and the effect of poverty and they must do this without the aid of accurate assessment tools … Rarely is all relevant information available, hampering problem solving efforts.
- Assessing risk and identifying child abuse and neglect are difficult tasks … Some mistakes are inevitable because they are due to our limited knowledge.

Uncertainty, inconsistency and unpredictability in decision-making and assessments can be caused or compounded by a number of factors:

- indeterminacy of response thresholds based on vague definitions or key concepts such as 'harm' and 'risk' that trigger a particular protective response
- ambiguity about the level of evidence required to meet the threshold for a child protection response
- resistance of interviewees
- conflicting information or lack of information
- time pressures
- inherent limitations in human judgement where it is necessary to consider a range of different information of variable quality to arrive at a decision
- inexperience and lack of relevant training.

Mansell (2006, p104) identifies three factors associated with uncertainty in decision-making in child protection:

- the thresholds for intervention can shift in response to new definitions or pressures
- risk is a concept that is not distinct from social and cultural beliefs about it and therefore can shift in response to new concerns and beliefs
- errors are common and will always be made.

Despite the difficulty in decision-making in this area, it is important to strive for best practice because flawed reasoning can have significant negative effects on children and families. Children may suffer further avoidable harm, which in some cases results in death, where a decision is made for a child to remain with their family. Alternatively, unnecessary intrusion into the lives of families can also have a significant negative effect.

Reasoning error also impacts on the child protection system and the practitioners who work within it. Decision-making errors are a contributing factor to the current risk-averse nature of tertiary child protection. Price-Robertson and Bromfield (2011) state:

> Within the popular discourses of 'risk societies', risk to children is considered to be measurable and manageable. The implication of this is the widespread belief that harm to children can always be effectively predicted and prevented – and that if it is not, then someone is to blame.

This dubious belief pervades negative media reporting and editorials about 'wrong' child protection decisions or systems failure, particularly after the death of a child. In response to such attention, intakes, investigations and child protection practice in general have become highly defensive and more risk averse (Price-Robertson & Bromfield 2011).

Bearing in mind the complexity of child protection decision-making, especially at the notification and investigation stage which is the gateway to the tertiary system, the Commission has examined some alternative models operating in other jurisdictions to assist in developing proposals for improvement.

4.3.2 Differential response pathways

The 'differential response' pathway, also referred to as multiple track or alternative response, is an approach to child protection concerns that allows agencies to provide a range of different responses to notifications of child abuse and neglect, depending on factors such as the type and severity of the allegations, the child protection history of the family, the age of the child and the parents' willingness to work with services.

Differential responses or pathways have been implemented in many jurisdictions, both nationally and internationally, to provide flexibility to child protection systems by enabling a range of responses to meet the care and protection needs of children, in addition to the forensic assessment of child protection allegations or suspicions. As noted earlier, in Queensland children notified to Child Safety receive one of two responses. For concerns where a child has been harmed or is at unacceptable risk, and there is a reasonable suspicion that the child does not have a parent willing and able to protect them, a forensic investigation is undertaken. For those children not meeting the threshold for a forensic assessment, the concerns are recorded on an information database and no further action is taken. The exception to this is the Child Safety South East Region, which is currently trialling the Helping Out Families initiative, as discussed in Chapter 3.

A summary of the literature on differential response pathways in the United States, compiled by the Washington State Department of Social and Health Services, revealed:

- Families served through a differential response system are more likely to receive in-home services, indicating that differential responses may:
    - demonstrate that a less adversarial approach, without the need to make findings, encourages families to engage in service plans
    - reflect that community services are more available to meet the needs of families who are categorised by the child protection agency as being lower risk and without problems that immediately threaten a child's safety
    - reflect that lower-risk families in which immediate safety problems are not present are more amenable to engaging in services.
- Children are less likely to experience a subsequent report of maltreatment or investigation. There has been no report of an increased risk to children referred using a differential pathway.
- In general, families assigned to the assessment track tended to have fewer children placed in out-of-home care compared with families where children were in the investigative track. Again, this could be the result of a more family-centred

approach in the assessment track or the result of referring lower-risk families to the assessment track.

- There was an increase in the percentage of cases substantiated in the investigative track. Most assumed that the higher substantiation rate was the result of the concentration of sexual abuse and severe physical abuse cases in the investigative track and the elimination of cases from the investigative track that would not have been substantiated. However, a study from Missouri indicated that collaboration with law enforcement, attorneys and medical experts improved after the introduction of differential responses and this resulted in improvement to the quality of investigations (Department of Social & Health Services 2008).

The effectiveness of differential pathways may be partly explained by Tomison and Stanley (2001a), who identified that a substantial proportion of notifications are inappropriately labelled as allegations of child maltreatment and abuse by those who referred the cases to child protection services. Many of the notifications involve families who had not maltreated their child but who had more generic problems, such as financial or housing difficulties, an incapacitated caregiver, or serious stress problems. Tomison and Stanley suggest that, although such 'at risk' cases may require assistance, they do not require child protection intervention, and labelling them as cases of child abuse or neglect further taxes limited child protection resources. This approach takes resources away from substantiated child maltreatment cases, and raises questions in relation to child protection screening or gate-keeping practices, and the availability of primary and secondary services (Tomison & Stanley 2001a).

An example of differential response in action - Olmsted County, Minnesota

Sawyer and Lohrbach (2005) describe the four differential response options for notification reports in the Olmsted County, Minnesota model. These are:

- a forensic child protection investigation
- a domestic violence–specific pathway
- a family services assessment
- a child welfare response.

In this model, forensic child protection investigations are undertaken for all matters relating to child sexual abuse, concerns relating to the quality of care for children already placed in out-of-home care, and where there is serious harm to a child. The agency then makes a formal finding about whether child maltreatment has occurred and whether further action is required by child protection authorities to ensure the safety of the child. This response typically involves reports of:

- serious physical, medical or emotional abuse and serious neglect where a referral for law enforcement involvement is required

- child sexual abuse
- children in licensed care facilities (such as residential care) or foster care
- a serious violation of the criminal statutes
- specific acts of the parent or caregiver that have a high likelihood of resulting in court-ordered removal of the child or caregiver from the home.

The family violence–specific response is used where there is a report of a child being exposed to family violence, and provides an assessment that may result in the provision of services without a formal finding of child maltreatment or 'harm'. In Olmsted County, about 90 per cent of all family violence–related reports that would previously have qualified for a forensic assessment became a family violence–specific response between 1999 and 2004.

The family services assessment is used for reports of harm that typically:

- are assessed as a low or moderate risk of physical abuse
- concern children who are without basic necessities such as food, shelter or clothing
- involve health and medical needs that, if left unattended, can result in harm
- relate to concerning or damaging adult–child relationships
- are based on the absence of supervision or proper care
- involve educational neglect.

This strategy offers a family assessment of needs affecting the safety, stability or wellbeing of the children in the household. The assessment does not result in a finding of maltreatment, but it does inform the provision of services offered to the family. This alternative response represents 41 per cent of all reports that would traditionally have been forensically investigated (Sawyer & Lohrbach 2005).

The final response available is the child welfare option, which is offered to all families notified to the tertiary child protection authority with children five years old or younger where concerns do not meet the threshold for one of the above responses. Under the program, all qualified families receive a visit from a social worker and an offer of needs-based support.

A key feature of the model is the use of a group process for decision making supporting the view that it is an agency decision and an individual social worker is not expected to carry the weight of an intervention decision alone. Sawyer and Lohrbach argue that the group decision-making process builds agency capacity to make more consistent and reliable decisions over time (2005).

Queensland's trial of differential response pathways

In December 2012, the Department of Communities, Child Safety and Disability Services commenced a trial of differential response pathways in the South West Region and the North Coast Region. The trial involves two new differential response pathways as options to the traditional assessment and investigation response for notifications where information indicates that a lower level of risk is present in the home and a supportive approach is likely to best meet the needs of the child and family. The two new responses are:

- 'Assessment and support': a process focusing on need and support, balanced with risk assessment. The assessment is conducted with a child safety officer and a non-government support service worker, as opposed to a second child safety officer. A joint meeting is held with the family, rather than a formal interview, where discussion centres on whether the family is in need of support. When it is determined, with the family, that support is required, the non-government agency will deliver relevant services. In most circumstances, Child Safety will open a support service case.
- 'Direct referral': a non-investigative response, where the family may have recently had contact with the department. This pathway can be used when Child Safety has determined, after contact with those support services involved with the family, that there are no safety concerns for the child. The child safety officer will not meet the family or record an assessment about whether the child is in need of protection.

A review of the current trial will be undertaken in June 2013.[22]

4.3.3 Two stage assessment and joint investigation teams - New South Wales

The Department of Family and Community Services in New South Wales has adopted a model that includes a two stage assessment process and the use of joint investigation teams.

Most child abuse and neglect investigations undertaken in New South Wales are conducted by staff from a community services centre. The investigative process used by Community Services involves a two-stage assessment. In the initial stage, additional information may be gathered to help determine whether a formal assessment should be undertaken. Information can be gathered from the child's school, child care centre, medical service or other organisation. When this information indicates that the care arrangements are sufficient to meet the child's needs and that the circumstances outlined in the report have been adequately dealt with, the report may be closed without further investigation.

Where it is determined that an assessment is required, a stage two assessment is undertaken, which involves direct interviews with the child, family members and other child protection partners. Stage two of the assessment establishes whether the child is

(or will be in the foreseeable future) safe, taking into account the concerns reported, the environmental and familial situation, and individual characteristics of the child and family members. A joint investigation response team undertakes all stage two assessments involving serious child abuse that may constitute a criminal offence (Department of Family and Community Services 2011).

The joint investigation response team responds to a relatively small proportion of cases in which children are notified to the Department of Family and Community Services (Cashmore 2002). The cases referred to a joint investigation response team typically involve abuse that may constitute a criminal offence (Department of Family and Community Services 2012b). It has been noted that, although the referral criteria for the joint investigation response team make specific reference to physical abuse, sexual abuse and neglect, in practice a joint investigation response team predominantly responds to cases of alleged child sexual abuse (Bromfield & Higgins 2005). Response teams are staffed by Community Services, New South Wales Police and New South Wales Health professionals, who undertake joint investigations. These investigations link the risk assessment and protective interventions undertaken by Community Services with criminal investigations undertaken by New South Wales Police. New South Wales Health professionals undertake medical examinations and provide counselling and therapeutic services as part of the investigative process, where required (Department of Family and Community Services 2012b).

The benefits of the joint investigation response team model include its tailored approach to service and its ability to alleviate child trauma (Department of Family and Community Services 2011).

An evaluation commissioned by Community Services, New South Wales Police and New South Wales Health found that joint investigations resulted in better collaboration and information sharing between Community and Family Services and police, and more effective investigations and prosecutions. However, the evaluation found little evidence that joint investigations lead to better protective outcomes for children, other than the prosecution of the alleged offender.

Questions were raised about problems of inadequate supervision and a lack of available family services staff after hours, and a lack of recognition and support for police, including the need for additional and realistic training (Cashmore 2002).

A subsequent review of the joint investigation response team recommended:

- reforming the initial response to emphasise planning focused on the safety, welfare and wellbeing of children as well as the investigative process
- increasing the support provided to children
- improving access to forensic services and counselling provided by New South Wales Health
- developing improved ways of working with Aboriginal families and communities,

particularly where child sexual assault is a problem

- investigating opportunities to amend the current sexual abuse criteria
- putting a greater emphasis on professional development and support of staff, as well as improving joint investigation response team data
- looking at the potential for improvements in governance within agencies (Department of Community Services 2007).

4.3.4 Joint investigations - Child advocacy centres in the United States

Child advocacy centres are designed for the investigation of allegations of severe child abuse. These centres were first introduced in the United States in 1985 and they are used to conduct the majority of forensic medical assessments in child abuse investigations. There are now more that 800 centres in the United States and similar entities have been established in 10 other countries (National Children's Advocacy Center 2012).

The centres offer multi-disciplinary coordination of investigations in a child-friendly environment for forensic interviews, increased professional training for forensic practitioners, and increased access for children to medical and therapeutic services (Lamont, Price-Robertson & Bromfield 2010).

The teams working from child advocacy centres comprise members from law enforcement, child protection workers, medical practitioners, mental health professionals and prosecutors. The aims of these centres mirror those of a joint investigation response team, including reducing the number of times a child needs to re-tell his or her story, improved inter-agency cooperation and coordination, and efficient use of community services and resources (Lamont, Price-Robertson & Bromfield 2010).

Studies of the effectiveness of child advocacy centres have identified that their major strength is the promotion of inter-agency collaboration during investigations. Research also suggests that better-quality medical assessments are undertaken and, as a result, decision-making is more consistent in cases investigated at a child advocacy centre (Lamont, Price-Robertson & Bromfield 2010).

In a study undertaken by Newman, Dannenfelser and Pendleton (2005), child protection workers and law enforcement workers were surveyed about their use of child advocacy centres. The results identified five main reasons for their use in the investigation of child abuse:

- a child-friendly environment ('respondents believe that the nurturing and safe child-friendly environment not only reduces the potential for secondary traumatisation, but also promotes self-disclosure and more accurate interview results')

- referrals, support, assistance with counselling, and medical examination ('the provision and referral for counselling services following disclosure and forensic interview was considered important and the ability to provide medical exams on site was seen as advantageous')
- expertise of interviewers ('respondents stated that the Child Advocacy Centers workers were expert interviewers because of their experience and training')
- formal protocols for the investigation of child sexual abuse cases ('respondents stated in some cases that they use the center because it is the mandated procedure or protocol')
- access to video and audio equipment and a two-way mirror ('the respondents found that the space and equipment offered for video and audio recording was of great value to them … [respondents] also found one-way mirrors to be helpful in interviewing and assessment because they could unobtrusively observe and give input without overwhelming the child by their presence').

Lamont, Price-Robertson and Bromfield (2010, p691) summarise the research available on child advocacy centres as follows:

> … it appears that Child Advocacy Centres can provide thorough, high quality assessments/investigations in a less intrusive manner for families that may also reduce the amount of times children are interviewed and examined. Such assessments have also been proven to be more likely to result in a child protection substantiation.

After a visit to a centre using the child advocacy centres model, Ryan (2009, p46), identified key considerations for the use of this type of model in Australia. He stated:

> … the benefits of a one stop service are clearly evident in terms of improved outcomes and impact on children. Furthermore the approach to collaboration with multi-disciplinary work clearly demonstrates the benefits of all stakeholders working together from the start of an investigation and having dedicated child friendly locations for the assessment and interview of children.

Ryan recommended the implementation of a trial of a similar approach in Queensland, the establishment of specialist forensic interviewing services and opportunities for joint training and development.

4.3.5 Integrated Structured Decision Making and Signs of Safety strategy

The Signs of Safety model, developed in Western Australia in 1993, is a framework for child protection practice that incorporates risk assessment and strengths-based family engagement. Signs of Safety is based on the idea that, in order to create sustainable changes in a family, the child protection worker must actively and deliberately also look for signs of safety that exist in the family and, with the family, create solutions for meeting the child protection needs of children in the home (Park 2010). The approach asks and answers the key question 'How can the worker actually build partnerships

with parents and children in situations of suspected or substantiated child abuse and still deal rigorously with the maltreatment issues?' (Signs of Safety n.d.). Signs of Safety has been adopted in parts of the United States, Canada, the United Kingdom, Sweden, the Netherlands, New Zealand and Japan.

In the Queensland context, one of the practical advantages of the Signs of Safety model is that it can be adapted for use with the Structured Decision Making tools, and this has been done in several United States jurisdictions. Fourteen Californian jurisdictions are trialling hybrid models that fuse Structured Decision Making tools and Signs of Safety strategies (Hatton & Brooks 2011). As well, all counties in Minnesota currently use Structured Decision Making tools and many have embraced the Signs of Safety model (Skrypek, Otteson & Owen 2010).

This approach helps to clarify thinking about past, present and future harm, deepens understanding about how to identify acts of protection, and integrates findings from Structured Decision Making assessments to inform decisions about current intervention strategies (Freitag 2011, p1).

In Olmsted County in Minnesota, after the integration of Signs of Safety with Structured Decision Making, the number of children that child protection authorities worked with tripled, the number of children entering care halved, the number of child protection matters brought before the court halved, and recidivism rates for child abuse and neglect fell to 2 per cent (Meitner 2012).

In Carver County, Minnesota, there have been similar trends after the integration of Signs of Safety with Structured Decision Making in 2004. In 2004–05, Carver County terminated parental rights in 21 families. By 2007, only four families had parental rights terminated and placements of children in out-of-home care had declined, along with the number of child protection matters before the court (Meitner 2012).

Question 8

What changes, if any, should be made to the Structured Decision Making tools to ensure they work effectively?

4.4 Proposal for consideration

After examination of models operating elsewhere, the Commission has developed a proposal for consideration which attempts to incorporate what appear to be some of the more effective components of a notification, investigation and assessment system. The model is outlined below and the Commission hopes to receive input on this model in response to this paper.

Differential response pathways

To complement the statewide expansion of the Helping Out Families initiative as suggested in Chapter 3 of this discussion paper, Child Safety could implement a differential pathway for families meeting the threshold for statutory intervention. This differential pathway could include:

- several different responses, including a response specifically for family violence (akin to the model implemented in Olmsted County)
- the capacity to undertake forensic investigations for the most serious cases of maltreatment, primarily physical abuse and sexual abuse, where court action is likely to be required or a criminal investigation is required
- the capacity to provide strengths-based intervention by community-based case management services for families where concerns relate to emotional harm and neglect
- services that aim to meet the immediate needs of the family to ensure the safety of the child, followed by working with the family to reduce the likelihood of future tertiary intervention. An example of how this system may look and how it may interact with ongoing intervention services is shown in Figure 14.

The introduction of differential pathways, particularly those in the non-government sector, will require substantial investment and training to ensure that service provision to vulnerable children is of a quality that meets community expectations. The Commission suggests that training for staff working in each response stream be tailored to the individual skill sets required for each response.

All response streams should share a common framework for engaging families. Consideration should be given to the Signs of Safety model, given its ability to integrate Structured Decision Making tools.

A review of the current SCAN model should be undertaken to ensure that families receiving a response from a differential pathway can be referred. The review should include provisions for the inclusion of non-government agencies that have relevant responsibilities.

Question 9

Should the department have access to an alternative response to notifications other than an investigation and assessment (for example, a differential response model)? If so, what should the alternatives be?

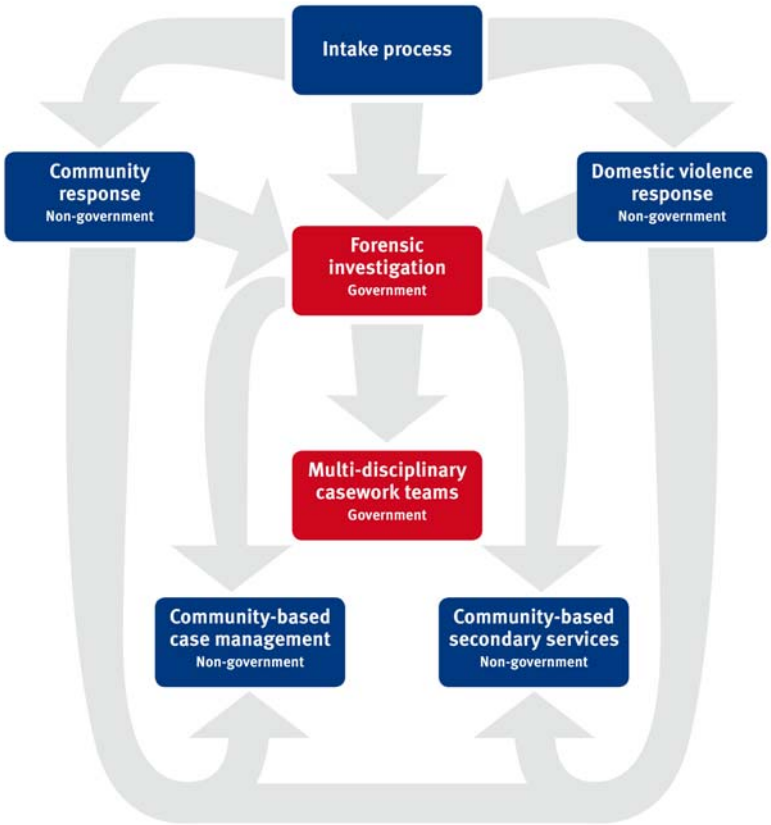
Forensic investigation teams

Forensic investigation teams could be separated from casework teams and located in a separate agency or department (see Chapter 5 for a discussion of this). These teams would work with members of the Queensland Police Service and health professionals. The forensic investigation teams could operate from hubs similar to child advocacy centres.

It is expected that, under this model, differential response pathways would reduce the number of families requiring forensic investigations.

The Commission recognises that consideration may need to be given to the resourcing requirements for regions to fulfil investigation functions and to whether the current level of staff conducting forensic investigations is required.

Figure 14: Example of recommended differential response pathways and their interaction with proposed ongoing intervention options



Under this model, a forensic investigation should be required before there is any initial application for a child protection order, and applications for child protection orders should only be made by members of the forensic investigation team. In circumstances

where children are assessed as requiring statutory protection during the course of a community response or family violence response, the model allows for these matters to be referred directly to the forensic investigation team for investigation.

Managing legal proceedings after forensic investigation

Ongoing intervention decisions that require the use of court orders could potentially be referred to a separate entity for consultation and endorsement. Legal advice and representation on child protection matters on behalf of the chief executive could possibly be managed by this separate entity directly with the court, to improve the quality of material before the Childrens Court.

Once a decision is made regarding the most appropriate ongoing intervention required to meet the child's safety needs, the family would be referred to the multi-disciplinary casework team for service provision. The separate entity would continue to manage the application before the court and may request updated information from the casework team. The multi-disciplinary casework team would not be responsible for managing the legal proceedings; however they would be able to make recommendations to the entity responsible for the proceedings.

In cases where an extension to a child protection order may be necessary, or amendment to the existing order may be required, the matter would be referred back to an investigative team to undertake an assessment of the risk to the child and the suitability of the change in intervention. Decisions relating to extending or varying existing child protection orders would be made following consultation and endorsement by the separate entity responsible for court proceedings. Legal proceedings for applications to extend a child protection order would be managed by this separate entity and would be re-referred to the multi-disciplinary casework team. The proposal for a separate entity to manage court proceedings will be explored further over the coming months of the Commission's work.

[1] Submission of Dr Jan Connors, 28 September 2012 [p2: para 2]
[2] Submission of Australian Association of Social Workers (Queensland), August 2012 [p14].
[3] Submission of Australian Association of Social Workers (Queensland), August 2012 [p14].
[4] Statement of Bob Lonne, 16 August 2012 [p4, para 5].
[5] Statement of Bob Lonne, 16 August 2012 [p16: para 5-6].
[6] The Structured Decision Making Family Risk Evaluation tool is used by Child Safety Services staff to assist in determining whether Ongoing Intervention is required following the completion of an Investigation and Assessment. The tool is designed to assist in determining how likely a family is to abuse their children and cause them harm in the next 12-24 months (Wisconsin Children's Research Center 2009).
[7] Submission of Australian Association of Social Workers (Queensland), August 2012 [p14].
[8] Submission of PACT foundation, 1 November 2012 [p2].
[9] Submission by PeakCare, October 2012 [p86].
[10] Statement of Bob Lonne, 16 August 2012 [p3: para 14].
[11] A support service case is a type of voluntary ongoing intervention that can be offered to families, following an investigation, when it is assessed that the child is not in need of protection and the level of risk in the family is assessed as high. The purpose of a support service case is to reduce the likelihood of future harm to a child or unborn baby or support a young person following their transition from care. A support service case involves the development of a support service plan, rather then a case plan, and uses other government and non-government agencies to provide support to the child and their family (Department of Communities, Child Safety and Disability Services 2012c).
[12] The Children's Research Center is based in Minnesota and was responsible for the development and ongoing support of the Structured Decision Making tools used in Queensland.
[13] A safety plan is a document currently used as part of the Structured Decision Making Safety Assessment when an immediate harm has been identified in the family home and a child is remaining in the home. In that case, a safety plan is developed with the family. The safety plan documents the specific interventions that will immediately occur to ensure the child can remain safely in the home whilst the investigation continues. The safety plan also identifies who is responsible for monitoring the compliance with the safety plan and the end date of the plan. Safety Plans remain in place until all immediate harm identified have been resolved (Wisconsin Children's Research Center 2009).
[14] Submission of Women's House Shelta, September 2012 [p1].
[15] Submission of Women's House Shelta, September 2012 [p3].
[16] Submission of Ethnic Communities Council of Queensland, September 2012 [p5].
[17] Submission of Family Inclusion Network (Townsville), September 2012.
[18] Submission of Family Inclusion Network Queensland (Townsville), September 2012.
[19] Submission of Action Centre for Therapeutic Care, September 2012 [p9].
[20] Submission of Ethnic Communities Council of Queensland, September 2012 [p3].
[21] Submission of Dr Phillip Gillingham, August 2012 [p4].
[22] Statement of Patrick Sherry, 17 January 2013 [pp52–3].

Chapter 5

Chapter 5

Working effectively with children in care

The Commission recognises increased services should be in place to prevent children and families requiring a tertiary prevention response. However, any reformed child protection system will always need to respond to the cohort of children that require emergency or temporary protective action.

This chapter explores four key issues relating to the effectiveness of the care system in working with children once they have reached the statutory threshold requiring state intervention. These issues are:

- the balance between family reunification and keeping children in out-of-home care
- provision of stable out-of-home care placements for children who need them
- the case planning and management system for working with children in care
- the need for out-of-home care placements to be appropriate and flexible.

Proposals for consideration will be outlined throughout the chapter.

The *Child Protection Act 1999* specifies that preference must be given to the least intrusive way of working with families to reduce risk factors and the exposure of children to harm (s 59(1)(e)). As outlined in Chapter 2, interventions of increased coercion can only be considered if the protection sought cannot be achieved by a less intrusive means. This legislation would suggest that working with families to secure the protection of children while the child is still living at home would be a preferred approach.

Figure 6 in Chapter 2 shows that intervention with parental agreement is not used as often as a child protection order (Figure 6 also shows a steady increase in the use of long-term orders). The Commission is not aware of any research that documents the reasons for this limited use of interventions with parental agreement, but some possible explanations are:

- a lack of funding available to support families subject to intervention with parental agreement as opposed to children in out-of-home care

- the fact that by the time children have a substantiated outcome recorded, the home environment has deteriorated to such an extent that the child cannot be supported to remain there
- the limited capacity of family intervention services because of the high staff-to-client ratios required to undertake intensive work with families.

Figure 7 in Chapter 2 indicates that the use of the less intrusive court orders – supervision and directive orders – has decreased marginally in recent years. This coincides with an increase in the number of children subject to orders granting custody or guardianship (Figure 8, Chapter 2).

The decrease in the number of less intrusive interventions is inconsistent with the principles of family preservation and reunification that underlie child protection systems in Australia and the United States (Tomison & Stanley 2001b).

5.1 Family reunification

Even where the more intrusive option is pursued – taking the child or young person out of their home – the goal is to reunify the child with their family. In Queensland, the child protection system currently operates on the initial assumption that a child will be reunified with their family:

> Where a child has been removed from the care of a parent, the goal of the initial case plan must be to reunify the child with the parents on a long-term basis, unless it is not in the child's best interests, not possible or not safe to do so (Department of Communities, Child Safety and Disability Services 2012c, Chapter 4).

The Commission recognises the importance for children to continue some form of relationship with their family and maintain at least a minimal level of ongoing contact. The Commission is also aware that children in the care system may be at increased risk of a range of poor outcomes as a result of actually being taken into that system. It is difficult to know whether poor life outcomes are the result of trauma experienced in early life within the family of origin, or whether these outcomes result from being the subject of poor standards of care after removal. However, it seems clear that in some cases deficiencies in the care system may mean the preventable harm caused by the system itself outweighs the benefits of removal ('systems abuse').

As outlined in Chapter 2, the Child Protection Act recognises the importance of the role of the family and the need to preserve it, by facilitating reunification after protective removal where possible and in a child's best interests. The Act assumes that a child's family has the primary responsibility for the child's upbringing, protection and development, and the preferred way of ensuring a child's safety and wellbeing is by supporting the child's family. If a child is removed from his or her family, support should be provided for the purpose of allowing the child to return home, if the return is in the child's best interests. That is, support and services should be provided to reduce

or remove risk factors, rehabilitate parents or strengthen care-giving capacity.

A reunification assessment must be conducted with every case plan review for children living in out-of-home care and subject to short-term child protection orders. When reviewing the suitability of reunification, the child safety officer must consider progress made in meeting case plan goals, the level of risk in the family, the safety of the child on return and the frequency and quality of parent–child contact visits (Department of Communities, Child Safety and Disability Services 2012c, Chapter 4).
There are three possible outcomes of the reunification assessment process:

- reunification is recommended, based on risk reduction, favourable progress with parent–child contact arrangements and a safe or conditionally safe home environment
- reunification services are continued, by maintaining the out-of-home care placement and continuing reunification efforts with the assessed household
- alternative long-term stable living arrangements are pursued and efforts towards reunification are ended. This does not mean that the child will cease contact with their family, but prompts a change to the case plan goal (Department of Communities, Child Safety and Disability Services 2012c, Chapter 4).

The Commission has received a number of submissions about family preservation and reunifying children in care with their families. One witness expressed the view that in many cases, especially where the biological parents have a 'chaotic' lifestyle, it may be in the best interests of the child that they are not returned, but rather there is an early decision to commence long-term guardianship or adoption.[1] Dr Elisabeth Hoehn,[2] Dr Jan Connors[3] and Dr Anja Kriegeskotten[4] are all of the opinion that existing reunification policies need to be reviewed to ensure that parents' rights do not outweigh considerations of the child's best interests relating to their security and emotional needs.
In the United States, Professor Richard Gelles (1996, pp149–50)[5] has argued:

> It is time to abandon the myth that 'the best foster family is not as good as a marginal biological family.' The ability to make a baby does not ensure that a couple have, or ever will have, the ability to be adequate parents. The policy of family reunification and family preservation fails because it assumes *all* biological parents can become fit and acceptable parents if only appropriate and sufficient support is provided [emphasis in original].

Foster Care Queensland contends that the Childrens Court's interpretation of the child protection laws has been:

> conservative and biased towards family preservation … Child protection workers are then bound to implement plans that give parents almost limitless opportunities to change before decisive action is taken.[6]

Despite efforts by the department to implement concurrent planning, whereby Child Safety works toward reunification while at the same time planning for alternative placement options should reunification not be achieved (Tilbury et al. 2007), the

emphasis largely remains on reunification. It is suggested that, because of this, efforts towards other forms of placement stability for children do not commence until several months after parental reunification efforts have failed (see Berrick 2009). Moreover, despite the intention of the Structured Decision Making assessment tools to help departmental officers make decisions about reunification, there have been claims that reunification is being pursued unrealistically in some cases and without reference to the parents' ability to change.[7] For example, Dr Elisabeth Hoehn, a consultant child psychiatrist, gave evidence to the Commission that:

> At present in Queensland, there is a strong focus on reunification, with variable support and intervention to provide high risk and vulnerable families with the knowledge and skills that they require [to] change their parenting practices effectively to retain their children in their care. However, there isn't always a clear assessment of the parent's capacity to change and it often takes considerable time to identify those families where the parents do not have the capacity to change. The consequence of this is that children often move between various placements with foster parents and back to their biological parents with the possibility of further abuse and neglect during the process. This can have potentially very negative effects on the developing brain and the child's ability to trust in relationships as being safe and secure.[8]

Calls have also been made to amend decision-making timeframes for reunification. The Queensland Law Society submits that before pursuing an order for long-term guardianship to another, the department should make 'timely' efforts to work with the family towards reunification. New South Wales is presently considering a legislative proposal that decisions about restoration be made within six months of removal for children less than two years of age, and within 12 months of removal for children older than two (Department of Family and Community Services 2012a).

In summary, evidence and submissions have suggested that the department has placed too much emphasis on defaulting to returning at-risk children to their families after removal rather than finding suitable stable, alternative long-term (even permanent care) options.

Question 10

At what point should the focus shift from parental rehabilitation and family preservation as the preferred goal to the placement of a child in a stable alternative arrangement?

Question 11

Should the Child Protection Act be amended to include new provisions prescribing the services to be provided to a family by the chief executive before moving to longer-term alternative placements?

5.2 Placement stability

Research has shown that high levels of stability for children are important for a child's development (Tilbury & Osmond 2006). This derives partly from child development theory and attachment theory. Child development theory focuses on the importance of a child's interactions with other people and their environment, and the impact of early experiences on brain development. Attachment theory asserts that a child's social functioning and self-perception are influenced by the quality of the child's connections with a primary caregiver in the infant years (Tilbury & Osmond 2006).

Once children are in the care system, research has found that those with higher levels of placement instability have significantly worse behavioural outcomes, independent of baseline attributes, and that placement stability is an important predictor of wellbeing at 18 months after removal (Rubin et al. 2007).

Comments relating to placement stability were made by young people in care themselves during a series of forums held for the Commission by CREATE Foundation. Some of the comments made by these young people emphasise the crucial importance of placement stability for the development of relationships between carers and children in care:

> 'Carers become your family.'

> 'Some carers treat the kids like their actual family. They should get to keep those kids.'

> 'I am glad for having a foster family; they are my family now.'

‘When I first came into care I was nervous and I got to be in a good place with good carers and a happy environment. I had the best foster carers ever; they help me whenever I need. When I first moved in I was angry and self-harming and they kept giving me hugs.’

‘It’s been good. I’ve only had the one foster carer and she’s my mum.’

‘It’s really hard when you get close and you have to move and then you’re not allowed contact.’

‘I feel very lucky because I haven’t changed placements. I know children who have changed placements and they are never happy.’

‘This is my 16th place and I’ve been in care since I was one year old. It’s not normal being in care and I deserve to have a real family.’

‘We move too often and often unnecessarily.’

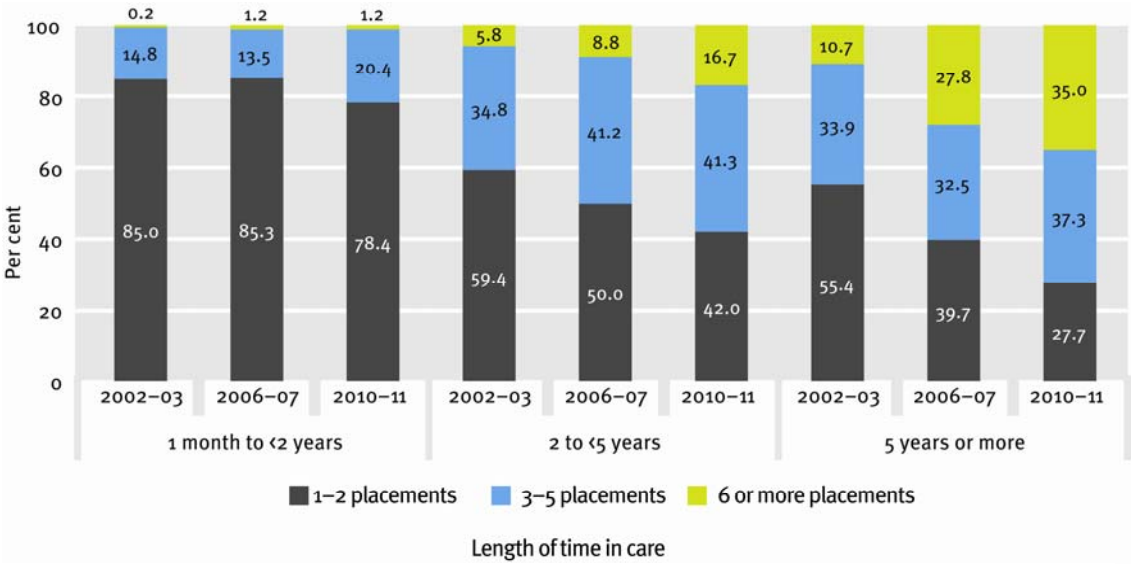
‘Moving placements affects you developmentally. Because you move around so much it affects your stability to build relationships, it affects your self-worth, you feel like you are being chucked around.’

‘Shifting foster carers and CSOs make it unstable. It affects schooling, relationships … everything. You’re constantly watching your back and never let anyone in your heart.’

Publicly available statistics about departmental placement trends are limited, and the Commission has sought additional unpublished data from the department to explore the topic of stability and reunification in more detail. Measures such as the length of time a child or young person spends in care, and the number of placements the child or young person has during care, are determined only at exit, leading to a delayed snapshot of the child protection system. In addition, data do not reveal a child’s progress through the system. For example, there are no reliable figures as to whether the benchmark periods of six, 12, 18 and 24 months for pursuing more long-term out-of-home placements are met. Furthermore, there is no available data on the number of reunification attempts.

Data that are available, however, show that placement instability tends to worsen the longer a child is in care (Figure 15).

Figure 15: Children exiting out-of-home care by length of time in out-of-home care by number of different placements (proportions), Queensland, 2002–03, 2006–07 and 2010–11



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

Notes: Includes all children exiting care who had been in care for one month or more and who had been on a child protection order at some point in the six months prior to exiting care.

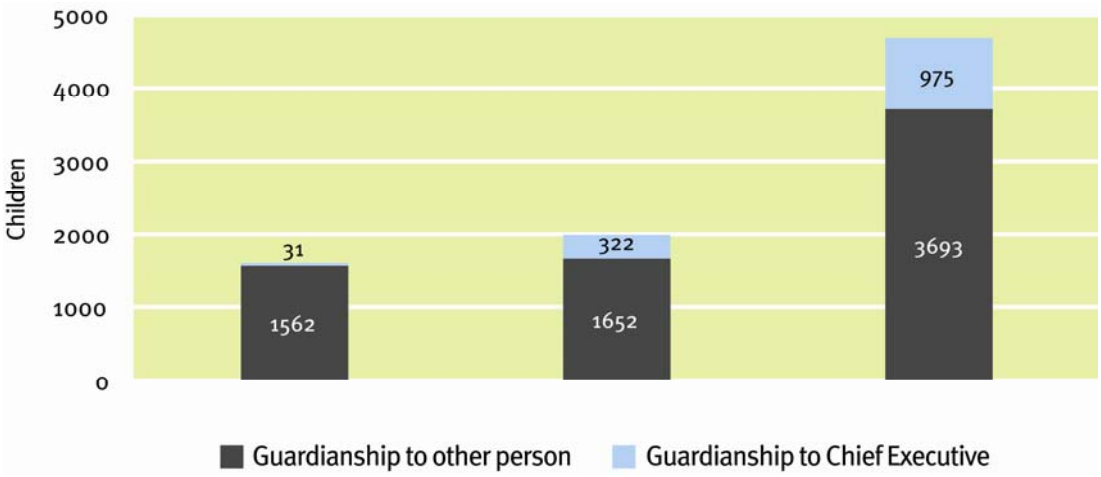
5.2.1 Options for consideration

Increased use of long-term guardianship to another

A long-term guardianship order enables a child to be placed more permanently. Building on this notion, long-term guardianship to someone other than the chief executive is more likely to increase placement stability than if the child's guardian is the chief executive. The Child Protection Act itself only enables granting of long-term guardianship to the chief executive if the court cannot place the child in the guardianship of another (s 59(7)(b)).

While it is encouraging that the number of children on long-term guardianship orders to another person has increased proportionally between 2001 (where 98 per cent of guardianship orders were to the chief executive) and 2012 (where 79 per cent of guardianship orders were to the chief executive), the number of children whose long-term guardian was the chief executive remains high (Figure 16).

Figure 16: Children on long-term guardianship orders by guardian at 30 June, Queensland, 2001, 2006 and 2012



Source: Department of Families 2003, p13; Department of Child Safety 2006a, p9; Statement of Brad Swan, 26 October 2012 [Attachment 4].

The Commission for Children and Young People and Child Guardian proposes that the majority of children and young people on long-term guardianship orders to the chief executive be transitioned to a person other than the chief executive as soon as possible. Applying this sort of approach, long-term guardianship orders to the chief executive would be reserved for children or young people with 'extremely challenging behaviours or disability'.[9]

The Commission has heard from some children and young people currently in care who have expressed a desire to remain living with their foster parents and to have those foster parents appointed as their long-term guardians. One 12-year-old girl indicated that she wished to remain with her foster family, a family she had been living with for the last 10 years. She was keen for her foster parents to become her long-term guardians.[10] However, according to her, the Department of Communities, Child Safety and Disability Services did not accede to this request.

Another child expressed a desire for her foster parents to become her long-term guardians so that they could 'be a family' and to ensure that the foster parents had greater autonomy in decision-making about her care without having to seek approval from the department.[11] These experiences are not isolated. In 2010, the Commission for Children and Young People and Child Guardian (2010, p ix) noted that many children wanted their carer to become their long-term guardian but felt that their wishes were not being listened to.[12] However, the same report noted that more than 40 per cent of children and young people wanted to see their birth family more often (2010, p ix). The Commission for Children and Young People and Child Guardian (2006a) has previously stated that a systemic investigation is needed to determine why the Childrens Court grants such a high percentage of guardianship orders to the chief executive, as opposed to others.

The Queensland Law Society takes a slightly different stance, submitting that the reunification obligation contained in the Child Protection Act could be strengthened in

favour of a child's biological parents (Department of Communities 2011b). The society also suggests that, given the 'seriousness and significance of these orders for children and their families', there should be 'capacity for a magistrate to determine that a particular application is so complex and serious that it should instead be heard by a judge'[13] (refer to Chapter 10 for further discussion of court processes).

It is unclear why long-term guardianship is most often granted to the chief executive, rather than to another.

Question 12

What are the barriers to the granting of long-term guardianship to people other than the chief executive?

A new option – between long term guardianship and adoption

Concerns have been expressed to the Commission that long-term guardianship orders, both to the chief executive and to others, are not having the intended effect of providing a child with sufficient stability. It has been argued that they do not offer the requisite stability because they may be 'contested in court by birth families on an ongoing basis'.[14] This is said to impede a child's bonding with both the foster carer and their family.[15] Furthermore, long-term guardianship orders terminate on the child's 18th birthday. An alternative provided for in the Child Safety Act is that a child may be legally adopted (s 51Y(3)(c)).

Adoption is a controversial option which divides the community. Past practices of forced adoption, particularly in the Aboriginal and Torres Strait Islander community but also in the wider population have caused mistrust of adoptions generally. Humphreys (2012, p6) characterises it in the following manner:

> Children whose families reported members being forcibly removed show two to three times the social and emotional problems of those who were not removed. The fact that such actions by the state were rationalised as being in 'the best interests of the child' and that a destructive policy was vaporised through the mainstream mores of the times does little to assuage current concerns. In fact, it may well contribute to the continued wariness of adoption in the Australian context.

A number of parliamentary and law reform commission inquiries in the last 15 years have exposed and condemned past forced adoption practices in this country.[16] However, many submissions to the inquiry have argued that an adoption order with lifetime duration, enabling the child to 'belong to'[17] and inherit from adoptive parents, would be a preferable option in some cases.

In practice adoption is rarely considered by the department. As set out in the

Commission's *Options for reform* paper, in the 2010–11 financial year a total of 384 adoptions were finalised in Australia. Of the 384 adoptions, 169 of those children already lived in Australia before being adopted. Of those 169 children who already lived in Australia, five were adopted in Queensland (Queensland Child Protection Commission of Inquiry 2012). The remaining 215 children were adopted from overseas.[18] These data arguably support a submission by National Adoption Awareness Week,[19] and evidence given to the Commission by Mr Robert Ryan,[20] that adoption is under-used in Queensland in respect of children in care.

FamilyVoice Australia has called for adoption 'to be given more prominence as an appropriate solution for the long-term care of children who cannot be cared for by their biological parents'.[21] Barnados has submitted that government should create incentives to encourage adoption in Queensland, particularly 'open adoption',[22] a practice which enables biological parents and children to remain in limited contact despite the fact that the child has been adopted. The Royal Australian and New Zealand College of Psychiatrists has sought for adoption policies to be 'revisited and reviewed', given that adoption can give a child 'permanency' and 'an increased sense of belonging'.[23]

Others have warned against widespread use of adoption in the system. Professor Clare Tilbury argues that 'adoption should be an option, but shouldn't necessarily be the preferred option'.[24] Similarly, Mr Robert Ryan notes that adoption should be considered as part of a 'suite of options available' for out-of-home care.[25] Dr Stephen Stathis argues that only when intensive family support has failed should a child be removed and permanently placed elsewhere.[26] Professor Karen Healy for the Australian Association of Social Workers (Queensland) gave evidence that, since young people will often seek to return to their biological family after their exit from the care system, long-term guardianship is usually the more appropriate option, and 'under no circumstances, closed adoption'.[27] Ms Corelle Davies argued that, given restrictions placed on overseas adoption, there is an 'opportunity, especially for the under five-year-old cohorts, to stably place and potentially adopt out the younger children', but only in specific circumstances.[28]

It is important to note that no one has advocated, nor does the Commission propose, substantial changes to the Aboriginal and Torres Strait Islander Child Placement Principle. That principle states that, where out-of-home care is required for Aboriginal and Torres Strait Islander children, alternative care should be sought from the child's extended family, the child's local Aboriginal or Torres Strait Island community, and other Aboriginal and Torres Strait Islander people (in that order) (O'Halloran 2006, pp297–8).[29] Issues and challenges relating to the Child Placement Principle are discussed in more detail later in this chapter.

A decision to pursue adoption for a child in care cannot be taken lightly. Executive director of Child Safety, Mr Brad Swan, noted that:

> It is a very significant decision to make an adoption order for a young person that may have come into care. Adoption severs the rights, the parental rights and

> responsibilities, and also … severs that relationship with their siblings.[30]

As experience in the United States has shown, some children have been left in a situation where they have been 'freed for adoption but not chosen' by any adoptive parents (Cashmore 2001), which means the child is left 'in limbo'.[31] As at 30 September 2011, 104,236 children and young people were waiting to be adopted in the United States, and in 59 per cent of cases the rights of the biological parents had already been terminated. On average, children and young people waited 23.6 months between their parent's rights being terminated and finding adoptive parents (Children's Bureau 2012, p1).

The Commissioner for Children and Young People and Child Guardian, has argued that:

> … 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.[32]

Such comments are not isolated; attempts to refocus child protection systems on adoption are often seen as attempts by governments to reduce overall costs by shifting the burden to the private arena.[33] Financial disincentives may indeed discourage foster carers and long-term guardians from adopting children in their care (Cashmore 2001). A comparison of government financial assistance entitlements for adoptive parents and foster carers is outlined in Table 2, showing that adoptive parents stand to lose a series of allowances and benefits that offset the expenses of caring for a child.

Table 2: Comparison of government financial assistance available to adoptive and foster parents, selected jurisdictions

Jurisdiction	Payment type	Eligibility	
		Adoptive parent	Foster carer
Queensland	Fortnightly caring allowance	No	Yes
Queensland	One-off start-up allowance	No	Yes
Queensland	One-off establishment payment	No	Yes
Queensland	Fortnightly high-support needs allowance	No	Yes
Queensland	Complex support needs allowance – levels 1–3	No	Yes
Queensland	Child-related costs reimbursement[1]	No	Yes
Commonwealth	Paid parental leave	Yes[4]	No
Commonwealth	One-off baby bonus	Yes[5]	Yes[6]
Commonwealth	Family Tax Benefit A and B[2]	Yes	Yes
New South Wales	Annual post-adoption allowance[3]	Yes	No

Source: Compiled by Queensland Child Protection Commission of Inquiry.

Notes: 1 Provided for significant or ongoing costs that are specific to the child's individual needs over and above the financial support provided in the fortnightly caring allowance and the high-support needs allowance (Department of Communities 2011c, p11).
2 Income-tested.
3 Reduced in 2011 from about $16,000 per annum to $1,500 per annum: *Hansard*, New South Wales, Legislative Assembly, 9 November 2011, pp7235–8.
4 Pursuant to *A New Tax System (Family Assistance) Act 1999* (Cth), s 36(5).
5 Provided the child is under 16 years when he or she is entrusted to the care of the adoptive parent: *Parental Leave Act 2010* (Cth), ss 274–275.
6 If the baby comes into the foster parent's care within 26 weeks of the child's birth.

On a practical level, Associate Professor Cashmore observes that caseworkers do not always 'have the time and skills or the necessary supervision' to develop and implement plans for particular children to be adopted (Cashmore 2001, pp226–7).

However, part of the wider community's resistance to adoption may be because people are unaware of the manner in which adoption laws have recently evolved. Since 2009, Queensland's adoption laws have provided for 'open adoptions', which allow for the adoptive child and the birth parents to know one another. These contemporary practices are said to have overcome many of the previous problems of adoption (Tregeagle et al. 2012). The degree of openness can be settled through the agreement of an 'adoption plan' between the adoptive parents and the birth parents.[34] This change in practice recognises that 'children benefit from knowing their birth parents and the circumstances of their adoption'.[35] On the other hand, 'open adoptions' may be less attractive to some prospective adoptive parents than traditional forms of 'closed adoption' (Quartly & Swain 2012).

The commentary above indicates that significantly increasing the use of adoption in the care system in its present form would be widely opposed. However, adoption is a 'changing institution' (Rushton n.d.). While much of the above commentary highlights the need for caution, it nevertheless suggests that a new form of permanent placement

order, somewhere on the continuum between a long-term guardianship order and adoption, could be in the best interests of many children in the care system. The Commission suggests that the challenge for Queensland is to develop a new form of permanent placement option which would be attractive to prospective parents while at the same time being in the best interests of the child. Unlike long-term guardianship, adoption lasts for life, arguably increasing emotional security for the child and ensuring stability and continuity for transition to adult life.

Rushton points out that there are particular challenges in placing children from the care system with adoptive parents, given their often complex needs and behavioural difficulties (p12). But these challenges could be ameliorated if ongoing support was provided, similar to that available in the care system. In appropriate cases, there should also be continuing contact with the birth parents and siblings, and services should also be available to mediate these relationships.

Forensic social worker Grant Thomson[36] and Foster Care Queensland[37] have suggested that the department should have at its disposal a compromise order between long-term guardianship and adoption. Not dissimilarly, the Department of Child Safety in 2006 developed a proposal for a 'Permanent Parenting Order.' That proposal was limited however because the order was to only have effect until the child turned 18, and there was to be no ongoing monitoring by the department and no financial assistance.

Question 13

Should adoption, or some other more permanent placement option, be more readily available to enhance placement stability for children in long-term care?

5.3 Case planning and management

As outlined in Chapter 2, all children who have been assessed as being in need of protection must have a case plan. Case plans must be reviewed regularly.

The *Child safety practice manual* outlines that under the case plan, the child safety officer should:

- build positive relationships and engage with children, families and service providers
- monitor whether the parents are undertaking their agreed responsibilities, as recorded in the case plan, to meet the child's needs
- undertake goal-directed visits with the child and parents
- regularly visit the carer and support the placement, if relevant

- manage family contact for the child, including a clear plan for reviewing and increasing family contact over an appropriate timeframe, when the child is to be reunified with their family
- interact in a culturally appropriate way with Aboriginal and Torres Strait Islander children, families and communities and recognised entities,[38] and ensure that:
    - the recognised entity is given an opportunity to participate in the decision-making process for all significant decisions, and consulted for all other decisions
    - Aboriginal or Torres Strait Islander children are placed in accordance with the child placement principle
- interact in a culturally appropriate way with other cultural groups or communities
- facilitate and support the parent to work towards the actions and outcomes assigned to them
- complete the actions assigned to Child Safety in the case plan
- ensure that the case plan actions are coordinated
- liaise with other service providers as required
- undertake court-related tasks, if required
- place the child in out-of-home care, if required, and support the child and carer for the duration of the placement
- use professional judgement and all information gathered during implementation to regularly assess progress towards the case plan goal, and the appropriateness of the goal and outcomes
- record information about all activities with the child, family and carer in the Integrated Client Management System (Department of Communities, Child Safety and Disability Services 2012c, Chapter 4).

The advisory group to the Commission raised concerns about the level of case management skills of relevant Child Safety staff and advised that significant improvements in case management skills of child safety officers would result in better outcomes for children and families.

One impediment to effective case management is high turnover of staff. The retention of skilled staff has been identified frequently in evidence and submissions received by the Commission as a key problem facing the tertiary child protection system in Queensland. Currently within Child Safety, a family engaging in ongoing intervention will probably have contact with multiple case managers during the life of their involvement with the department:

> Due to Child Safety staff workloads and high turnover, it is not uncommon for an officer to have minimal knowledge about a child's circumstances, behaviour and needs. This has resulted in instances where children have remained, to their detriment, in a placement well beyond the original agreement.[39]

Unfortunately, staff turnover is one of the matters raised with the Commission as a shortcoming of the workforce. The forging of relationships between children in care and their case worker increases stability and improves outcomes for children in out-of-home care (Bromfield & Osborn 2007). In the current system this is undermined by the high rates of turnover. In addition, the problem of administrative tasks absorbing time that could be spent providing casework to families has also been raised. Excessive workloads, high administrative burdens and bureaucratic constraint prevent professionals from using their skills and carrying out their commitment to the welfare of children in the care system (Anderson 2000). These factors have been linked to emotional exhaustion and worker burnout and will be discussed further in Chapter 8.

A consistent case manager is a key factor in enabling strong working relationships with children, young people, families and carers, along with partner agencies and stakeholders (Queensland Child Death Case Review Committee 2011). Children in care themselves identify that the lack of stable support is a fundamental problem. The CREATE Foundation consultation report quoted children and young people in out-of-home care as saying:

> One of our workers told me five times she was coming to visit and didn't show up once out of the five times.
>
> Constant changing of CSOs limits the understanding and progress of your situation.
>
> I feel as if case workers don't take the time to connect with the young person and that they don't have an understanding of the young person.
>
> Some CSOs are good, some are bad, some of them are low lifes, some of them are just interested in the money they can make.
>
> Caseload too busy – employ more workers on a long-term basis.[40]

A further complexity for the case management of families is that they typically have multiple and complex needs requiring specialist intervention by a range of government and non-government agencies and professionals (Department of Communities 2009):

> The prevalence of multiple family and parental issues, combined with the complex needs of the children, highlights the challenge faced by the child safety service system in responding to complicated family situations and the need for an effective, coordinated multi-disciplinary response (Queensland Child Death Case Review Committee 2011).

The Child Death Case Review Committee annual reports consistently identify that coordination of multiple agencies to deliver services to vulnerable children and families through cross-agency communication, collaboration and planning is essential if positive outcomes are to be achieved (Queensland Child Death Case Review Committee 2009, 2010, 2011). The report for 2009–10 highlighted the need for the

child protection system to establish more intensive, diverse and specialised service delivery to meet the complex needs of young people (Queensland Child Death Case Review Committee 2010).

The Commission is unaware of any formal evaluation of current casework methods or of family intervention services provided by funded non-government organisations. However, the high re-substantiation rate is potentially one indicator that the current casework methods are less than effective (see section 4.2.3). Feedback from frontline Child Safety staff corroborates this. In summary:

- the burden of high caseloads reduce the capacity of workers to respond in a planned way to the complex needs of children and families
- the inability to backfill positions means full caseloads may be unallocated when staff are on leave
- the volume of forms and templates, duplication of administrative work and lack of administrative support prevent staff from performing casework functions (such as visits to children)
- there is a culture of blame so that child safety officers and team leaders are 'hauled into reviews' if something goes wrong, resulting in risk-averse practices
- there is a lack of professional development opportunities, inadequate supervision and no time to debrief.[41]

A survey of frontline child protection staff conducted by the Commission led to similar findings:

- 55 per cent of respondents indicated that the supervision they received was mainly administrative in nature
- 47 per cent of respondents indicated that when they had acted in higher positions their substantive work commitments went unfulfilled
- 49 per cent of respondents indicated that they were concerned about confidentiality when accessing staff support services, including the employee assistance service
- 59 per cent of respondents indicated that the workload of administrative and court related tasks was not evenly balanced with service delivery to families
- 56 per cent of respondents indicated that they were unable to spend sufficient time working with children and families to build a productive relationship
- 70 per cent of respondents indicated that pressure to meet performance targets made it difficult to work with families; only 12 per cent or respondents stated that performance targets had no impact on their work with families
- 76 per cent of respondents indicated that additional administrative support would allow them more time to work with families; only 5 per cent of respondents indicated that this would not increase the time they had for casework

- 46 per cent of respondents indicated that they spent 70 per cent or more of their time undertaking administrative work.

Overall, staff indicated that high workloads, inadequate support, an unwillingness from senior management, partner agencies and non-government organisations to share the risk of keeping children at home or in 'creative placements', and no resources for non-custodial or guardianship cases, significantly impair the quality of their work with children and families.

The Commission has also received numerous submissions from individuals and organisations relating to the quality of case work within Child Safety. The following is a snapshot of some of the themes from these submissions:

- further training and development for Child Safety staff is required in child development, attachment and trauma informed practice[42]
- there is too much focus on evidence-gathering for court proceedings[43]
- child safety officers spend little time providing direct services to families[44]
- there is a lack of coordinated support for young people[45]
- there is a lack of localised cultural knowledge among Child Safety staff.[46]

Decision-making in child protection can be affected by the experience or inexperience of workers.[47] To retain staff long enough for them to gain experience, the department needs to ensure that inexperienced staff work alongside proficient practitioners to feel supported by the department.[48] The Commission has also heard that there are issues relating to caseload management in circumstances where staff are on sick or annual leave or resign from the organisation, resulting in situations where there are insufficient staff to manage cases in the service centre.[49] Burnout is also a significant factor affecting child safety officers and is exacerbated by high caseloads, excessive paperwork and compliance requirements limiting the amount of time staff can spend working with families.[50] Factors influencing the quality of casework and decision-making by child safety officers were discussed in Chapter 4.

These factors lessen the quality of services provided to children and families, and may result in children entering and remaining in the child protection system for longer periods of time.

5.3.1 Approaches to post-intervention family support in other jurisdictions

The two main systems used for providing child protection intervention for children and young people who have suffered abuse are intensive family preservation models and multi-disciplinary team models. Though the principles of the two systems overlap in some respects, there are differences bearing on their suitability for implementation in Queensland.

Intensive family preservation models were developed in the United States and include the 'homebuilders' model and the 'intensive family preservation' model. These models require caseworkers to have small caseloads and they are also encouraged to spend as much time as possible in the home environment, including outside business hours:

> Services are tailored to families' needs and can include counselling, life skills education, parenting education, anger management, communication and assertiveness skills as well as practical assistance (food, clothing, housing, transportation, budgeting) and advocacy with social or other services. (Kerslake Hendricks & Stevens 2012, p59)

In Victoria, the Child FIRST service was modelled on the 'homebuilders' form of intensive intervention. It aims to reduce the number of children entering out-of-home care and shift emphasis from funding alternative care to funding services to keep children safely in their family home (Campbell 1998). As noted in Chapter 3, Helping Out Families was modelled on the Child FIRST service.

Research on intensive family preservation models over almost 30 years has often yielded mixed results as to their effectiveness (Berry 2005). Tomison and Stanley (2001b, citing Ainsworth 1997) state:

> Australian evaluations of family preservation programs have been small in scale and fraught with methodological difficulties. [Ainsworth] concludes that until the evidence can be produced about the effectiveness of family preservation programs, there should be a combination of both family preservation programs and the traditional forms of family casework, used in practice.

Research also suggests that intensive family preservation models are not as successful for families where children are in out-of-home care (Forrester et al. 2008; Littell & Schuerman 1995).

Sharing some aspects of the intensive family preservation approach, multi-systemic therapy is a case management approach that has been previously implemented in Queensland. Multi-systemic therapy is a licensed model developed in the United States. This model primarily relies on a highly trained professional who provides most services for a family. The worker receives intensive supervision and guidance as they often see families a number of times a week, including on weekends.

After the 2004 Crime and Misconduct Commission Inquiry report on abuse in foster care, the Department of Child Safety funded a trial of multi-systemic therapy by the Mater Hospital in the Logan/Inala/Mt Gravatt area. The trial was expected to cost $600,000 per year for three years and provide services for 50 clients in a 12-month period. The average caseload was anticipated to be five clients per clinician per six months and included capacity for 24-hour 7 days per week on-call capacity for four clinicians (Department of Communities n.d.). Treatment lengths averaged between six and nine months, with families seen several times a week initially, and contact gradually reducing as progress occurred. Services were generally provided in the home and other places suggested by the family, but rarely in an office setting (Stallman et al.

2010).

Research suggests that the model provided positive outcomes for children and young people (for example, Swenson et al. 2009), but the significant cost associated with the program made it prohibitive to continue and the Department of Child Safety did not continue to fund multi-systemic therapy beyond the trial.

The Department of Communities, Child Safety and Disability Services funds non-government organisations to provide family intervention services. These services work with families subject to intervention with parental agreement, supervision orders, directive orders and short-term child protection orders with the aim of preventing further maltreatment or reunifying children with their parents. These services differ from agency to agency in their approach to working with families. However, they generally share many features of the intensive family preservation model, including intensive practical in-home casework, after-hours support and small caseloads. The intensive nature of the work undertaken by family intervention services means that they have very limited capacity, in some circumstances with a caseload of one family per worker.

Multi-disciplinary teams

Tomison and Stanley comment that:

> Most states [in Australia] have renewed respect for the role of other agencies, and are seeking to engage in partnership throughout assessment and the family support phases of cases. A key aspect of this is cross-sectoral partnerships – vital when working with multi-problem families. Precautionary note: interagency collaboration and communication is exceedingly difficult to undertake successfully – hence the frequently reported difficulties and case 'mishaps'. To make it successful requires the development of formal and informal structures for information sharing and working together, and importantly, effective case coordination. (Tomison & Stanley 2001b)

Evidence suggests that children with mental health problems and disabilities, and families who are disengaged from the service system, especially benefit from case management by multi-disciplinary teams of health professionals and social workers (McDonald & Rosier 2011). In this model, team members work directly with family members in the home within their specialist field, while coordinating any additional services provided by other government and non-government agencies. Teams are responsible for a large number of cases collectively, rather than individual team members holding responsibility.

An example of this approach is the initiative Reclaiming Social Work, implemented in Hackney in the United Kingdom, involving the establishment of small, multi-skilled teams. The teams consisted of a consultant social worker, a social worker, a child practitioner, a clinical therapist and a unit administrator. The teams were intended to have greater autonomy and a shared understanding of and responsibility for their

allocated cases. An independent evaluation carried out in 2010 reported positive results. The report indicated that Hackney had lower rates of children re-entering the child protection system than its comparable neighbours and the national average. The report found that the overall cost of child protection services in Hackney fell by 5 per cent and was linked directly to a decrease in the number of children and young people in out-of-home care. A marked fall in the number of staff days lost to illness, along with improved placement stability and very low numbers of children in out-of-home care, contributed to the savings (Cross & Munro 2010).

There are a number of key principles guiding the effective operation of multi-disciplinary teams. Kerslake Hendricks and Stevens (2012), in their extensive international literature review, identify the following elements of effective practice with families who have had children removed, and families with complex problems:

- careful assessment, including thorough reading of all files, consideration of parental history (abuse, domestic violence, maltreatment, care, substance misuse, mental health problems) and listening to the child
- assessment of evidence of change and progress, and the family's capacity to sustain change
- successful engagement balanced with critical questioning
- intensive casework
- effective, regular supervision of workers
- effective multi-agency assessment and intervention
- a mix of intervention lengths and intensities, which should be culturally responsive and mindful of families' strengths and capabilities
- programs that are effectively targeted – and, when they are standardised for each participant, program integrity is required to ensure they are working as intended
- referral for specialist treatment (for example, to mental health services) (Kerslake Hendricks & Stevens 2012, p67).

5.3.2 Options for consideration

Case work function

The intensive family preservation models focus on the provision of intensive support to families. Initiatives operating under this framework typically require the case worker to have low caseloads, and the ability to be available after hours and to spend extended amounts of time in the family home. Although the literature indicates that these programs may have some positive effect, it appears that they are most effective in dealing with problems before children enter the tertiary system, and that, given their short, intensive nature, they may not be able to sustain longer term change in a family. When considered in the Queensland context, the implementation and ongoing costs of an intensive family preservation model would probably require significant and

unsustainable additional expenditure.

Multi-disciplinary team models focus on using the skills of a variety of professionals with joint management of cases. This model requires professionals to work collaboratively with clients, using their specialist area of expertise. Results from the Hackney model have indicated that it can be cost effective and lead to positive outcomes for children, young people and their families. As well, the evaluation of the initiative showed reductions in residential care use and placement instability, both of which are of significant concern in Queensland.

Comments from the Commission's advisory group indicate that, while there are positive signs from the evaluation, the Queensland context is quite different to the United Kingdom, with the Queensland child protection workforce coming from a variety of professional backgrounds whereas United Kingdom staff are mainly social workers. It was also suggested there are different reporting requirements: the United Kingdom has a stronger requirement for child safety staff to report abuse and neglect, and there are negative implications for employment for failure to comply.

The Commission has identified that the establishment of a multi-disciplinary team casework model may help to overcome some of the deficiencies in the current casework system. A review of submissions received by the Commission has not identified any submissions which investigate or propose this casework approach. The Commission is therefore interested in stakeholder views on the proposal outlined below.

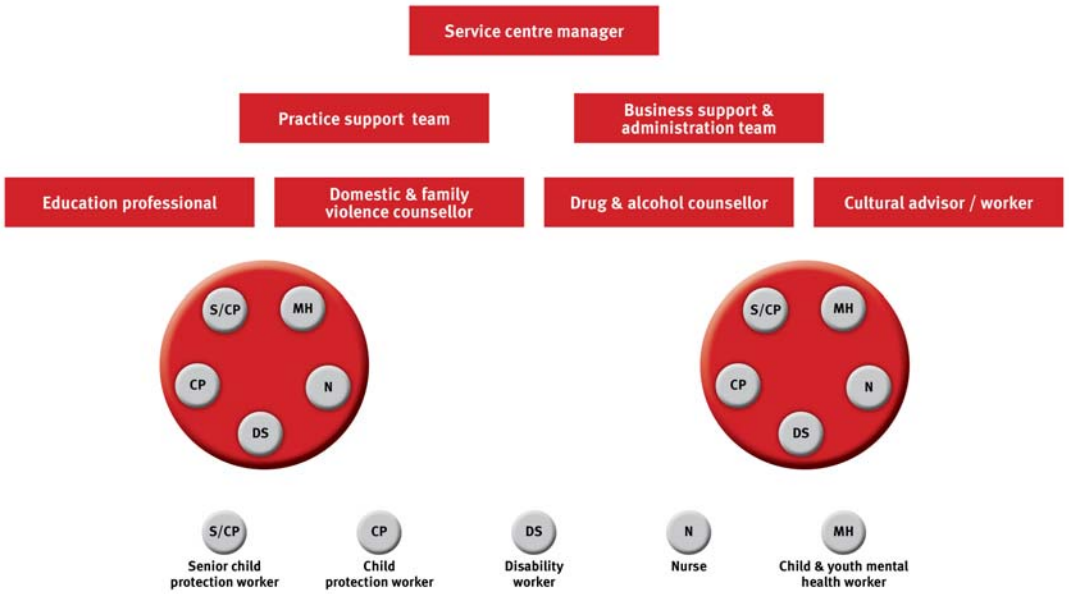
A proposal for multi-disciplinary casework teams

A multi-disciplinary team model could be established in Queensland to provide direct service delivery to children and young people in the tertiary child protection system who have suffered abuse. The model would provide intensive casework to children and young people after the first occurrence of abuse. It would also draw on the skills of a range of individuals with the aim of reducing the likelihood of future abuse, and providing intervention and support to the young person to reduce the long-term impact of past maltreatment.

The multi-disciplinary casework team model would consist primarily of human service professionals (social work and psychology) with experience in child protection, a child and youth mental health worker, a qualified nurse and a disability worker. In addition to these team members, professionals from education, drug and alcohol counselling and domestic violence counselling, together with an Aboriginal or Torres Strait Island cultural worker, would be based locally and be available to provide intervention to families across multiple casework teams and advice on their areas of expertise. In this model, these teams would provide both professional case management and direct service delivery to families. The model also includes business and administrative support functions and a team of non-professional officers to provide support to the casework teams in a similar role to child safety support officers.[51] Figure 18 shows an

example of a service centre staffing structure using this approach.

Figure 17: Child Safety Service Centre with multi-disciplinary casework teams and professional casework support



The benefit of including professionals from a variety of backgrounds is that, in addition to being able to provide direct services to families based on their professional expertise, they are also able to better navigate other government and non-government systems. For example, a nurse may be able to efficiently and effectively navigate the health system, while an education professional may be better at accessing the education system. This would improve outcomes for children and their families by enabling services from multiple systems to provide streamlined support.

Although multi-disciplinary casework teams could provide an increased level of direct casework compared with the current system, there would continue to be insufficient capacity within Child Safety to deliver a comprehensive casework response to families without services provided by grant-funded non-government agencies. Implementation of this model would require increased funding to non-government service providers to ensure that services are available and appropriately targeted to work in collaboration with casework teams.

It has been suggested that, although employment costs may be higher in the longer term with the recruitment of nurses and mental health professionals, the ability to manage greater risk with children remaining in the family home, rather than in foster care and residential care, would help to counterbalance these additional costs. The qualification requirements of the identified professionals, particularly those from education and mental health professions, would need to be determined. For example, it may be worth considering the cost and benefits of recruiting a registered

psychologist, rather than a counsellor and mental health nurse, in the role of a child and youth mental health worker.

Multi-disciplinary casework team members could be located together and report to a senior child protection practitioner with significant experience in child protection work. Locating team members together would ensure that information is easily shared. This could be further enhanced by team members using a common information system.

The multi-disciplinary team approach allows for a large number of cases to be managed by a team and allows risk to be spread across the team. It is anticipated that this would reduce risk-averse practice, as each case is the responsibility of the team rather than the individual. Casework teams would also improve support and mentoring for less-experienced team members. The introduction of the multi-disciplinary team model or an adaptation would need to be accompanied by a change in management and training strategy. It would also have impacts on the proposals set out in Chapter 8 of this Discussion Paper, which deals more broadly with workforce issues.

Implementation in Queensland could occur within the existing regional structure, with each service centre continuing to be responsible for a defined geographical area. Structures within Child Safety service centres would require some change. Primarily, the qualification requirements of child safety officers would change significantly over time. This would require a change in recruitment practices and a decrease in the number of child safety officers currently undertaking the case management role, given the addition of staff with nursing, mental health and disability backgrounds. Within this model, casework skills training would be required for all members of casework teams, particularly staff transitioning from current child safety officer, team leader and senior practitioner roles to roles within a multi-disciplinary team. This would ensure that all staff have the skills to be able to effectively work with children and families.

Senior child protection workers within teams could provide leadership to the team while also providing direct services to families. These roles could be filled by current team leaders and senior practitioners. Service centre managers could continue to provide leadership to the service centre and report to a regional director. The use of current senior practitioners in addition to current team leaders as senior child protection officers could allow for an additional team to be formed within service centres and a smaller allocation of cases across teams. The current duties undertaken by the senior practitioner role could be fulfilled by the three senior child protection workers and manager for the service centre. Given that team leaders and senior practitioners currently have similar experience and qualification requirements for their respective roles, training, mentoring and supervision would be the responsibility of the senior child protection workers in the team.

Part of this model would include regionally-based senior social workers, nurses and psychologists, who would be responsible for ongoing professional development and supervision and the provision of expert advice where required. The advisory group told the Commission that professionals such as social workers, nurses and psychologists

undertaking child protection work would benefit from professional supervision and development arrangements similar to those in Queensland Health. An alternative to this would be to refer to senior professionals within existing Queensland Government departments for professional supervision and development. This supervision would differ from operational supervision, which would be provided by leadership positions within the service centre, including senior child protection officers and the service centre manager.

The Commission expects that the execution of this model using multi-disciplinary casework teams could occur over a five-year period, commencing with the establishment of one team within each Child Safety service centre in the first year. The senior practitioner position could be transitioned into the senior child protection officer role and the remaining positions within the casework team could be filled as positions become available due to natural attrition. The initial casework team for each service centre would focus on coordinating and providing family preservation services to children and their families who have suffered harm and are at imminent risk of removal.

Question 14

What are the potential benefits or disadvantages of the proposed multi-disciplinary casework team approach?

Separation of investigation teams from casework teams

If the proposal in Chapter 4 were adopted (see 4.4), multi-disciplinary casework teams would be separate from teams investigating allegations of abuse. Ideally, teams working with children, young people and their families would be located separately from investigation teams. It is envisioned that separating these teams would allow parents to engage more freely with the intervention without fearing that evidence is being gathered for use in court proceedings. The investigative teams would be responsible for investigation and assessment work and would require a broad range of qualifications, with a focus on investigative and forensic skills.

In this model, cases would be referred to a multi-disciplinary casework team from the investigative team after investigation and a decision being made regarding the most appropriate form of intervention.

Question 15

Would a separation of investigative teams from casework teams facilitate improvement in case work? If so, how can this separation be implemented in a cost-effective way?

5.4 Flexible and appropriate placement options

Effective case management of children in out-of-home care necessitates access to a range of placement options. An overview of the out-of-home care system is set out in Chapter 2. Currently, placement options for children in out-of-home care are:

- family based:
  - foster care
  - kinship care
  - intensive foster care
  - specific response care
- non-family based:
  - residential care
  - therapeutic residential care
  - supported independent living
  - safe houses.

5.4.1 Issues associated with family-based care

A submission from Child Safety outlines several key issues relating to the provision of family-based options for children in out-of-home care.[52] These include the recruitment and retention of volunteer carers, relating to:

- demographic and social factors such as changing patterns of family life
- an aging population
- increased cost of living
- increase in women's participation in paid employment.

These have reduced the number of volunteer carers available to provide care for children who cannot remain in their own homes. Compounding this decrease in supply of carers, there has been an increase in the complexity of the needs of the children and families entering the child protection system. The department has identified that

researchers are now recommending a move to professional carers who are well-trained and well-paid.

It is acknowledged that the increasing numbers of children in out-of-home care and the limited number of foster carers has led to a situation where it is increasingly difficult to locate a family-based placement for children requiring out-of-home care.[53] In situations where placements with the child's kin or a generally approved foster carer cannot be secured, children are typically placed in residential care or in other non-family based settings. In particular, where there is no grant-funded residential care available, a placement is funded on a fee-for-service basis at significant cost.

These problems facing the family-based care system will be further explored by the Commission in the final months of its work.

Issues associated with kinship care

The problems of finding suitable, willing carers is even more complex when dealing with Aboriginal and Torres Strait Islander children and young people. A strong link with family, community and culture is central to the long-term health and wellbeing of Aboriginal and Torres Strait Islander children (Human Rights and Equal Opportunities Commission 1997, Royal Commission into Aboriginal Deaths in Custody 1991). Severing these connections has been associated with a wide range of adverse consequences across the lifespan, including high rates of mental health problems, drug and alcohol abuse, child protection and criminal justice system involvement, and suicide.

The Commission has been repeatedly told, through its consultations and submissions, of the importance to Aboriginal and Torres Strait communities of having their children cared for by family members. The Commission has also been told that where this is not possible, children should not miss out on family and cultural connections or ongoing connection to their respective communities.

The Aboriginal and Torres Strait Islander Child Placement Principle is an important mechanism for preserving connections to family, community and culture for children placed in out-of-home care. The principle requires preference to be given to family members, family group placements and Aboriginal and Torres Strait Islander carers when placing an Aboriginal or Torres Strait Islander child or young person in care. It is recognised in either legislation or formal policy documents in all Australian jurisdictions (Australian Institute of Family Studies 2012).

The Child Placement Principle was first formulated by Aboriginal and Islander Child Care Agencies in the mid-1970s amid concerns about the large number of Aboriginal and Torres Strait Islander children being cared for by non-Indigenous carers. The principle recognises the importance of the extended family, kinship arrangements, culture and community in the raising of Aboriginal and Torres Strait Islander children (Queensland Aboriginal and Torres Strait Islander Child Protection Peak 2012).

The principle was placed in legislation as a result of extensive consultation with both the Aboriginal and Torres Strait Islander community and the broader sector, and to comply with Queensland's obligation to do so in response to the recommendations of the Royal Commission into Aboriginal Deaths in Custody. All states were required to implement the principle.

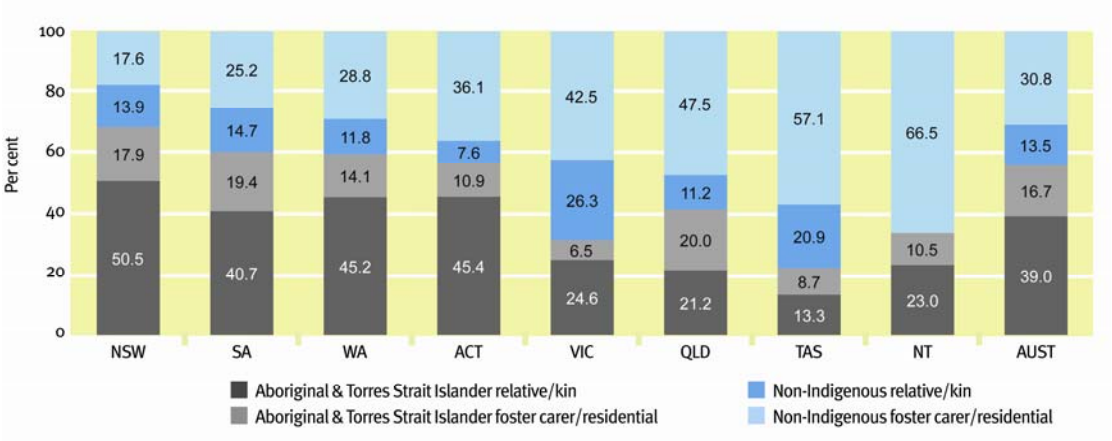
In Queensland, the Child Placement Principle is enacted in s 83 of the Child Protection Act. This section of the Act states that when making a child placement decision, proper consideration should be given to placing the child, in order of priority, with:

- 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
- another Aboriginal or Torres Strait Islander person.

The Act also requires that when making a placement decision regarding an Aboriginal or Torres Strait Islander child, proper consideration must also be given to the views of a recognised entity and ensuring the decision allows the child to retain their relationships with parents, siblings and other people of significance under Aboriginal tradition or Island custom. Before a child is placed with non-Indigenous carers, proper consideration is also to be given to the carer's commitment to maintaining and enhancing the child's connection to family, community and culture.

Currently, Queensland is placing only 52.4 per cent of Aboriginal and Torres Strait Islander children in accordance with the Child Placement Principle – well below the national average of 69.2 per cent (see Figure 19). Two audits by the Commission for Children and Young People and Child Guardian have found deficiencies in the department's processes for complying with the Child Placement Principle, particularly in the recording of placement decisions (Commission for Children and Young People and Child Guardian 2008, 2012d).

Figure 18: Aboriginal and Torres Strait Islander children in out-of-home care by Indigenous status and relationship of caregiver (proportions), states and territories, 30 June 2011



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

The Commission has also heard in its consultations about the concern of many community members regarding a lack of appropriate cultural planning for Aboriginal and Torres Strait Islander children placed outside the Child Placement Principle. As stated by one parent of a child on a child protection order:

> Saying my child can attend NAIDOC week is not a cultural plan.[54]

A number of community consultations and submissions have called for increased scrutiny of cultural planning at both an individual and systemic level. In the coming months, the Commission will review a series of case files to gain an insight into the complexity of case management and planning, including an analysis of cultural support plans for Aboriginal and Torres Strait Islander children in out-of-home care.

The Aboriginal and Torres Strait Islander Kinship Reconnection Project was established in 2008, amid concerns about the increasing over-representation of Aboriginal and Torres Strait Islander children and young people in the child protection system and the lack of compliance with the Child Placement Principle (Testro 2010). The project made 28 recommendations to improve the services provided by Child Safety and Aboriginal and Torres Strait Islander child protection services. Some of these recommendations were to:

- clarify the respective roles and responsibilities of the recognised entities, family support services and foster and kinship care services in identifying and confirming family, community and cultural information
- enhance the role of the Aboriginal and Torres Strait Islander identified child safety support officer position
- review the arrangements for assessment, planning, delivery and review of interventions to ensure they are culturally responsive
- develop service system capacity to identify, assess and support family members who are willing and able to provide kinship care
- develop short-term placement and support options while family members and potential kinship carers are found and assessed
- increase the availability of culturally appropriate placement and support services.

The Department of Communities, Child Safety and Disability Services has reported that a reconnection project is currently in place in the South West Region, in partnership with the Queensland Aboriginal and Torres Strait Islander Child Protection Peak that aims to increase compliance with the Indigenous Child Placement Principle.[55] Research by the Australian Institute of Family Studies has also identified a range of factors that are placing pressure on the ability to identify and place children with Aboriginal and Torres Strait Islander carers in accordance with the Child Placement Principle (Bromfield et al. 2007). These factors include:

- a disproportionately high number of Aboriginal and Torres Strait Islander children

in care and an increasing trend for children to remain in care for longer periods

- the relatively small proportion of adults in the Aboriginal and Torres Strait Islander populations
- approved carers already caring for multiple children
- willing and otherwise capable adults not having the financial or other resources to be able to provide care or due to over-crowded housing
- carers ageing out of the system or being 'burnt out' by attempting to meet growing demand
- potential carers being unable to provide care due to personal and parenting challenges in their own families.

It has been stressed that the shortage of Aboriginal and Torres Strait Islander carers is not due to a lack of willingness to care. It has been pointed out that Aboriginal and Torres Strait Islanders are more likely to be caring for a child in out-of-home care than their non-Indigenous counterparts (Bromfield et al. 2007). In fact, in its submission to the Commission, Child Safety has noted that Aboriginal and Torres Strait Islander adults are about five times more likely than non-Indigenous adults to be carers. During its inquiries, the Commission has been told that there is a range of systemic factors in Queensland's system that are making it difficult to recruit and place children with Aboriginal and Torres Strait Islander carers. The Aboriginal and Torres Strait Islander Women's Legal and Advocacy Service has expressed a view shared by a number of legal advocates that part of the problem is a lack of proper regard for the importance of the Child Placement Principle:

> Departmental staff are not giving serious consideration to the child placement principle. In our experience exploration of appropriate family members is often limited to asking parents to nominate a person who they think would be willing to take the child/ren into their care.[56]

A number of stakeholders have also commented that Aboriginal and Torres Strait Islander people can be reluctant to seek carer approval because they find the assessment process intimidating. Some potential carers have reported feeling that their own ability to care for their children is being scrutinised during the process. The fear and indignity experienced by some potential carers in the assessment process is illustrated in the follow statement received by the Commission:

> I found the whole process of applying to be a kinship carer very intimidating. The people from the department were not helpful and treated me with suspicion, I felt like I was treated differently because I was Aboriginal. I felt like that they thought that I was a 'dumb Abo'... I have worried that they might try to find things to take my own children away.[57]

The state's working with children criminal history check, or blue card system, has also been identified as a significant barrier to carer recruitment. There appears to be a widespread belief that carers are being, or will be, denied blue cards as a result of past and relatively minor offences or involvement with child protection services.[58] In its submission to the Commission, Child Safety has commented that while the majority of

Aboriginal and Torres Strait Islander applicants for a blue card have been successful, including many applicants with convictions for minor offences, the following barriers have been identified by the department:

- lack of personal identification documentation, particularly for those in remote communities
- language barriers for those Aboriginal and Torres Strait Islander applicants whose first language is not English
- those applicants with some form of criminal history are required to complete a lengthy and legalistic additional form that can prove onerous and complex
- lack of information about blue cards and, for those in remote locations, lack of support to apply
- the composition and fluidity of Aboriginal and Torres Strait Islander households may make it difficult for all members of the household to apply for and be issued with a blue card.[59]

It is not possible at this time to quantify the extent to which the assessment and blue card processes are preventing people from applying for carer status.
It has been suggested to the Commission that improving the range of placement options for children, particularly for children in remote communities, may help improve compliance with the Child Placement Principle and avoid the unnecessary removal of children from the community. The wider use of Safe Houses and residential style placements for new mothers have been put forward as two such options.[60]

The benefits of these models in terms of preserving connections have been described in a number of local consultations and submissions.[61] The Commission has been told that Safe Houses are allowing children to remain safely in communities while assessments are undertaken and safety concerns addressed. This is said to be reducing the need for unnecessary removals and increasing the likelihood of reunification. Safe Houses may also have the benefit of giving children removed from community a safe place of return for significant community and cultural events.

The Commission has been told that Safe Houses need to operate in conjunction with intensive family intervention services to support family reunification.[62] Without these services, children are prone to spending prolonged periods in care and are ultimately still being removed from community. The difficulties recruiting and maintaining suitable workers to these roles in some locations has also been noted.[63]

Question 16

How could case workers be supported to implement the child placement principle in a more systematic way?

5.4.2 Issues associated with residential care

Residential care providers are funded to provide care to young people in residential premises by paid or contracted workers and/or volunteers. The services predominantly involve small group care (up to six places) and are primarily for children aged 12 to 17 years. There are also provisions for residential care facilities to accommodate sibling groups or individual placements. Agencies are funded to provide places based on the complexity of the placement provided. Currently in Queensland, 8 per cent of children in out-of-home care are in residential care (Department of Communities, Child Safety and Disability Services 2012a).

A focus of particular attention for the Commission recently has been the operation and effectiveness of residential care as an out-of-home care option for older children with more complex needs. As at 30 June 2012 approximately 770 children resided in residential care, therapeutic residential care or safe houses, representing approximately 9 per cent of all children in out-of-home care.[64]

The commission has heard evidence about issues relating to residential care that broadly fall into two categories:

- deficiencies in the therapeutic framework for residential care facilities and a subsequent increase in problematic behaviour by residents
- the high costs associated with providing residential care.

Lack of therapeutic care

Care facilities should no longer be places where children are simply housed; instead there is a consensus that the child's placement must serve a therapeutic purpose.[65] As Cummins, Scott and Scales (2012) have noted, it is accepted that 'simply removing children and young people from at-risk or untenable family circumstances and placing them in care does not of itself lead to an improvement in their wellbeing' (p236).

The Commission has heard evidence about a lack of therapeutic care in residential facilities, resulting in the therapeutic needs of children being largely unmet. These needs are often expressed through high risk behaviours,[66] described by one witness as follows:

> We've had situations where workers have locked themselves in offices for fear of being assaulted. We've had incidents where one child in particular, he used to urinate in glasses and throw that over the workers. He put a sharp nail through a stick and threatened a worker with that, attempted to put a fridge over on top of a worker, and these are what I say are extreme safety issues in relation to managing this young person.[67]

The Child Protection Act requires that the care service must have suitable training for people engaged in providing care (s 126(f)). Beyond this, Child Safety sets no minimum qualification requirements for residential workers. Instead, 'it is the responsibility of

residential care services to provide training to staff as needed to ensure quality of practice'.[68] Consequently, Child Safety's assessment of Queensland's out-of-home care sector in 2012 concluded that training in some parts of the sector was 'piecemeal', whereas in other parts it was highly developed.[69]

While children and young people considered by Child Safety to have moderate or high needs can be placed in residential care after the age of 12 years, the vast majority of children and young people in residential care are considered to have complex or extreme needs (Commission for Children and Young People and Child Guardian 2012a). Behaviour consistent with complex or extreme needs includes:

- engaging in unpredictable acts of physical aggression or anti-social behaviour
- destroying property
- self-injuring or attempting suicide
- running away with prolonged absences
- abusing alcohol or other drugs
- having developmental delay or a disability that impacts on daily living and self-care
- needing medical or physical care (Department of Communities 2010c).

The outcome of these behaviours, which can potentially place members of the public at risk, often leads to an increase in the criminalisation of young people in care when police are called to respond. It could be argued that workers with better training, together with the implementation of a better therapeutic framework, may prevent the involvement of police and the escalation of responses to problematic behaviour.

Cost

The Commission has heard evidence suggesting that the cost of providing residential care in Queensland is too high, specially given the lack of evidence about positive outcomes for young people.[70] Table 3 shows the approximate amounts paid to residential care providers per placement per annum.

Table 3: Residential care grant funding per placement provided to residential care agencies

Placement complexity	Funding per place per annum
Moderate to high support needs placement	$92,605 – $104,952
Complex support needs placement	$123,473 – $209,204
Extreme support needs placement	$234,598 – $345,724

Source: Department of Communities 2010c

These costs include the full range of service and corporate governance costs, including:

residential accommodation (such as rental) costs, program management and support, staff supervision and legal and contractual compliance (Department of Communities 2010c).

In 2011–12, Child Safety spent approximately $94 million on grant funded residential placements, including therapeutic residential placements and safe houses for children and young people. In addition, $75 million was also spent on transitional placements.[71] By contrast, approximately $169 million was spent on grant funded placement options[72] and the fostering allowance for the remaining 91 per cent of children in out-of-home care.[73]

5.4.3 The need for more flexible options

In the long-term, the goal should be to reduce the number of young people requiring residential care through targeted early intervention services (see Chapter 3). However, in the interim, to the extent that there may always be children who are difficult to place, other care options need to be considered.

The Department of Communities, Child Safety and Disability Services has identified the need for a range of diverse placement options to meet the needs of children in out-of-home care:

> Despite the progress that has been made in Queensland since the implementation of the CMC Inquiry report recommendations to expand the range of available placement and care options, finding and maintaining an appropriate placement for a child in out-of-home care remains one of the most challenging issues for Child Safety Services.[74]

The department proposes that increasing the range of options currently available could be done by developing the existing mix of options, and by integrating placement and support services to provide a continuum of therapeutic care to children in out-of-home care.

Out-of-home care options that could be considered

One option for reform could be the development of a shared therapeutic framework for all residential care providers. The primary purpose of residential care facilities could change from providing a placement for children to providing a therapeutic response for children. Therapeutic responses acknowledge that many children in care have suffered from trauma or attachment issues (Cummins, Scott & Scales 2012). This knowledge informs practice within the residential care facility. The focus is on attending to children's needs and emotions instead of responding to their behaviour (Macdonald et al. 2012; Commission for Children and Young People 2012b). The residential surrounding is characterised by 'the absence of threats to safety', 'a positive social and emotional climate' (Commission for Children and Young People 2012b, p9) and stability (Ainsworth & Hansen 2009). Residential workers are committed to building 'respectful, consistent, reliable, nurturing and empathic relationships with their residents' (Commission for Children and Young People 2012b, p10).

Other jurisdictions, such as South Australia, already require workers in the out-of-home care sector to possess mandatory qualifications and complete mandatory training courses which enable workers to obtain a Certificate IV in Child, Youth and Family Intervention (Residential and Out-of-Home Care). There is support among some in the non-government sector for there to be minimum entry-level qualifications for residential workers.[75] A Certificate IV in Child, Youth and Family Intervention (Residential and Out-of-Home Care) may be a starting point in setting a minimum qualification for the Queensland out-of-home care sector.[76] However, given that residential care currently caters for children with predominantly complex and extreme behaviour, a more specialised workforce is necessary (Ainsworth 2007).

The Commission has heard evidence relating to the establishment of a therapeutic secure care model of placement, or a 'containment model'.[77] Secure care would place children in a purpose-built lockup facility[78] where therapeutic work would occur with the child to address trauma and associated self-destructive behaviours (Roesch-March 2012). Models of secure care have been established in other Australian jurisdictions including New South Wales and Victoria. The Department of Communities, Child Safety and Disability Services state that the use of secure care is controversial because it breaches an individual's personal rights and liberties while also acknowledging the state's ethical and legal obligations to actively intervene to change patterns of self-destructive behaviour in children in out-of-home care.[79]

An alternative model that may be cost-effective could be the re-establishment of large scale campus-based residential care services. It has been argued that intensive support may be best delivered in a large scale model of care with multiple professionals coming together on the same campus to provide services to residents. This model has been used extensively in North America but has been largely unexplored in Australia (McLean, Price-Robertson & Robinson 2011).

Question 17

What alternative out-of-home care models could be considered for older children with complex and high needs?

---

[1] Transcript, Corelle Davies, 21 August 2012, Brisbane [p100: line 5].
[2] Transcript, Dr Elisabeth Hoehn, 8 November 2010, Brisbane [p10: line 38].
[3] Exhibit 118, Submission of Dr Jan Connors, 28 September 2012 [p12].
[4] Exhibit 131, Statement of Dr Anja Kriegeskotten, 17 October 2012 [pp9–10].
[5] See also Gelles 2005.
[6] Submission of Foster Care Queensland, 15 August 2012 [p64].
[7] Submission of (name suppressed), 19 September 2012.
[8] Exhibit 116, Statement of Dr Elisabeth Hoehn, 16 October 2012 [pp21–2].
[9] Submission of Commission for Children and Young People and Child Guardian, 21 September 2012 [p91].
[10] CREATE Forum, 30 October 2012, Ipswich.

[11] CREATE Forum, 30 October 2012, Ipswich.
[12] See also Commission for Children and Young People and Child Guardian 2006b.
[13] Submission of Queensland Law Society, 19 October 2012 [pp9–10].
[14] Submission of National Adoption Awareness Week, 7 December 2012 [p3].
[15] Submission of National Adoption Awareness Week, 7 December 2012 [p4]. See also Submission of Foster Care Queensland, 15 August 2012 [p93].
[16] See for example: Community Affairs References Committee 2012; Standing Committee on Law and Justice 2009; Victorian Law Reform Commission 2007; Standing Committee on Family and Human Services 2005; Community Affairs References Committee 2004; Standing Committee on Social Issues 2000; Joint Select Committee 1999; Human Rights and Equal Opportunities Commission 1997; New South Wales Law Reform Commission 1997.
[17] Submission of National Adoption Awareness Week, 7 December 2012 [p4].
[18] The Commission has received a number of submissions from individuals that relate to policies and procedures for inter-country adoptions. However, prospective adoptive children who reside overseas fall outside Queensland's Child Protection Act and are therefore outside the Commission's terms of reference.
[19] Submission of National Adoption Awareness Week, 7 December 2012 [p2].
[20] Transcript, Robert Ryan, 31 October 2012, Ipswich [p92: line 37].
[21] Submission of FamilyVoice Australia, 24 September 2012 [p4].
[22] Submission of Barnados Australia, September 2012 [p5]. See also Submission of City Women (Toowoomba), 24 November 2012 [p2].
[23] Submission of Royal Australian & New Zealand College of Psychiatrists, September 2012 [p24].
[24] Transcript, Professor Clare Tilbury, 28 August 2012, Brisbane [p30: line 34].
[25] Transcript, Robert Ryan, 31 October 2012, Ipswich [p92: line 41].
[26] Transcript, Dr Stephen Stathis, 7 November 2012, Brisbane [p30: line 37].
[27] Transcript, Professor Karen Healy, 29 August 2012, Brisbane [p95: line 42].
[28] Transcript, Corelle Davies, 21 August 2012, Brisbane [p100: line 25].
[29] *Child Protection Act 1999* (Qld) s 83(4).
[30] Transcript, Brad Swan, 13 August 2012, Brisbane [p82: line 11]. See also Transcript, Linda Apelt, 16 August 2012, Brisbane [p102: line 20].
[31] Transcript, Robert Ryan, 31 October 2012, Ipswich [p19: line 27].
[32] Submission of Commission for Children and Young People and Child Guardian, 29 November 2012 [p8].
[33] For example, Mrs Jann Stuckey MLA, *Hansard,* Queensland, Legislative Assembly, 18 August 2009, p1667.
[34] *Adoption Act 2009* (Qld) part 8.
[35] Explanatory Notes, Adoption Bill 2009 (Qld) p92.
[36] Exhibit 144, Statement of Grant Thomson, 26 October 2012 [p38: para 9.1 - p39: para 9.5]. In contrast to the Department's proposed PPO, Mr Thomson proposed that the compromise order would still be a level of "child protection order."
[37] Submission of Foster Care Queensland, 15 August 2012 [pp94-5].
[38] A recognised entity is an organisation or individual that is to be consulted by the department on decisions about Aboriginal and Torres Strait Islander children.
[39] Submission of UnitingCare Community, October 2012 [p14: para 58].
[40] Submission of CREATE Foundation, 'Consultation report for the Queensland Child Protection Commission of Inquiry', January 2013 [pp15–16].
[41] Focus groups undertaken by QCPCI with Child Safety staff, 2012.
[42] Submission of ACT for Kids, 'Child protection systems and processes', September 2012 [p7].
[43] Submission of Australian Association of Social Workers (Queensland), August 2012 [p8].
[44] Submission of Australian Association of Social Workers (Queensland), August 2012 [p5].

[45] Submission of Australian Association of Social Workers (Queensland), August 2012 [p5].
[46] Submission of Townsville Aboriginal and Torres Strait Islander Health Services, October 2012 [p24: para 4.28].
[47] Submission of Australian Association of Social Workers (Queensland), August 2012 [p10].
[48] Submission of Australian Association of Social Workers (Queensland), August 2012 [p12].
[49] Transcript, Alex Scott, 6 September 2012, Brisbane [p53: line 1].
[50] Transcript, Robert Ryan, 31 October 2012, Ipswich [p50: line 6].
[51] See Chapter 8 for a list of current frontline positions in Child Safety.
[52] Submission of the Department of Communities, Child Safety and Disability Services, December 2012 [p28].
[53] Exhibit 9, Statement of Brad Swan, 10 August 2012.
[54] Submission of Aboriginal and Torres Strait Islander Women's Legal & Advocacy Service, September 2012 [p9].
[55] Submission of the Department of Communities, Child Safety and Disability Services, December 2012[p106].
[56] Submission of Aboriginal and Torres Strait Islander Women's Legal & Advocacy Service, September 2012 [p6].
[57] Statement of Maneisha Jones, 26 September 2012 [p1: para 10-13].
[58] Exhibit 63, Statement of David Goodinson, 5 September 2012 [p5: para 22]; Submission of Aboriginal and Torres Strait Islander Women's Legal & Advocacy Service, September 2012 [p7]; Exhibit 88, Statement of Gregory Anderson, 5 October 2012 [p5: para 25].
[59] Submission of Department of Communities, Child Safety and Disability Services, December 2012 [p74].
[60] Submission of Aboriginal and Torres Strait Islander Women's Legal Service NQ, October 2012 [p15]; Submission of Aboriginal and Torres Strait Islander Women's Legal & Advocacy Service, September 2012 [p22]; Exhibit 79, Statement of Karl Briscoe, 8 October 2012 [p4: para 10.2]; Consultation with Apunipima Cape York Health Council (Cairns), September 2012.
[61] Exhibit 58, Statement of Joan McNally, 5 September 2012; Consultation with ACT for Kids (Cairns), September 2012.
[62] Consultation with Aboriginal and Torres Strait Islander Legal Service (Mount Isa), 18 October 2012.
[63] Exhibit 58, Statement of Joan McNally, 5 September 2012 [p6: para 38].
[64] Exhibit 9, Statement of Brad Swan, 10 August 2012, Attachment 12(f).
[65] Submission of Royal Australian & New Zealand College of Psychiatrists, Faculty of Child and Adolescent Psychiatry, Queensland Branch, 27 September 2012 [p22]; Submission of Anglicare Southern Queensland, 5 December 2012 [p11].
[66] Submission of Commission for Children and Young People and Child Guardian, 21 September 2012.
[67] Transcript, Philip Hurst, 4 February 2013 [p14: line 25].
[68] Statement of Patrick Sherry, 25 January 2013 [p4: para 59].
[69] Department of Communities, Child Safety and Disability Services (2012), *Mapping of Learning and Development (L&D) for Out-of-Home Care Sector: Project End Report June 2012* – Statement of Mr Patrick Sherry, 25 January 2013, Attachment 1.13 [p4].
[70] Statement of Bob Lonne, 16 August 2012.
[71] Statement of Brad Swan, 14 September 2012.
Transitional funding is a funding source that is used to engage non-government agencies to source a placement for a child on a fee for service basis. Transitional placements are individualised funding packages for children and young people who cannot be placed in grant funded placements due to capacity issues or their required level of support. In circumstances where a child leaves a transitional placement, funding to the non-government agency to provide the placement ceases.

[72] Grant funded placements are provided by non-government agencies who deliver support to foster and kinship carers and deliver residential care, therapeutic residential care, safe houses and semi-independent living. Non-government agencies are funded to provide a certain type and number of placements for children.

[73]Statement of Brad Swan, 14 September 2012.

[74] Submission of Department of Communities, Child Safety and Disability Services December 2012

[75] Submission of Benevolent Society, 17 January 2013 [p19]; Submission of PeakCare Queensland, 22 October 2012 [p54].

[76] Department of Communities, Child Safety and Disability Services (2012), *Mapping of Learning and Development (L&D) for Out-of-Home Care Sector: Project End Report June 2012* – Statement of Patrick Sherry, 25 January 2013, Attachment 1.13 [pp40-41].

[77] Submission of Mercy Family Services, December 2012; Statement of Peter Waugh, 26 September 2012; Submission of Royal Australian and New Zealand College of Psychiatrists, Faculty of Child and Adolescent Psychiatry, Queensland Branch, September 2012.

[78] Submission of Department of Communities, Child Safety and Disability Services, December 2012.

[79] Submission of Department of Communities, Child Safety and Disability Services, December 2012.

Chapter 6

Chapter 6

Young people leaving care

The Commission's terms of reference require it to review the effectiveness of Queensland's current child protection system in relation to the transition of children through, and exiting, the child protection system.[1]

When a child or young person is in the custody and/or guardianship of the chief executive, there is a legal requirement for the chief executive to ensure that the young person is provided with help in the transition from being a child in care to independence at 18 years of age.[2]

Although this chapter focuses on the process of leaving care, the Commission acknowledges that improving outcomes for children in care is achieved by a combination of an effective system for children and young people while they are in care, together with partnership and supportive processes to assist young people as they leave. Effective transition from care cannot compensate for a system that has failed children in the years preceding their 18th birthday.

The chapter begins by presenting a demographic profile of young people in out-of-home care in Queensland who are transitioning to independence. Studies are referred to on the long-term costs to the community of not providing ongoing assistance. Support available from Australian Government programs is briefly outlined. Options for alternative and additional support systems are examined, drawing on national and international approaches, to provide some insight into how the Queensland system might bolster its provision of services to this cohort. In developing proposals, the focus is on providing gradual transition to independence, ensuring stable accommodation and improving education and employment opportunities.

6.1 Background

6.1.1 Demographic overview

The target group for young people needing support to transition to independence is those aged 15–17 years who are in the care of the chief executive. As at 30 June 2012:

- There were 1,273 young people aged 15 years and over who were subject to a child protection order granting guardianship to the chief executive.
- Transition from care planning had occurred for 73 per cent (927 young people), with 91 per cent (841) of these participating in their planning.
- For people having exited care, the department may still provide support services past the age of 18 years, however there is no data available on the number of these support service cases currently open (Department of Communities, Child Safety and Disability Services 2012h).

Information from community visitors in 2010–11 indicated that the situation for Aboriginal and Torres Strait Islander young people was very similar, with an only slightly larger cohort (27 per cent compared with 24 per cent) having no care plan (Commission for Children and Young People and Child Guardian 2012e).

There has been a 24 per cent increase in the number of young people aged 15 years and over leaving out of home care over the last four years: from 419 in 2007–08 to 518 in 2011–12. This increase for 15 to 17 year olds is in contrast to the rate at which the total cohort of children are exiting care, which decreased by 13 percent over the same period from 1,544 to 1,350. These changes reflect the increased lengths of time that children are staying in care, so the cohort on exit is increasingly older (Department of Communities, Child Safety and Disability Services 2012h).

6.1.2 Long term costs

Raman, Inder and Forbes (2005) identified the high economic costs of not supporting young people to succeed as adults. They noted that, for the Victorian Government, the lifetime unemployment, crime, health, housing and child protection costs (reflecting the intergenerational cycle of care) were estimated as being an additional $738,341 per person for young persons leaving care. This cost is significantly greater than the early investment needed to support young people at the time they leave care.

A further study by Morgan Disney & Associates and Applied Economics (2006) estimated the cost to government of a cohort of 1,150 people who had left the child protection system, across their life course from ages 16 to 60, to be just over $2 billion gross. This is a net cost to government of $1.9 billion over a 44-year period ($43 million per annum) more than the cost for the same size cohort in the general population. It is noted that this estimate includes the substantially higher outlays incurred by the Australian Government, such as income support payments and health care.

The above study also indicated that, if supports for young people transitioning from care were to be implemented, the most conservative scenario indicates an estimated gross saving of $128 million for the cohort over 44 years, and the most extreme scenario results in gross savings of $760 million. The highest cost saving is found in the reduced use of mental health services, family support services and justice services.

These costs arise because young people leaving care are at greater risk of experiencing negative life outcomes. Close to half of them experience periods of homelessness and commit offences. Young people need to develop employment and independent living skills, and more social and emotional skills, before they can be expected (or are able) to live independently. A sense of security, stability, continuity and social support are strong predictors of better outcomes for young people's long-term prospects after leaving care (Osborn & Bromfield 2007).

6.1.3 Child safety practice manual

The legislative framework for transitioning from care is set out in chapter 5. The Child safety practice manual provides for transition planning to start when a young person is 15 years of age. As part of the case plan, a sub-plan is to be developed with young people focusing on possible career, training and living arrangements after the age of 18. A young person's progress towards achieving transition from care goals is documented at case plan review, or at a minimum every six months.

Departmental funds may be provided to support and resource a plan. There is no specific transition from care funding, so any costs must be met from the Child Related Costs[3] budget. Specifically, according to the manual:

- transition from care funding can be accessed for the duration of the transition from care plan, including by young people who have left care
- expenditure is subject to approval by the Child Safety service centre manager in accordance with the young person's case plan or support plan
- a plan for using transition from care funds may span several years and may continue for a specified period or defined purpose after a young person has left care
- planning should take into account transition from care funding, the Transition to Independent Living Allowance and any other funding sources.

Plans developed past the age of 18 are called 'Support Service Plans', but are not counted as part of a child safety officer's caseload. The department has the capacity to fund placements after 18 years, but this is seldom done and usually for young people to finish high school. In most cases then, if a young person stays with their foster carer after 18 years of age the carer receives no payments from the department.

Only one funded non-government organisation currently delivers transition from care support in Queensland. Life Without Barriers delivers this program in Logan and

Goodna. Other than this, managing a young person's transition from care is the responsibility of child safety officers. The Queensland Government made a pre-election commitment to support young people leaving care up to 21 years of age. However, no policy implementation details have yet been announced.

6.1.4 Support from the Australian Government

The Transition to Independent Living Allowance is a one-off payment of up to $1,500 for young people aged 15–25 who are moving from care and who qualify for independent status under Centrelink guidelines.

The *National framework for protecting Australia's children* includes supporting young people to independence as a priority area. In October 2011, the Australian Government, state and territory community and disability ministers endorsed a nationally consistent approach to transitioning young people from out-of-home care to independence. This approach is also underpinned by a number of principles that align with Australia's obligations as a signatory to the United Nations Convention on the Rights of the Child.

The national approach outlines the need for a gradual transition from care to independence, which includes:

- a strong preparation phase
- a transition phase with access to tailored support to consolidate living skills and promote independence
- an independence phase with support after leaving care to foster resilience and stability.

The National Partnership Agreement on Homelessness supports a range of relevant services:

- The Youth Housing and Reintegration Service funds providers to assist 12–20 year old young people (not only those leaving care) who are at risk of homelessness to greater stability and independence (Department of Communities, Child Safety and Disability Services 2012s). Support focuses on family and community living, maintaining tenancies and linking young people with education and employment. Under this initiative, accommodation includes supervised supported accommodation, community-managed studio units and community-managed young people studios (temporary relocatable accommodation).
- After Care Services assist young people who are 18 years old and are leaving care or have recently left care to transition to independence. Where the After Care Services do not have a physical presence, the Department of Housing and Public Works (Housing Services) is required to engage with local non-government organisations to deliver the service. These services include brokerage funds for extra support to live independently and case management services to help with their transition to independence.

- Post-care support assists young people with a disability who are turning 18 and exiting from state care to community-based living as independent adults. Services are delivered by 12 officers within government and two located in non-government organisations.

The above agreement, which initially expired in 2012, has been extended together with its funding until 30 June 2013. The Australian and state and territory governments have entered into negotiations for a new agreement (Department of Families, Housing, Community Services and Indigenous Affairs 2012c).

6.2 Current challenges in transition from care in Queensland

Stein (2005) observes that stable placements, a positive sense of identity, a positive school experience, strong social networks, and preparation for independent living through opportunities for planning and problem solving are associated with increased resilience and better outcomes for young people.

To improve outcomes there is a need to:

- view successful transition of young people from care to independence as the responsibility of the government
- provide targeted assistance to ensure that young people who leave care are not excluded from adequate accommodation, health systems, education and/or employment
- provide person-centred, varied and diverse assistance to accommodate a young person's emotional readiness for independence, rather than their chronological age
- provide contingency plans for young people to accommodate the difficulties, setbacks and crises that are normal for all young people making the transition from home/care to independence.

As set out above, in most cases foster carer payments automatically cease when the young person turns 18, but there appears to be no data on how many young people stay with their foster carers beyond age 18.

There are significant gaps in targeted provision of post-care support. Analysis of available research, as well as information gathered by the Commission, indicates that many young people still do not receive adequate assistance during the transition period to establish stable social and economic independence. The Department of Families, Housing, Community Services and Indigenous Affairs (2011) states that this is due to a number of factors, including:

- sudden exits from care without adequate post-care support
- young people who exit care at age 18 and move to another region or jurisdiction
- insufficient outreach by post-care and mainstream services

- insufficient capacity and expertise across the system to meet the particular, and often complex, needs of the young people
- insufficient support for carers to facilitate a smooth transition
- inadequate assessment of needs and planning support for young people
- young people choosing to disengage from the system
- the low profile of leaving care services within the broader community
- disparity between policy and practice
- no 'whole of system approach' to working with young people transitioning from out-of-home care to independence.

It is worth noting that delivering services to some young people leaving care is always going to be challenging, no matter how thorough the relevant policies, legislation and procedures or how available the services. Government departments need to ensure that supports are delivered in a manner that means young people can engage with them. Spending time developing relationships with these young people is crucial, particularly since this group is likely to feel that the 'system' has previously failed them. The Department of Families, Housing, Community Services and Indigenous Affairs (2011) states that:

> … the willingness and ability of these young people to engage constructively with support services and to sustain effective relationships without support is a significant issue. This may be true for many young people however the literature suggests that those leaving care lack trust, alienated by a system that has not always given them the stability or sense of belonging that they need to thrive. Many are further alienated by a community that they are unable to relate to. This is often compounded by poorly developed social and emotional skills as a result of pre-care and in-care experiences. Lack of engagement by many of these young people is a critical issue that must be addressed if government and non-government organisations and services are to effectively reach them.

The existing legislation, policy and procedures relating to young people leaving care in Queensland indicate a desire to provide adequate support, but the reality is that the implementation of existing policy is ad hoc and there is room for improvement. Coordination between departments and agencies is lacking.[4]

A number of individual submissions from young people who had been in care and transitioned to independence indicate a failure by Child Safety to provide adequate support and to focus on the needs of the young person:

> My transition was stupid, at best; I received little help and most of it I have organised on my own and I had to go to the Child's Ombudsman [sic] before DoCS would do anything for me.[5]

Several submissions also recognise the need to acknowledge the young person's view, and provide adequate support and timely planning throughout the entire time a child

or young person is in care. Several young people who participated in focus groups held for the Commission gave examples where Child Safety had either not acknowledged or not responded to their wishes.

Young people must be able to gain a sense of security by having access to mentors, family and other appropriate adults who are able to guide and support them through this difficult transition. Having access to staff within government agencies who have an understanding of the needs and problems of young people will help to improve young people's access and engagement in housing, education, health and additional supports.

Studies also indicate that many young people leaving care report being unaware of their own leaving care plan; indeed, only 32 per cent of eligible young people reported having a leaving care plan (McDowall 2011), and 55 per cent of young people aged 16 years and over in care in Queensland identified having a transition from care plan (Commission for Children and Young People and Child Guardian 2012a). Additionally, there is very little evidence of support past 18 years of age.

From collaborations between PeakCare and CREATE Foundation in 2009 and in 2010 with young people and with non-government providers, the following key points emerged:

- There is a need to focus on the 'centrality of the individual' in the planning process.
- Timely service delivery is needed.
- Positive relationships must be developed between young people and Child Safety staff.
- There are significant limits on resources devoted specifically to young people.
- For non-government organisations, working in collaboration with Child Safety staff is highly challenging when working to transition young people from care to independence.

The Commission is aware that reviews by Child Safety have also shown that different Child Safety service centres approach transition from care support differently. Some offices dedicate specific staff to this function while others use a generic approach where all frontline staff incorporate transition from care planning and support into their caseloads. There are also distinct differences in the financial resources provided to young people.

In summary, the concerns for young people transitioning from care in Queensland are similar to those internationally and nationally, centring on:

- a lack of a planned and gradual transition, including stable positive relationships
- unavailability of suitable supportive accommodation
- an absence of encouragement and resources to plan for and attain employment

- the unaffordability of education and attendant lack of educational achievement.

Another significant issue addressed below is that many people exiting care have complex needs, intellectual disabilities and/or mental health problems. This increases their risk of falling through gaps in the system, with some of them too readily 'opting out'.

6.2.1 Planned, individual and gradual transition

All young people need the opportunity to make a gradual transition from dependence to independence with support and with the ability to learn from their mistakes. The fundamental difference for young people who are leaving the child protection system is that they do not have the 'safety net' of family and parents that young people in the general population have. Without this 'safety net' it is unlikely that young people will access services or that their long-term prospects will improve. For this reason, it is important that young people leaving care are linked with adults and mentors who are able to give them a sense of security and offer advice and support when needed until they are at least 21 years of age, and where possible throughout their lives.

Raman, Inder and Forbes (2005) recommend that an integrated model of care support should be implemented for young people up to 25 years of age. The upper age limit is based on conclusive research showing that in Australia a very high proportion of young people aged 18–29 years remain at home with their parents, and that transition to adulthood is a gradual and iterative process rather than a discrete event in a young person's life.

Queensland is the only state where legislation, policy and practice are unclear as to how long the state must deliver support for young people after 18 years of age. Other than indicating that post-care support may be provided at the discretion of the Child Safety service centre manager through a support service case (which extends for 12 months), there is limited acknowledgement that young people are likely to need support after the age of 18, and as indicated in 6.1.3 above, there is a lack of data on the number of young people subject to a support service case after leaving care. This is raised in the UnitingCare Community submission:

> In addition, provision of post-care support is not common as services to these young people are delivered via a support service case which is not counted in the overall workload of Child Safety Service Centres. There is therefore minimal incentive for a Child Safety worker to do this work.[6]

All other jurisdictions in Australia have policies and/or programs that specify an upper age for post-care support of those aged 21–25 (see Table 4 below).

In Queensland most young people are discharged from care when they turn 18. This allows for a maximum three-year transition from care period, depending on when the transition from care plan is developed. Given that these young people have generally not had access to the same stable and supportive environment as the general

population, transition planning needs to allow for a young person to take risks, fail, be supported, and get back on the 'right path'. As well, planning should begin at a point in time at which the young person is able to engage and actively plan for independence, which may be later than 15 years of age.

It is questionable whether a young person is ready to consider planning for their independence at 15. Perhaps at this age the focus should be on acquiring basic skills needed as an adult, such as saving, part-time employment, cleaning and cooking, with more formal planning beginning later. Also, if a young person is in a stable placement with foster or kin carers, there is a need for clarity about the security of this placement after 18 years.

The Department of Communities, Child Safety and Disability Services acknowledges in its submission to the Commission the need to improve transition planning in Queensland by providing additional support to young people transitioning from care, both before and after leaving. Proposals include:

- amending legislation to make it clear that the obligation to help a young person transition to independence may extend until 21 years of age (recommendation 22.2)
- enabling support service cases to be included in caseload calculations and promoting the use of these with staff as a mechanism to support transition from care (recommendations 22.1 and 22.3)
- developing a post-care support program (recommendation 22.4).[7]

Many young people appear to be unaware of their transition from care plan, and much of the planning that does occur takes place in the few months before a young person is discharged from care, rather than over a few years as is required by the *Child safety practice manual*. In the CREATE focus groups, young people expressed the following concerns:[8]

> 'They don't start preparing you for transitioning out of care soon enough. I think at the age of 15 it should start.'
>
> 'The timing is shocking. I didn't know until I was 17 I had to plan.'
>
> 'The planning … it's really wishy-washy.'
>
> 'It's not very well structured. The meetings go over your head. It makes it impossible to plan.'
>
> 'Timeframes are too short.'
>
> 'I'm 16 and starting to freak out. No-one's spoken to me about it.'

Young people also identified access to funding for leaving care as another area that requires more discussion through the planning process:

> 'CSOs need to be a lot more informative. All I know is I had a bit of money. My CSO didn't tell me I had YARS funding available. It felt like I was in the dark.'

> ‘More funding for young people for TFC. I couldn’t use funding for things I really needed funding for. I needed more than just a bed.’
>
> ‘Resi needs to have compulsory savings and it helps you buy things for when you leave.’
>
> ‘I honestly think this is the department’s strong point. They’ve given me white goods, stuff for my kitchen when I move out and an income.’
>
> ‘You have to get three quotes on what money is to be spent on. By the time Child Safety makes a decision, the quote is expired.’[9]

Young people offered the following views to the Commission in relation to post-care support:

> ‘Need support up to 21 (financial, emotional, counselling). Make sure all after-care needs are met.’
>
> ‘Placements being flexible upon the young person turning 18.’
>
> ‘In mainstream society, kids get to stay with their families post 18. This isn’t available to children and young people in care.’
>
> ‘Should still have someone there to access after you transition. As it is, you often have no-one to go to or turn to.’[10]

Despite the fact that they have no legislative obligation to do so, non-government organisations are often leading the planning with limited support from Child Safety:

> Research about young people’s experiences of transition from care planning has found that many young people transition to independence not having, or knowing about, their transition from care plan or actively participating in its development.[11]
>
> However, they [UnitingCare staff] are limited in their ability to manage these activities [transition from care planning] as under current legislation they do not have primary case management responsibility for the young person and are prohibited from sharing information about the young person with other service providers.[12]

Non-government organisations have also expressed to the Commission an interest in taking on transition from care planning, particularly for those young people in residential care.

6.2.2 Accommodation

Without stable accommodation it is difficult for young people to succeed in education, employment or training. Raman, Inder and Forbes (2005) found that young people with formal leaving care plans incorporating stable housing arrangements had a positive association with education, employment, housing and financial outcomes. Despite this, research indicates that many young people transitioning from care become homeless or find themselves in unstable accommodation.

Given the characteristics of young people in the care system, it is likely many will

initially fail in maintaining accommodation. Ongoing support is essential to ensure they do not become chronically homeless, engage with adults who will further victimise them, or engage in criminal activity.

A shortage of appropriate accommodation, and support to maintain accommodation, adversely affects the ability of young people to live independently, requiring them to return home in the short term until more suitable and safe accommodation can be found. This may leave them vulnerable to historically abusive parents who may not want their child to return and can create extra tension or conflict within the family.

The Australian Association of Social Workers (Queensland) identifies that there is a lack of information in Queensland on post-care placements, that is information on where young people place on exiting care and also on how long they maintain that accommodation. This is despite it being evident that teenagers who have been in care are over-represented in the homeless population.[13]

Young people themselves have identified the following concerns relating to accommodation:

- they are not being equipped to live independently
- their capacity and willingness to live independently are not discussed in the planning process
- housing and accommodation options are not explored early enough in the planning process, resulting in limited housing options at the point of transition
- a high rate of homelessness, a lack of suitable long-term accommodation, no priority given for subsidised or government housing and an inability to compete in an increasingly expensive private rental market
- government housing for young people often being located in low-income, high-unemployment areas
- young people having to leave care and move into temporary or crisis-type accommodation (CREATE Foundation 2010).

Ms Deidre Mulkerin identifies the following challenges and areas for development when supporting young people to access social housing through the Department of Housing and Public Works:[14]

- educating Child Safety in relation to housing services that are available, such as RentConnect and the National Rent Affordability Scheme, which provide financial grants and support to access accommodation
- adequate provision of notice for Housing service centre staff that a young person is due to turn 18, therefore requiring social housing
- clarifying the current expectations regarding the role of Housing Services in accommodation – Housing staff are primarily focused on tenancy management and not case management or direct support to tenants

- different levels of support being provided by Child Safety and Disability Services, which affects clients transitioning to adulthood – for example a decrease in support services once a young person leaves care.

6.2.3 Education and employment

Education is a vital element for success in the adult world. The educational needs of young people who have been in care are significant, as many may have missed school, had little assistance or simply fallen through the gaps in the system.

Queensland's education support plan is aimed at providing additional assistance for young people in care. Though the aim for all children in out-of-home care is to have an education support plan completed, 6 per cent, or 253 children and young people, did not have an education support plan in 2012.[15] Tilbury (2010) also identified that it is reasonably common for a support plan to be developed but remain unimplemented because of a lack of funds and difficulty linking it to a case plan.

Of further concern is research indicating that there is no specific focus by case workers on employment planning. Child Safety case workers have identified that they do not have the requisite expertise or information about career development; most case workers generally felt that career development was not within their remit (Tilbury et al. 2011).

The ability for young people who have been in care, who are on the Youth Allowance and who want to continue with education may also be hindered by limited financial resources. The range of benefit support at present for a young person receiving the fortnightly allowance is from $220.40 to $527.50 (if a young person has a child). By the time rent, school fees, university resources and so on are paid for, there is very little left to cover transport, clothing and other educational expenses.

6.2.4 Young people with complex needs, intellectual disabilities and/or mental health problems

The *Child safety practice manual* (Chapter 5.1.3) gives the following definitions for high, complex and extreme needs:

- high needs: needs that indicate serious emotional, medical or behavioural issues that require additional professional or specialist input
- complex needs: needs that significantly impact on the child's daily functioning, usually characterised by health conditions, disabilities or challenging behaviours
- extreme needs: needs that have a pervasive impact on the child's daily functioning, usually characterised by the presence of multiple, potentially life-threatening health or disability conditions, and extreme challenging behaviours that may necessitate a constant level of supervision and care.

The Commission has also heard evidence from Professor Lesley Chenoweth[16] about the significant disadvantage experienced by young people who have an intellectual disability. They are at increased risk of a number of poor social outcomes such as homelessness, exploitation and abuse (particularly sexual abuse), unemployment, early pregnancy, poor mental health, addictions and financial debt.

Young people who have complex needs and/or multiple problems are currently not being adequately serviced. The Commission has heard that young people under 18 years are 'self-selecting' out of care without adequate support or future plans, leading to their inability to support themselves either financially or emotionally.

It is likely that this group of young people are 'opting out' of care for such reasons as their perceived 'failings' of the state as a 'corporate parent' and their general mistrust of the system. This reluctance to engage is compounded by their past abuse and subsequent trauma which is often not adequately addressed while the young person has been in care. Further, for a variety of reasons child safety officers may have been unable to meet the complex needs of these young people in the area of mental health, general health, drug and alcohol use, and education.

The Department of Communities, Child Safety and Disability Services has produced a practice paper, *A framework for practice with 'high-risk' young people (12–17 years)*, which outlines effective approaches to practice for this group. However, it is evident that some young people are still not accessing or being provided with appropriate supports. Given a lack of specific specialist positions to work with young people leaving care in Queensland, it is even more likely that those deemed 'high risk' will fall through the gaps as child safety officers struggle to balance the demands of their caseloads.

As well, UnitingCare comments that Disability Services will not confirm a young person's ongoing funding until the young person turns 18, making it difficult to undertake pre-discharge planning.[17]

The National Partnership Agreement on Homelessness has provided some additional support for those with a disability transitioning from state care, through the provision of 12 transition officers to support young people 15–25 years of age (Initiative 15). The Queensland *2010–11 National partnership agreement on homelessness annual report* stated that this program had supported 197 young people with a disability to transition to independence. Issues identified were:

- establishing a funded non-government service provider
- timely referrals and effective information sharing between Child Safety Services and Disability Services
- working with young people who self-place or refuse to engage but are then identified at a time of crisis, at which point support is delivered.

6.3 Inter-state and international approaches to transition from care

6.3.1 Gradual transition and support

In a substantial review of the leaving care system in Australia, Mendes (2009) concluded:

> … at the very least care authorities should aim to approximate the ongoing and holistic support that parents in the community typically provide to their children after they leave home until they are at least 25 years of age.

Given that most Australian jurisdictions discharge young people from custody at 18, this indicates a need for substantial post-care support services to allow young people to successfully move to independence. It may, however, be unrealistic to expect child protection workers, who are managing investigations and interventions for younger children, to adequately provide post-care management of those young people.

An issue worth further consideration is whether there should be some flexibility to determine a young person's readiness to leave care. This would mean that young people who self-select to leave care before age 18 are provided with information and supports early and young people wishing to remain in care past the age of 18 are supported to do so (based on criteria relating to attending education, employment and so on). For both these groups there needs to be continual review and flexibility about ongoing access to assistance, given the need for young people to test boundaries without being abandoned if their plans don't succeed.

Nationally, all jurisdictions are committed to formal transition planning and support under the National Child Protection Framework. However, there is a difference in the nature, timing and duration of supports across jurisdictions. Although each jurisdiction has legislation relating to support for young people to transition to independence, the period of time that these supports continue to apply varies. Table 4 provides information about the transition arrangements in place in Australian states and territories.

Table 4: Comparison of leaving care arrangements in place in Australian state and territory legislation

Jurisdiction	Legislative provisions	What is provided for
Victoria	*Child Youth and Families Act 2005* (Chapter 2)	Allows for the provision of support until 21 years.
Western Australia	*Children and Community Act 2004* (Part 4, Division 5 and subdivision 3)	Extensive provisions that provide support up to 25 years.
New South Wales	*Children and Young Persons (Care and Protection) Act 1998* (Chapter 8, Part 6)	An extensive framework, including access to support for young people until 25 years, and in exceptional cases support can be provided beyond 25 years.
Northern Territory	*Care and Protection of Children Act 2007* (Chapter 2, Part 2.2)	Provides support until 25 years and outlines what must be in the plan.
South Australia	*Children's Protection Act 1993* (Part 2, Division 1)	Basic provisions with more detail provided through administrative policy. Support up to 25 years under the Transitioning from Care Policy or through the Post Care Service which has no age limit.
ACT	*Children and Young People Act 2008* (s 455 and s 503)	Basic provisions for the development of leaving care plans, with details provided in administrative policy. Support to be provided up to 21.5 years, depending on when planning started.
Tasmania	*Children, Young Persons and Their Families Act 1997*	Provides a requirement to support young people to successfully transition to independence. Administrative policy provides further in-depth guidelines, including a requirement of a minimal period of one year post leaving care support and provision for ongoing support up to 25 years through the After Care Support Program.
Queensland	*Child Protection Act 1999* (Chapter 2, Part 6 and schedule 1)	Provides a requirement to support young people to transition to independence and defines a child as being up to 18 years. Further details and procedures are provided through administrative policy, with support not expected to exceed 12 months post leaving care at 18 years.

Source: Compiled by Queensland Child Protection Commission of Inquiry.

Internationally, the need for a longer period of targeted assistance for young people transitioning from care has been recognised in legislation. In the United Kingdom the *Children (Leaving Care) Act 2000* provides mandatory supports until the age of 21. This legislation focuses on the provision of finances, education (until 24 years of age) and training, along with the provision of a personal adviser to assist in transitional planning. This could be a basis for developing provisions in Queensland legislation, although it is likely that these supports would require additional funding.

One study of the impact of the Children (Leaving Care) Act interviewed 106 young people and their leaving-care workers in seven local authorities (Dixon et al. 2006). This study found that most young people either felt very or quite well prepared for leaving care, although young people with a disability and those with emotional and behavioural difficulties felt less so. The areas where good preparation had been specifically identified included having a healthy diet, having good personal hygiene, knowing about safe sex and managing substance use. Care leavers had received help from a wide range of people, including family members, foster carers, and health and welfare professionals. Most of the young people had also had a formal leaving-care review and a comprehensive assessment of their needs prior to discharge.

In 1999 the United States enacted the Foster Care Independence Act, which increased

federal support to states for independent living programs, including doubling the federal allotment for the program, which provides payment for room, board and medical coverage up to 21 years of age (Bell 2002). New legislation also created the *John H. Chafee foster care independence program*, which emphasised independent living skills with a focus on education, employment and life skills training. Legislation introduced in 2008[18] established the option (by providing matched federal funding) of maintaining eligible young people 'in care' until 21 years. Eligibility is met if the young person is in high school, in post-secondary or vocational training, in pre-employment programs, employed for at least 80 hours per month, or medically exempt from the above activities.

CREATE Foundation (2010) identifies Victoria as providing a best-practice example of ongoing support through a suite of services and resources for young people transitioning from care, including:

- Mentoring: all mentors are volunteers from the community and are specifically trained to work with young people leaving care.
- A post-care support, referral and information service: this service provides support for young people aged 18–21 years who require assistance after leaving state care. In 2009 this service was in eight regions with funding of $1.9 million.
- Leaving care brokerage: this is flexible funding available for both those leaving state care and those young people up to 21 years old who need financial support after leaving care. All regions have given an undertaking to support any young person in need, regardless of their region of origin. Financial help can be used for accommodation, education, training, employment, and access to health and community services that are not supported by Medicare. There is no monetary limit within reason (except for emergency funding, which has a limit of $500). The total brokerage budget was $1.7 million in 2009.
- A leaving care helpline: this is a service for 16–21 year olds who are leaving or have left care. The helpline is open from 10.00 am to 8.00 pm on weekdays and 10.00 am to 6.00 pm on weekends and public holidays. In 2009 it was anticipated that the helpline would take 1,200 calls annually.

CREATE Foundation also identified New South Wales as providing a best-practice example for transitioning young people with a disability to independence. A program developed in partnership with the Department of Ageing, Disability and Home Care, Department of Communities and New South Wales Housing and Human Service Accord provides the following:

- a person-centred approach to young people leaving care
- notification to the Department of Ageing, Disability and Home Care two years before a young person exits from care
- once a referral to the program has been made, assessment of young people and establishment of a leaving care plan, with other agencies becoming engaged.

The program was evaluated by the Social Policy Research Centre, which found that it is an important and well-funded program that generally meets its objective to support young people with a disability leaving care to manage transition (CREATE Foundation 2010).

McDowall (2009) identifies the Rapid Response program in South Australia as a best-practice example of government agencies collaborating and focusing on the health, housing, wellbeing and education needs of children and young people under guardianship. The program targets all children and young people aged up to 18 years under guardianship and includes a focus on post-guardianship supports and services to enable a smooth transition to adulthood by providing extra assistance.

Government services are required to give priority access and additional services to this target group, with program guidelines designed to reduce waiting times, reduce ineligibility because of criteria restrictions, improve communication between key players and fill gaps in services. The aim of the program is to meet the needs of children and young people under guardianship in five areas:

- case management
- assessment: increasing the capacity of the system to provide psychological, developmental, physical health and educational assessments
- service response: increasing the capacity of the system to provide services required by children and young people under guardianship through all government departments
- information sharing and privacy: increasing information sharing and continuity of information
- regional guardianship service networks: adopting collaborative, holistic, multi-agency regional service networks.

6.3.2 Accommodation

Internationally, there have been a number of initiatives to increase the supply of suitable accommodation for young people leaving care and provide support to reduce the risk of homelessness. This often involves providing government incentives to supply accommodation for young people or regulation of services to ensure that young people are supported. These initiatives have included:

- use of public and private sector resources
- funding providers to specifically provide accommodation for young people discharging from statutory care through supported accommodation or training centres
- allocating funds to statutory housing bodies to supply housing specifically for all young people in need of assistance

- development of statutory teams resourced to assist young people through to independence, including locating and funding suitable accommodation
- changes in legislation to enforce statutory services to continue involvement with young people after discharge from care, in areas such as accommodation, education and health.

There is increasing interest in the 'foyer' model that originally developed in France. There are variations of the model, but its basis is that it provides accommodation with closely linked supports to help a young person maintain stable accommodation, achieve educational outcomes and seek and gain employment. Mentors, personal development programs and community-based activities may or may not be incorporated.

The foyer model has been widely adopted in the United Kingdom and several schemes now operate with some success in Australia. Examples are: Garden Court Youth Foyer, Illawarra New South Wales, Miler Live N Learn Campus, Sydney New South Wales, and Ladder Hoddle Street Youth Foyer, Melbourne. The model has however attracted some criticism in the United Kingdom for being coercive and focusing more on policing behaviour than providing effective support. Evidence suggests that young people in these schemes remain in education, complete courses and engage in employment, and that these models have potential as a practical strategy for dealing with homelessness (Smyth & Eardley 2008).

CREATE Foundation (2010) identifies the Tasmanian Transition Program, which aims to provide supported accommodation and preferential access to the public housing program for young people leaving care, as a best-practice example for addressing homelessness. The program:

- has a target group of young people up to the age of 18.5 years
- obliges young people to participate in the support arrangements necessary for them to achieve independence and sustain a stable tenancy
- requires the young person to enter into a direct tenancy for two fixed periods of approximately six months each:
    - the first tenancy is from 17 years of age and when an appropriate property can be found through to their 18th birthday, with the state child protection agency taking the tenancy lease
    - the second tenancy is for six months from the young person's 18th birthday, with the state child protection agency providing support. If the tenancy is deemed successful, the young person is offered an independent tenancy either in the dwelling or at a more suitable location (with priority access) and the tenancy is operated under normal policies applicable to all tenants of Housing Tasmania.

6.3.3 Education and employment

A Chicago study found that, at the age of 19, 37 per cent of those who had recently left care were not at school or employed. Only 18 per cent of young people who had been in care attended college, compared with 62 per cent of young people in the general population (Courtney & Dworsky 2005).

Internationally, there is a trend towards supporting young people who have been in care to continue with education by increasing financial support to this age group through direct funding or fee waivers. The Children (Leaving Care) Act in the United Kingdom allows for young people to be fully funded by the state until the age of 23, if they were engaged in a program of study at the age of 18–21 years.

In March 2012, the West Australian Minister for Child Protection, Robyn McSweeney MP, announced that young people in care can enrol in recognised training courses and not pay course fees. The Department of Child Protection negotiated an arrangement with the West Australian State Training providers (formerly TAFE) so that course fees are waived for young people with a care experience.

6.4 Proposals for consideration

6.4.1 Options for ensuring adequate funding across relevant government departments

Each government department responsible for health, housing, education, training and child protection deals with young people transitioning from care to independence. Anecdotal evidence, studies by CREATE Foundation and international research suggest that government agencies are not currently providing adequate support to young people either before or after they leave care. To ensure support from all relevant agencies, there are three options proposed:

- 'Ring fence' part of all relevant government department budgets to ensure there are enough resources to support 15–25 year olds leaving care. This will ensure that the appropriate proportion of government funding is allocated to young people leaving care. However, the disadvantage is that the cost of the needs of young people leaving care is likely to be disproportionate to their numbers.
- 'Ring fence' new funding for all government departments for new services for 15–25 year olds leaving care. This will provide incentives for government departments to develop new services for young people leaving care and have the cost of these services met. However, some government departments may elect not to access the new funding, which would mean no change. This option also entails additional funding being made available.
- Maintain the requirement for all government departments to deliver some services to young people leaving care. This is unlikely to have any effect, as several government departments already have 'services for young people' in their statement of intent and/or business plan, but the reality is that these areas receive

little attention and are not enough to achieve successful outcomes.

6.4.2 Options for delivery and coordination of supports to young people leaving care

Some options for coordination of service delivery and support to young people leaving care are:

- Keep responsibility and delivery of services for 15–25 year olds, including transition from care planning and post-care supports, with the Department of Communities, Child Safety and Disability Services. This essentially maintains the status quo.
- Keep responsibility and delivery of services for transition from care planning to 15–18 year olds with the Department of Communities, Child Safety and Disability Services, but transfer to non-government organisations the responsibility and delivery of post-care support for 18–25 year olds. This may result in an improvement in post-care supports, as long as adequate resourcing is provided and there is a willingness in the non-government sector to accept responsibility for the target group. This option may also require improved existing supports before leaving care.
- Transfer responsibility and delivery of services for 15–25 year olds, for transition from care planning and post-care supports, to non-government organisations. This may result in an improvement in post-care supports, provided there are adequate resources and a willingness in the non-government sector to accept responsibility for the target group. Monitoring effectiveness may prove difficult with no government oversight.
- Transfer responsibility and delivery of services for 15–25-year olds, including transition from care planning and post-care supports, to a government department other than Child Safety. This would remove this target group from the responsibility of Child Safety, which is focused on those children who are at risk of harm. It would be necessary to ensure that the alternative responsible department provides effective coordination and service delivery.

6.4.3 Options to support gradual transition from care

Options available for all government departments delivering human services are to:

- train and recruit specific case managers or teams for young people
- implement a 'rapid response' approach similar to that in South Australia, where children and young people in the custody of the chief executive (including those leaving care) are given priority access to services – especially those transitioning from care to independence
- establish a mandated executive-level group from each of the key relevant departments to oversee implementation of policies and monitor effectiveness in improving outcomes – both short-term and long-term (possibly the current child

safety directors' network)

- implement regional, multi-agency transition from care panels that meet regularly to monitor transition from care plans for each young person
- implement specific targets that directors-general and ministers are required to publicly report annually.[19]

Options available for Child Safety are to:

- recommend amending the legislation so that it is clear that there is an obligation to help a young person transition to independence until 21 years of age (including child-related costs and, if necessary, carer allowance) and that they may have access to transitional planning, support and funding until 25 years of age
- implement compulsory specialist positions or teams within Child Safety service centres to support young people aged 15 years and over to independence (in 2010, CREATE Foundation estimated that Queensland would require 87 workers to support the 491 young people who transitioned from care, at a cost of $2,939,539); for those young people with complex needs, a disability or mental health problems, this will mean early and close liaison with a relevant officer in Disability Services or Queensland Health
- explore options for non-government organisations to take responsibility for transition from care planning in locations where this may be viable
- recruit and train caregivers specifically for young people leaving care, to help them learn relevant skills
- develop a policy for supporting young people who self-place, including the provision of ongoing support in an appropriate manner, until the age of 25 years
- provide 'ring-fenced' Child Safety funding for post-care support up to age 25 years, including brokerage funds; this support may be delivered by specialist teams within Child Safety or by non-government organisations, depending on capacity, and young people would access this funding through any Child Safety service centre (in similar fashion to the Victorian model)
- publish data on the number of young people subject to support service cases after leaving care
- ensure that young people are linked with at least one family member or other appropriate adult from the age of 15, who will be able to provide support and advice both before and after the young person leaves care
- provide mentoring services to support young people after they leave care.

An option available for community visitors is to:

- give high priority to providing support to young people once they have been discharged from the custody of the chief executive, given that this has been identified as an 'at risk' group.

Each of these options has the advantage of allowing young people to make mistakes and have the support to learn from these experiences. The option of having a case manager specifically for young people at each site or office will impose a minimal cost but will significantly improve face-to-face services. It will not, however, improve service delivery unless some of the options in the following sections are also implemented. The disadvantage of the proposals set out below is that they require increased resources.

6.4.4 Options to increase availability of suitable accommodation

There are a number of options to increase the ability of young people to find safe, suitable and sustainable accommodation.

Options available to the Department of Housing are to:

- develop a variety of accommodation options for young people to meet their diverse needs (implement some of the options made available internationally)
- negotiate with the Australian Government to expand the Youth Housing and Reintegration Service (After Care Services) to enable all eligible young people to be appropriately supported into accommodation
- implement a model similar to the Tasmanian Transition Program, allowing for the gradual handover of tenancy from Child Safety to the young person.

Options available to Child Safety are to:

- provide a range of supported accommodation options with appropriate caregivers
- develop policies on how a young person could pay board to a caregiver should they wish to remain in their placement after discharge from care
- financially compensate carers to continue to provide support for young people up to age 25 to stay with existing caregivers if this is the young person's preference and they are undertaking further education or training
- implement compulsory referral to the Youth Housing and Reintegration Service (After Care Services)
- develop life skills courses to help young people to maintain a home
- develop policies to explicitly prevent young people exiting care to short-term accommodation or homelessness.

These options allow for an increased supply in the right type of housing for young people leaving care, increase young people's inclusion in accommodation, and allow for a 'teaching' element when necessary.

6.4.5 Options to support young people to improve education, employment and health outcomes

There are a number of options to provide incentives for young people to access employment, education and/or training opportunities.

The whole of government could instigate and commit to a quota of traineeships or internships within various government departments (state, federal and local) for young people who have been in care.

Options available to Child Safety are to:

- with the young person's agreement, have an exit from care health check, including dental, physical, mental and sexual health, as part of the planning process
- provide additional funding for education and training supplied through Child Safety
- ensure that education support plans are adequate, funded and implemented
- extend care placements for all young people turning 18 during their final year of school until their formal high school education is completed
- provide brokerage funds for a young person to access necessary resources for employment, such as clothing.

Options available to the Department of Education, Training and Employment are to:

- develop initiatives to help young people in care to remain at school as long as possible, including provision of training to teachers on how to understand and manage the impact of abuse (on behaviour) for young people in educational settings, and development of alternative education pathways for young people in care to prevent exclusion
- reduce or waive fees for young people leaving care who want to access tertiary education (both at state level, for example TAFE fees, and at federal level by negotiating with the Australian Government for HECS waivers)
- include life skills as part of the curriculum for mainstream education or develop an online module for young people who need access to this additional education
- deliver universal services such as free dental and health care on site at secondary schools throughout Queensland, as well as accommodation brokerage and employment services.

Options available to Queensland Health are to:

- provide free six-monthly health checks for all young people leaving care until 25 years of age
- provide accessible youth-specific mental health services.

Options available to Centrelink are to:

- offer non-recoverable grants for eligible 16–17-year-olds for education/training costs
- offer grants, subsidies and/or scholarships for young people leaving care up until 25 years of age.

The advantages of these options are that they increase incentives for young people to attend education, and remove the financial and other barriers for young people leaving care that prevent them from continuing their education. The disadvantages are that they will increase costs, and financial barriers also may not be the only reason a young person does not continue education, employment and health care.

A number of these options have funding implications and therefore priority would need to be given to those that are likely to be most effective.

Question 18

To what extent should young people continue to be provided with support on leaving the care system?

Question 19

In an environment of competing fiscal demands on all government agencies, how can support to young people leaving care be improved?

Question 20

Does Queensland have the capacity for the non-government sector to provide transition from care planning?

[1] See terms of reference in *Commissions of Inquiry Order (No.1) 2012* paragraph 3(c)(iv).
[2] *Child Protection Act 1999* (Qld) s 75(2).
[3] Child Safety Service Centres use Child Related Costs to meet the needs of children and young people subject to intervention in circumstances where the fortnightly caring allowance and Commonwealth and State Government benefits do not meet the cost. Child Related Costs need to be part of an approved case plan or placement agreement (Department of Communities, Child Safety and Disability Services, 2012c). Child Safety Services has a range of policies that provide guidance on what expenses can be covered by Child Related Costs.
[4] Submission of Australian Association of Social Workers (Queensland), August 2012 [pp16–17].
[5] Submission of JC, 11 September 2012 [p1]. It appears that JC means to refer to the Commission for Children and Young People and Child Guardian.
[6] Submission of UnitingCare Community, October 2012 [p21: para 94].
[7] Submission of Department of Communities, Child Safety, and Disability Services, 2 January 2012 [pp93–7].
[8] Submission of CREATE Foundation, 'Consultation report for the Queensland Child Protection Commission of Inquiry', 10 January 2012 [p22].
[9] Submission of CREATE Foundation, 'Consultation report for the Queensland Child Protection Commission of Inquiry', 10 January 2012 [p22].
[10] Submission of CREATE Foundation, 'Consultation report for the Queensland Child Protection Commission of Inquiry', 10 January 2012 [p23].
[11] Submission of PeakCare, October 2012 [p57].
[12] Submission of UnitingCare Community, October 2012 [p22: para 95].
[13] Submission of Australian Association of Social Workers (Queensland), August 2012 [pp16–17].
[14] Exhibit 27, Statement of Deidre Mulkerin, 10 August 2012 [p19: para 76 – p20: para 80].
[15] Exhibit 32, Statement of Lynette McKenzie, 10 August 2012 [p14: para 85].
[16] Exhibit 47, Statement of Professor Lesley Chenoweth, 24 August 2012 [p7: para 36].
[17] Submission of UnitingCare Community, October 2012 [p22: para 99].
[18] *Fostering Connections to Services and Increasing Adoptions Act 2008* (USA).
[19] See s 248 of the *Child Protection Act 1999* (Qld) which already requires various departments across government to report annually on their child protection activities.

Chapter 7

Chapter 7

Addressing Aboriginal and Torres Strait Islander over-representation

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

7.1 The current situation in Queensland

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

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

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

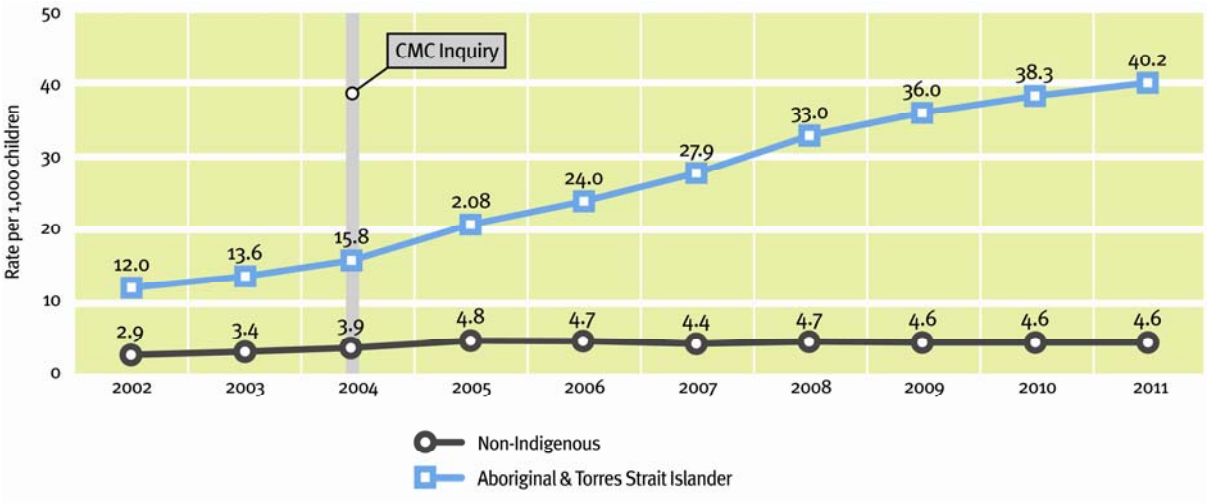
Although the number of notifications for non-Indigenous children have decreased since 2007–

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

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

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

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



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

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

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

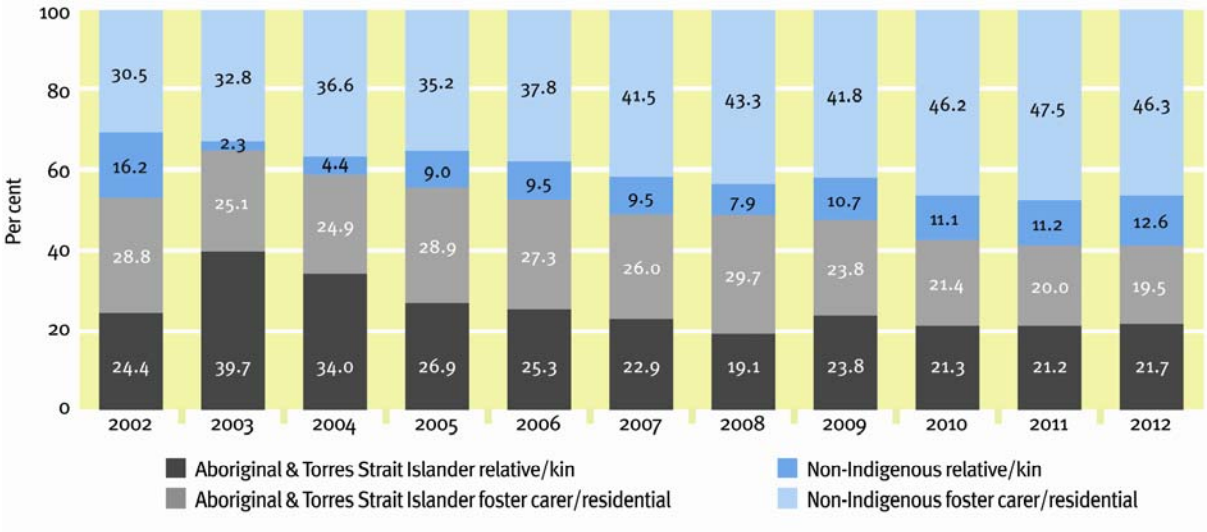
and Wujal Wujal all recorded rates of substantiated harm more than 12 times the state average (Queensland Government 2012).

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

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

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

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



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

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

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

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

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

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

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

maintain contact and meaningful relationships, and thus reducing the chances of successful reunification[14]

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

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

7.2 Key issues contributing to over-representation

7.2.1 An over-reliance on tertiary child protection responses

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

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

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

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

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

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

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

Repeated calls have been made for a greater emphasis on primary and secondary prevention to protect Aboriginal and Torres Strait Islander children.
In this context, the *National framework for protecting Australia's children 2009-2020* (the National Framework) outlines an approach to reducing over-representation that includes:

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

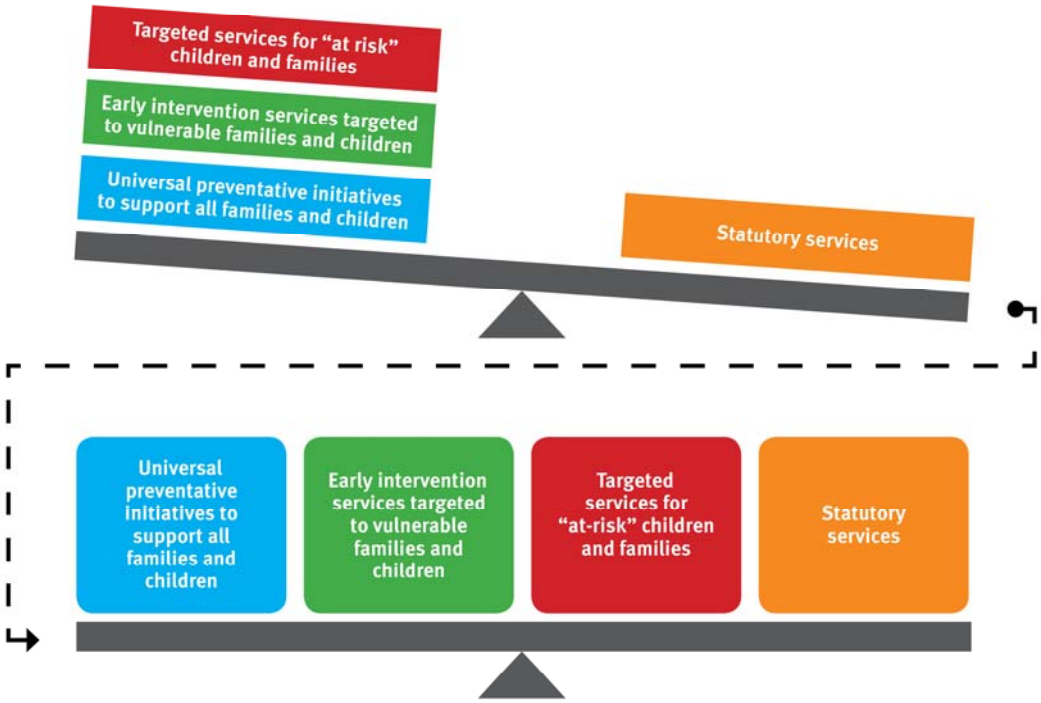
However, the Commission has also heard that the reality of Aboriginal and Torres Strait Islander child protection is quite different from that articulated by the National Framework. It has been told that, despite investments in early intervention services in recent years, many at-risk families are still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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In addition, the Commission is informed by its advisory group that some recognised entities are being actively discouraged from and reprimanded for contradicting or disagreeing with departmental decisions, or for attempting to make referrals to support services. In its submission to the Commission, Townsville Aboriginal and Islanders Health Services has identified cases in which it had significant concerns about the welfare of children in its care but had been unable to secure the ongoing assistance of Child Safety.[45]
All submissions acknowledge the need for recognised entities and cultural advisers to participate in decisions involving Aboriginal and Torres Strait Islander children. However, it is suggested that the model as it stands is significantly flawed and in many cases is not working in the interests of children, young people and their families.[46] In its submission, the Aboriginal and Torres Strait Islander Women's Legal and Advocacy Service states:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7.2.5 Learning from past child protection practices

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

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

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

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

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

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

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

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

7.2.6 The Aboriginal and Torres Strait Islander Child Safety Taskforce

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

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

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

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

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

Priority area	Summary of actions
Sharing a common vision and commitment	• Develop and implement a shared 'vision statement' and 'statement of commitment' that guides child protection and related services to Aboriginal and Torres Strait Islander children, young people and their families.
Providing the right services at the right time	• Design and establish services that reflect the preferences of Aboriginal and Torres Strait Islander people for holistic service delivery, placing an emphasis on prevention and early intervention, and building on the strengths of communities. • Establish processes to link and monitor the effectiveness of strategies initiated by government and non-government agencies as part of 'closing the gap' and addressing the economic and social disadvantage experienced by Aboriginal and Torres Strait Islander peoples.
Ensuring the existence and application of sound legislation, policy, practice and procedures	• Strengthen the processes for ensuring that statutory decision-making is properly informed through the active participation of Aboriginal and Torres Strait Islander service providers. • Review current policies, practices and procedures for assessing the needs of Aboriginal and Torres Strait Islander children and young people and making decisions about the nature and extent of interventions needed to secure their safety from harm. • Undertake research into models for transferring the authority for child and family services to Aboriginal and Torres Strait Islander peoples, with a view to conducting one or more trials. • Examine the adequacy of the *Child Protection Act 1999* in meeting the best interests of Aboriginal and Torres Strait Islander children and young people and, subject to the outcomes of this review, amending legislation to reflect a shared 'vision statement'.
Building a robust system and network of Aboriginal and Torres Strait Islander service providers	• Develop existing and future workforce capacity for recruitment by Aboriginal and Torres Strait Islander controlled agencies. • Develop strategies for supporting and resourcing the effective governance and management of Aboriginal and Torres Strait Islander controlled agencies.

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

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

7.3 Options for reform

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

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

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

7.3.1 Aboriginal and Torres Strait Islander child and family wellbeing services

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

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

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

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

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

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

Question 21
What would be the most efficient and cost-effective way to develop Aboriginal and Torres Strait Islander child and family wellbeing services across Queensland?

Question 22
Could Aboriginal and Torres Strait Islander child and family wellbeing services be built into existing service infrastructure, such as Aboriginal and Torres Strait Islander Medical Services?

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

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

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

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

Question 23
How would an expanded peak body be structured and what functions should it have?

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

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

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

Question 24
What statutory child protection functions should be included in a trial of a delegation of functions to Aboriginal and Torres Strait Islander agencies?

Question 25
What processes should be used for accrediting Aboriginal and Torres Strait Islander agencies to take on statutory child protection functions and how would the quality of those services be monitored?

7.3.2 A clear, shared vision underpinned by legislation

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

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

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

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

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

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

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

[58] Child and Family Centres are being developed under the *Closing the gap national partnership agreements.*

Chapter 8

Chapter 8

Workforce development

Working in child protection is challenging and demanding but can also be rewarding. The work is often crisis driven and practitioners are required to manage complex situations in difficult circumstances under high levels of public scrutiny. Practice in this area requires courage, dedication and resilience as well as a diverse mix of skills, knowledge, practical experience and expertise.

The child protection workforce comprises a range of professional and para-professional staff employed in government and non-government agencies. Many government agencies, in particular health, education and police, have a key role to play in protecting children and, as a result, have established designated child protection positions. The non-government sector also delivers a wide range of child protection services.

The purpose of this chapter is to explore issues relating to the frontline workforce in Child Safety. Some of these issues have already been touched on in Chapter 5 (see 5.3) because they have a direct impact on the effectiveness of case management for children and families. The Commission's final report will investigate the challenges that face the broader child protection workforce, including the non-government sector.

This chapter draws on information gathered by the Commission through hearings, departmental responses and submissions from professionals and community groups. The Commission has heard directly from Child Safety staff. Forums were conducted with frontline officers in Mount Isa, Ipswich, Brisbane, Caboolture and Labrador. In addition, in late 2012 a staff survey was distributed to frontline Child Safety staff. This survey generated a response rate of 31 per cent (444 staff responded) and canvassed a wide range of practice issues.

This chapter first describes the current profile of the Child Safety workforce before discussing a number of issues facing the workforce:

- qualifications of frontline staff

- Child Safety staff turnover
- training and professional development
- workloads
- supervision, peer support and counselling
- career progression
- developing a culturally competent workforce
- specific challenges for rural and remote practice.

8.1 Profile of frontline Child Safety service centre staff

The use of the term 'frontline staff' in this chapter accords with the 2012 Public Service Commission definition, which states that a person delivering a frontline service directly delivers this service to the public, for the majority (greater than 75 per cent) of the available working time (Public Service Commission 2012).

The department has advised that, as at 9 September 2012, there were 1,477 full-time equivalent frontline staff employed in 51 Child Safety service centres and satellite offices in Queensland (see Table 6). These centres and offices are distributed across seven regions throughout the state.

As at 30 June 2012, 89.1 per cent of the workforce in frontline roles were female and 10.9 per cent were male.[1] The average age of frontline staff was 38 years.[2] Within Child Safety, in June 2012, 79 staff identified as Aboriginal and Torres Strait Islander.[3] The percentage of culturally and linguistically diverse staff within Child Safety service centres was 7.24 per cent.[4]

Table 6: Distribution of frontline positions in Child Safety

Position title	Number of positions
Adoption officer	13.80
Child safety officer	885.27
Child safety officer (One Chance at Childhood)	22.00
Child safety officer (After Hours Service)	19.19
Child safety support officer	173.31
Client relations officer	6.50
Coordinator (One Chance at Childhood)	3.60
Coordinator (Out of Home Care)	13.80
Coordinator (One Chance at Childhood)	0.43
Enquiries officer	1.00
Executive director, Policy and Performance	1.00
Family group meeting convenor	35.17
Foster and kinship carer support line worker	1.42
Kinship and foster care coordinator	2.00
Manager	2.70
Manager regional operations	1.00
Principal child safety officer	6.60
Principal complaints and review officer	2.00
Regional director	7.00
Senior adoption officer	4.00
Senior adviser	2.40
Senior complaints and review officer	6.70
Senior practitioner	45.56
Scan team coordinator	14.18
Team leader	203.18
Team leader specified	1.00
Unaccompanied humanitarian minors officer	1.00
Unaccompanied humanitarian refugee minors officer	1.00
Total	**1,476.81**

Source: Provided by the Department of Communities, Child Safety & Disability Services.

The *Child safety practice manual* outlines the key roles of staff, both frontline and non-frontline, in Child Safety service centres. These are summarised in Table 7.

Table 7: Roles of Child Safety service centre staff

Position title	Role
Child Safety service centre manager	The Child Safety service centre manager leads and manages a Child Safety service centre through: • the implementation of quality business and practice systems and standards • ensuring that the child protection services provided comply with relevant legislation, delegations, policies, procedures and quality standards • the establishment of enduring, productive partnerships with approved carers, the community, the public and non-government sectors • the ongoing professional development and management of staff.
Senior practitioner	The senior practitioner supports and monitors the quality of the child protection service provided to children, their families and the community through: • an 'expert' knowledge of child protection practice • mentoring and developing the practice skills and knowledge of child safety officers, child safety support officers and team leaders • monitoring and facilitating the implementation of relevant legislation, delegations, policies, procedures and quality standards • managing the ongoing improvement of child protection practice • participating in, or conducting reviews of, complex or sensitive cases.
Team leader	The team leader: • leads and supervises a team of child safety officers in the delivery of collaborative frontline child protection services to children, their families and communities • provides professional supervision to staff involved in child protection service delivery • ensures that the child protection services delivered comply with legislation, delegations, policies, procedures and quality standards.
Child safety officer	• Child safety officers provide statutory child protection services to children and families through: • undertaking the roles of an authorised officer under the *Child Protection Act 1999* • the application of relevant legislation, delegations, policies, procedures and quality standards • working collaboratively with approved carers, the community and government and non-government service providers.
Child safety support officer	Child safety support officers support the provision of child protection services to children and families through: • assisting child safety officers in their application of relevant legislation, policies and procedures • working collaboratively with approved carers, the community and government and non-government service providers.
Court coordinator	The court coordinator represents the chief executive in court matters by advising and consulting with other child safety officers and promoting a high standard of service to children in relation to court matters and the Queensland Civil and Administrative Tribunal.
SCAN team coordinator	The SCAN team coordinator coordinates the effective functioning of the Suspected Child Abuse and Neglect teams.
Family group meeting convenor	A family group meeting convenor is delegated under the Child Protection Act to convene family group meetings. The family group meeting convenor is to be independent of the case and is not to have decision-making responsibilities for the case. The convenor plans, prepares participants for and facilitates the family group meeting. The convenor also records the case plan developed at a family group meeting.
Administrative staff	Administrative staff provide support services for the staff at the Child Safety service centre. This includes administrative assistance such as reception duties, record keeping and word processing.
Business support officer	The business support officer provides financial, human resource and business support to child safety officers, including specific advice and guidance to the manager about business systems and services.

Source: Provided by Department of Communities, Child Safety & Disability Services.

8.2 Current workforce challenges

8.2.1 Qualifications of frontline staff

Primarily, child safety officers are responsible for performing statutory child protection functions. These include investigating allegations of suspected child abuse and neglect, and determining appropriate interventions in accordance with legislation, policy and practice guidelines.

Broadening child safety officer qualifications

Until late 2008, Queensland Child Safety officers were required to hold a bachelor degree in social work, psychology, arts (with a major in psychology), social science (with a major in human services or counselling) or human services, or a double degree in behavioural science and arts (with a major in criminology or criminal justice). Other degrees that met the requirements were Bachelor of Community Welfare, Bachelor of Behavioural Studies, Bachelor of Arts (Welfare Studies) and Bachelor of Justice – as long as the graduate had completed subjects in human services or psychology.

In late 2008 the range of bachelor degrees was expanded to criminology and criminal justice, education (limited to early childhood, primary and secondary teaching), health science, justice and legal studies (including policing and law), nursing (including paediatrics and mental health), occupational therapy and social studies (including anthropology, sociology and community studies).[5]

The rationale for this expansion was outlined in the department's 2007 workforce consultation document:

> Historically, these degrees [in social work and behavioural sciences] were well aligned with underpinning knowledge required to work in the child protection sector. In all cases they contain material relevant to child and family issues which matched respective roles of CSOs. This role has now changed. The change is not merely been in the form of repositioning the department to a solely statutory child protection focus, but in the specialisation of roles and the sophistication of systems and processes essential to working in a high risk, statutory environment. This sophistication has occurred in the form of increased evidentiary requirements, familiarity with the pseudo [sic] legal discourse, records management, forensic investigation, workload management and other specialisations. (Department of Child Safety 2007)

An initiative was also developed at that time by the Training and Specialist Support Branch of the department to train para-professional staff to become child safety officers. The Child Safety – Vocational Education and Training partnership initiative was developed for skilling para-professional staff within the department, including Aboriginal and Torres Strait Islander staff from the recognised entities.

The attainment of the Certificate IV Community Services (Protective Care) was the first stage of a proposed broader career path for staff who, having completed it, would go on to complete the Diploma in Community Services (Protective Intervention). Staff who

had attained the diploma could then undertake the child safety officer entry-level training program to become child safety officers. It would appear that this program did not graduate past the pilot stage, but the department reports that, as of August 2012, 15 officers from the pilot were working as child safety officers.[6]

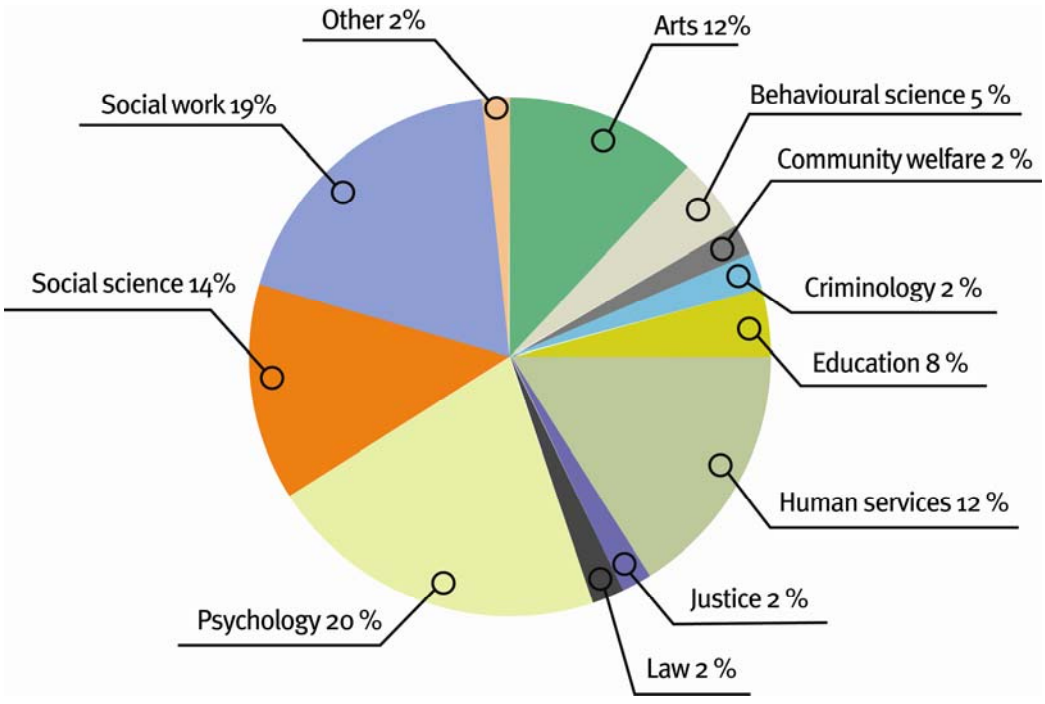
In 2008 the department then introduced the Vocational Graduate Certificate for child safety officer entry-level training. The introduction of the principal child safety officer positions (see 8.2.2) helped the department to embed the Workplace Learning Development model, to enhance compliance with attaining the competencies under the Australian Quality Training Framework (Department of Communities 2008a).

In its submission to the Commission, the Department of Communities, Child Safety and Disability Services suggests that it was a need to rapidly increase and diversify the workforce to meet demands that led to the expansion of qualifications. The department further suggests that this strategy has contributed to the development of a broader mix of professional backgrounds within the department and enabled multiple perspectives and disciplines to inform practice.[7]

Current profile of qualifications

In 2009, shortly after the expansion of qualifications, the breakdown of qualifications for staff in frontline child safety officer positions included degrees in psychology (20 per cent), social work (19 per cent), social science (14 per cent) and arts and community services (12 per cent). This is further represented in Figure 22.

Figure 22: Child Safety Service Centre frontline staff by academic discipline of degree, Queensland, 2009



Source: Provided by Department of Communities, Child Safety & Disability Services.

The 2012 frontline Child Safety staff survey conducted by the Commission provides further insight into the current composition of the workforce. As shown in Table 8, the largest numbers of bachelor degree qualifications were in social work, psychology, arts, human services and social science.

Table 8: Respondents to the Commission's frontline workforce survey of Child Safety staff by academic discipline of bachelor qualification, 2012

Academic discipline	Number of respondents	Percentage of respondents
Social work	71	17%
Psychology	62	15%
Arts	58	14%
Human services	57	14%
Social science	52	12%
Behavioural science	37	9%
Education	29	7%
Criminology	23	6%
Community welfare	15	4%
Justice	9	2%
Law	5	1%
Nursing	4	1%
Other	13	3%

Source: Survey conducted by Queensland Child Protection Commission of Inquiry.

Notes: Responses to the question were provided by 418 respondents. As some respondents selected more than one option, the total exceeds 100%.

In its submission to the Commission, the Department of Communities, Child Safety and Disability Services advises that the core qualifications of social work, behavioural and social sciences and human services continue to be valued by the department and that these qualifications are held by about 85 per cent of the Child Safety workforce.[8] However, in most other Australian jurisdictions, qualifications for the child protection workforce are more limited to degrees in human services, as illustrated in Table 9 (McArthur & Thomson 2012).

Table 9: Basic qualifications required for a child protection worker, states and territories, April 2012

Jurisdiction	Qualification required	Profile (where available)
Australian Capital Territory	Degree qualification	Currently, about 90% have social work degrees
Western Australia	Specified calling qualifications framework which relates to child protection work. Degree level required.	About 80% of the workforce have a degree: • 40% social work • 12–19% psychology • 6–12% social science • 20–30% other
New South Wales	Degree for people who do not identify as Aboriginal.	
South Australia	Social work degree	All social workers
Tasmania	Degrees and Certificate IV in Community Services	Preferred qualification is social work
Victoria	Preferred (degree or postgraduate) Relevant (degree) Minimum (diploma with field education)	
Northern Territory	Degree in social work, psychology, welfare work or other as appropriate	
Queensland	Degree qualifications in social work, behavioural science (psychology, counselling, family work, human services, community welfare, family studies, child studies, youth studies), criminology or criminal justice, social science (including anthropology, sociology and community studies), justice and legal studies (including policing and law), health science, occupational therapy, nursing, education; any other graduate who holds a Graduate Certificate in Human Services (Child Protection).	See Figure 22 earlier.

Source: McArthur & Thomson 2012.

The debate about qualifications

The Commission has heard from Mr David Bradford, the former director of the Training and Specialist Support Branch in the department, that the broadening of qualifications reflected the need to create a multi-disciplinary workforce (which has been successful in other human services), as well as to respond to the high turnover of staff. He stated:

> What we really went out and said was that we believe child protection is a multi-disciplinary endeavour and in fact there are people from other disciplines who can make a contribution to child protection. We have SCAN teams which actually bring police, teachers, health professionals together to actually work on child protection issues. So if that's the case and we believe these other professions have contact, experience, understanding of children and can make a contribution, then why wouldn't we explore looking at whether or not we can broaden the range of bachelor qualifications that would allow people to enter child safety work.[9]

Mr Bradford went on to suggest that the development of a specific degree in child protection (for example, a bachelor of child protection), would contribute to a highly skilled and professional child protection workforce. However, he faced opposition to this proposal because a specialised bachelor degree in child protection did not offer the same level of skill transferability as a bachelor in social work or human services.[10] Mr Bradford's vision for a bachelor in child protection would also incorporate a pathway for para-professionals to achieve a tertiary degree.

He further suggested that his analysis of high Child Safety turnover rates related to traditional recruiting practices which resulted in a workforce that was not representative of the general community it was servicing. His approach was to draw upon the skills and experiences of other core business partners such as health and police to build the diversity of skills and experience and improve workforce resilience.[11]

However, other submissions and witnesses have criticised this move away from core human services qualifications, suggesting that the capacity of the workforce, and its skills and knowledge in working effectively with vulnerable children and families, have been significantly reduced.[12] Professor Karen Healy, on behalf of the Australian Association of Social Workers, further argues that the diversification of qualifications is not in line with international practice in the child protection sector.[13]

Professor Bob Lonne of the School of Public Health and Social Work, Queensland University of Technology, stated that 'to do this role within the complex tasks of child protection requires high levels of skill and typically requires the right sort of higher education and training'. He commented that the expansion of qualifications for the child safety officer role has been 'seriously counter-productive for the overall quality of the child protection workforce'.[14]

Some members of the Commission's advisory group similarly commented that the broad range of qualifications accepted for the child safety officer's role has significantly reduced the quality of child protection decision making.[15] The advisory group supported a move back to social work, human services and psychology degrees as a means of improving case management, casework, assessments, and working with children, young people, families and carers.

Child Safety staff have raised as an issue the lack of mandatory qualifications for staff employed in leadership roles within the department. In particular, staff have commented that, while team leaders are required to have the same qualifications as child safety officers, mandatory qualifications do not apply to managers because managers are classified under the administrative rather than the professional stream. Staff suggest that this is a problem because managers are responsible for managing relationships with clients and communities and for supervising professionals, including team leaders and the senior practitioner. Given the statutory responsibility of managers and their responsibility for managing operational staff, Child Safety staff have suggested that a tertiary qualification should be a prerequisite for the role of manager.

The New Zealand Government's *White paper for vulnerable children* (New Zealand Government 2012) states that the government plans to introduce a tiered set of competencies and minimum quality standards that reflect the particular requirements of different roles within the core children's workforce. Consideration should be given to adopting this in Queensland; it could be introduced as part of an overarching framework for the child protection workforce.

8.2.2 Staff turnover

How to recruit and retain a skilled child protection workforce is a problem faced by all Australian jurisdictions (Bromfield & Holzer 2008). The *National analysis of workforce trends in statutory child protection* (2012) states that problems with workforce retention are of concern because loss of staff means that children, young people and families do not receive the services they need. In particular, this report notes that numerous child protection inquiries have attributed poor outcomes for children and families to staff shortages and high staff turnover.

Current research into and analysis of workforce trends (Bromfield & Holzer 2008; Healy & Oltedal 2010; Lonne & Thomson 2005; Lonne et al. 2009; Jervis-Tracey et al. 2010) concludes that there are a number of reasons for staff retention problems in this field:

- difficulties in finding the right people for the role
- lack of secure tenure (many roles are temporary)
- lack of experienced staff and inadequate staff levels
- overly burdensome workloads
- the specific demands of urban, but also of regional and remote, practice
- inadequate supervision, support and mentoring
- lack of diversity in the workforce
- lack of opportunities for ongoing professional development
- limitations on career progression for case workers
- competing demands in the duties of the position, with high-level casework requirements often having to be balanced against high administrative and legal accountability.

The literature on resilience in the delivery of human services is also of use in considering staff turnover. Ms Erica Russ and her colleagues have explored the resilience of social workers and suggest that key elements contributing to resilience are:

- a sense of control over their work, professional development and approach to working with families

- a commitment to improving the lives of clients
- acknowledging and managing the challenges of child protection work (Russ, Lonne & Darlington 2009).

The challenges faced by the child protection workforce are not unique to Queensland. Many problems identified here have emerged in other Australian states and territories, and other English-speaking countries, that have adopted largely forensically-driven child protection systems (Cummins, Scott & Scales 2012; Department of Human Services 2011a; Lonne et al. 2009). As identified in the *National analysis of workforce trends in statutory child protection* (McArthur & Thomson 2012), retaining the right people for the job requires effective retention strategies such as incentives, professional development and building a supportive work environment with opportunities for career progression.

The department acknowledges that the attraction and retention of skilled workers in the complex field of child protection remains an ongoing issue.[16] In response, the department has implemented a range of strategies to retain child safety officers. These include:

- improving recruitment of child safety officers by establishing a centralised recruitment process and 'continuous applicant pool'. This includes enhanced screening and interview processes that assess work styles, preferences, attitudes and motivations[17]
- delivering mandatory entry-level training, including foundation studies in Aboriginal and Torres Strait Islander culture[18]
- providing access to additional training through the development of advanced practice modules covering areas such as domestic violence, mental health, drug and alcohol problems, cultural diversity and suicide prevention[19]
- establishing an accelerated progression program for child safety officers to facilitate their career progression from PO2 to PO3 level[20]
- introducing a pilot program of seven PO4 principal child safety officers in 2009. The role of these officers is to mentor and support child safety officers as well as manage a caseload of more complex clients. This position also provides a career progression opportunity for experienced child safety officers[21]
- establishing a 'rural and remote incentives scheme'.[22]

The department suggests that these strategies, along with a range of external factors, appear to have contributed to improved retention rates in recent years. Child Safety executive director Mr Brad Swan gave evidence that, in the year April 2011 to March 2012, 15.98 per cent of child safety officers left the department. This represented a clear improvement on the previous years, when the percentage of officers leaving was:

- 17.51 per cent (April 2010 – March 2011)
- 28.5 per cent (April 2009 – March 2010)
- 30.31 per cent (October 2008 – September 2009).

However, the submission to the Commission by the Australian Association of Social Workers (Queensland) has cited international evidence showing that frontline workforce turnover is lowest in countries where the child protection workforce has a standardised qualification base in social work and related disciplines, as this workforce is best prepared for direct practice. In the United Kingdom the child protection workforce turnover is around 11 per cent per annum and in Norway it is about 12 per cent per annum (Healy & Oltedal 2010).

Child Safety staff, through the Commission's staff survey and forums, have identified a range of ongoing problems that impair the stability and capacity of the workforce:

- For some managers, it appears that the centralised recruitment process has hampered their ability to recruit the 'right person' for the role within their Child Safety service centre.
- Child Safety employs a mainly female workforce. Frequently staff are employed on an interim or indefinite basis when 'backfilling' for purposes such as maternity leave. This means that less-experienced workers may be promoted quickly and given complex cases without adequate supports and supervision to enable them to cope with the demands of the job.
- Team leaders and managers do not always have the skills to support and develop their staff, including skills in undertaking difficult conversations with under-performing staff. Staff have suggested that managers and team leaders should have skills in supervision and be able to access leadership training.
- Requirements of the job have become overly bureaucratic and focused on compliance. Staff feel that their professional expertise has become devalued over time and, as a result, they have become increasingly dissatisfied in their roles.
- Most importantly, high staff turnover means a loss of continuity in the management of cases, where children, families, carers and agency staff are regularly required to re-establish relationships with new child protection workers.[23]

8.2.3 Training and professional development

The *National analysis of workforce trends in statutory child protection* (McArthur & Thomson 2012) found that providing the most appropriate professional development opportunities is necessary for organisations to perform their functions and is crucial for retaining staff. Training and professional development is seen as central to building and skilling practitioners, from core training for new recruits to ongoing professional development for more experienced staff.

The skills and abilities of child safety officers have been raised by a number of stakeholders as matters of concern. Laurel Downey from Action Centre for Therapeutic Care comments:

> … in Queensland it also seems that the further from a major city you go, the less qualified and experienced the workforce is. In view of this, it is even more important that government and organisations take seriously the development of practice frameworks and internal training programs for their workers.[24]

A number of submissions more specifically suggest types of training for child protection staff, including training in engaging vulnerable and traumatised young people[25] and how to support young people.[26] The submission from the Aboriginal and Torres Strait Islander Women's Legal Service North Queensland makes a number of specific recommendations about training to achieve a culturally competent workforce.[27]
The Australian Qualifications Framework outlines a set of national competencies for statutory child protection workers. In Queensland, South Australia and Victoria, the training is competency based and linked to actual job performance.

The Department of Communities, Child Safety and Disability Services has provided the Commission with extensive detail about the range of options available for training. However, much of this training is delivered online rather than face-to-face and may not be linked to obtaining further qualifications. The department also acknowledges that workloads, competing priorities and discretionary 'backfilling' arrangements affect staff attendance at training.

The Commission's survey of frontline Child Safety staff generated a range of comments in relation to training. When asked to endorse the statement 'Child Safety Services invests in your professional development', 64 per cent of respondents disagreed, and a further 18 per cent were undecided. Staff stated:

> 'Like most things in Child Safety, the onus is primarily placed upon the worker for their advancement. Opportunities to attend workshops and training are subject to workload issues, and rarely will the department offer to pay for staff to attend workshops that could be very beneficial to the Department.'
>
> 'There is a huge focus on throughput, so no one is provided the opportunity to study because it will reduce the team throughput. Also it is expected that you will undertake most of your study on your own time and people have limited spare time, accrued leave or need the income to pay for bills. The department doesn't focus on upskilling staff and this is a serious flaw!'
>
> 'Workload overshadows capacity to attend professional development outside of the Service Centre. More in-house professional development needs to occur.'
>
> 'Limited opportunities exist for professional development (outside the Child Safety Service Centre) and those that exist are generally at the expense of the child safety officer, which is costly.'
>
> 'It's about time, having the time and getting approval to attend professional development opportunities. I don't have time and when we are preparing the memo to

> the Regional Director we have to be very specific and detailed due to budget cuts. There should be more opportunities for staff to attend training without jumping through all the hoops.'
>
> 'I note that there has been a review of the remote learning and development allowance and that this is no longer offered. I have this year made requests to utilise this allowance for a Cert IV to assist in delivering training and assessment to my clients, however this was knocked back as the allowance is no longer offered and the work unit could not afford it.'
>
> 'Consideration [should be] given for remote staff to access training easier. The remote incentive bonus is very difficult to access if you identify any training that you wish to undertake.'
>
> 'Due to high caseloads and not enough staff the option of training is limited.'

Research and evidence to the Commission have also emphasised that training needs to go beyond content knowledge about child protection and the ability to work effectively with vulnerable people to also consider the organisational context. Practice is shaped by the organisation and, just as it is necessary to develop the knowledge and skills to engage with people, high-quality practice requires organisational knowledge and skills. For Child Safety staff, this includes an understanding of the expectations of working in a statutory and hierarchical organisation. For example, Lonne and Thomson (2005) state that programs for staff induction must be staged to properly equip workers, rather than just taking an initial, one-off 'sheep dip' approach.

Associate Professor Janet Ransley further suggests the need for staff to understand their role in connection to other systems:

> Frontline staff will be best equipped when they are able to understand this link [referring to child protection and youth justice] and have the necessary skills and knowledge to operate within their statutory environment, and the broader environment of interlinked social problems.[28]

8.2.4 Workloads

The Crime and Misconduct Commission Inquiry recommended that a reasonable caseload for a child safety officer was one worker to 15 cases. It also recommended that the department adopt an empirically rigorous means of calculating workloads and projecting future staffing numbers. Currently, advice from the department is that the average caseload is 20 cases per child safety officer, although this varies from region to region across the state.[29]

A study by the Social Work Policy Institute in the United States (2010) on the impact of high caseloads on child safety staff turnover found that:

- turnover affects the workload of the workers and supervisors who remain, sometimes resulting in decreased efficiency and burnout, which may lead to additional staff turnover as well as poorer case outcomes
- a comparison of high-turnover and low-turnover counties in New York State found

that low-turnover counties have lower median caseloads than higher-turnover counties

- a comparison of counties in California found that those counties with lower rates of child abuse reports also had the best-paid staff, lowest rates of staff turnover and compliance with recognised practice standards.

The demands of high workloads continue to be a challenge for Child Safety staff. One of the most significant demands on time and resources being expressed to the Commission is creating the correct balance between, on the one hand, administrative and legal tasks and, on the other, working directly with children, young people and families.

In his statement to the Commission, Mr Robert Ryan reports that, when he began working in child protection some years ago, 70 per cent of his time was spent working with families, children and young people. Court processes were also simpler and legislatively there were only two types of child protection orders:

> The implementation of Child Protection Information System and then Integrated Client Management System has had a significant impact on the time child protection staff spend in front of the computer. With the new legislation there are now numerous child protection orders in both the assessment and ongoing intervention phases of child protection.[30]

The department agrees that a major component of the current workload is the significant amount of time workers spend completing court work.[31] In 2010–11, Child Safety focused on a range of projects to investigate workloads for frontline Child Safety staff. One of the key areas identified for reform was the high level of work reported by staff in undertaking court-related tasks. More recently, the department has introduced a new workload management strategy to provide managers and workers with the tools they need to manage workload effectively (McArthur & Thomson 2012).

The Commission has also heard that another significant component of the current workload for frontline staff is related to information management. This is most apparent in work for information coordination meetings, as part of the Suspected Child Abuse and Neglect Team system, in which child safety officers have to complete multiple screens to report one event. Some argue not only that systems of this nature are burdensome, but also that they do not support the holistic thinking required for sound assessment and intervention.

For example, Ms Katina Perren's statement to the Commission concludes that the number of large, cumbersome and repetitive forms is staggering and it seems more time is spent inputting information into the Integrated Client Management System than working with children, young people and families.[32]

Comments made by Child Safety staff in the Commission's survey also include many references to the administrative burden created by these systems:

> 'Case loads should not exceed 15 cases. Anything above this makes maintaining a suitable amount of client contact time impossible due to the amount of administrative work required. The amount of admin work needs to be reduced so focus can be on

working directly with clients and active case work.'

'Caseloads have decreased over time, but the actual amount of work expected has increased dramatically. I spend far more time with admin and paperwork than I do with families. Child Safety Service Centre staff tend to refer families out to services (if you can find one) as opposed to doing direct work with them, as there is simply not enough time.'

'On any given day administrative tasks take precedent over real work with family and children. The drive to fulfil legislative requirements such as court work and case plan can also dominate a significant number of hours that keeps you at your desk, not involved with families.'

'If I could spend more time with clients I could possibly avert some of the crises that happen … I get frustrated doing admin work. I'm not trained in admin and it takes time away from my children and young people – the ones I work for.'

In its submission to the Commission, the Australian Association of Social Workers (Queensland) has recommended that the administrative burden for staff be reduced and that administrative responsibilities for frontline staff should be strictly limited to that which is essential to reporting on their practice.[33]

8.2.5 Supervision, peer support and employee assistance programs

The nature of child protection work means that it is often highly stressful. Frontline staff are exposed to working with involuntary and highly resistant clients, their parents and extended family members who may have experienced extensive trauma in their lives (Encompass Family and Community 2010). Vicarious traumatisation and post-traumatic stress have been widely recognised in social work practice (Gibbons, Murphy & Joseph 2011).

Goddard and Hunt further describe a 'more profound response to a far more severe situation' where child protection workers 'suffer direct, as well as secondary, traumatisation' (Goddard & Hunt 2011, p421). When combined with a high caseload, this can lead to emotional breakdown, depression and burnout.

Supervision

The department's policy outlines that professional supervision is essential for the provision of a transparent, accountable, positive and supportive work environment (Department of Communities, Child Safety and Disability Services 2011a). Supervision also provides an environment for staff to debrief, share ideas, seek guidance, discuss practice, develop achievement and capability plans, and discuss cases and tasks. In the policy, supervision should be provided on a regular basis and have an allocated timeframe.

However, the practice of supervision appears to fall short of this policy. Staff made extensive comments about supervision in the Commission's survey – for example:

'I think supervision should be compulsory and this should be documented. I have

> experienced some team leaders who are excellent supervisors and make time to professionally develop their staff and others who have not prioritised this. Without supervision, you can lack direction, guidance and professional development needed to function as a productive Child Safety Officer.'
>
> 'Having compulsory supervision so that team leaders have to take part in the process and it cannot be rescheduled constantly.'
>
> 'Supervisors have to adhere to the time allocated and not allow other "supposedly" urgent matters to interrupt unless it's a matter of life and death. The supervisor has to value the supervision time and not to "treat" it as a task and be a "taskmaster" to simply allocate and discuss cases but without interest in the welfare of the staff member.'
>
> 'Regular formal supervision and supervision in the field are essential for all child safety officers. More provision for team leaders to do in the field supervision would assist.'

Some survey respondents also suggested that they would like the opportunity to undertake external supervision that is resourced by the department. The department has previously paid for peer support officers to access external supervision through the Employment Assistance Service, but access to external supervision has never been available for all staff (Encompass Family and Community 2010).

Peer support

The Peer Support Program was introduced in Child Safety following a recommendation by the Crime and Misconduct Commission in its 2004 report as a way of responding to critical incidents,[34] which are highly stressful and emotionally taxing. The Crime and Misconduct Commission implementation plan supported the use of trained peers to assist in reducing the stress and associated liabilities for staff. Peer support models are used in other government agencies in Queensland, including ambulance, emergency services and police.

The Peer Support Program involves staff in frontline services being trained to provide support to their colleagues for managing the stresses of a frontline workload. Peer support officers nominate for this role in addition to their usual workload and are given additional training to fulfil the requirements.

In 2010, Staffcare (including the Peer Support Program) was externally reviewed to assess its relevance to staff support needs across the Department of Communities. The review concluded that any whole-of-department staff support strategy should recognise that there are similar needs for staff support across service areas working directly with clients and communities with complex needs including Child Safety, youth justice, disability and community care, housing and homelessness and Aboriginal and Torres Strait islander services. The review also considered the Peer Support Program and found that its overall impact was positive for staff and, in some areas, withdrawal of this service would create a substantial gap in the support available to staff. However, it recommended that the Peer Support Program be overhauled and further evaluated prior to being incorporated into a whole-of department staff support strategy

(Encompass Family and Community 2010).

However, the Commission has received information that the fundamental components of the Peer Support Program may no longer be fully operational. Mr Scott Findlay, director of the Human Resources and Ethical Standards Branch, says in his statement to the Commission that:

> There are some staff trained to deliver the Peer Support Program but there is currently no coordination of this service.[35]

Employee assistance programs

Employee assistance programs seek to improve the health and wellbeing of staff, decrease staff absence and increase retention, as well as contribute to meeting the employer's duty of care to their employees (PPC Worldwide 2012).

Employee assistance programs offer whole-of-staff debriefing when there is a serious incident such as an assault of a staff member or a death of a child known to the department. The programs offer a range of clinical services provided by registered psychologists, such as face-to-face counselling, telephone counselling, triage counselling and after-hours telephone counselling.

Data from providers of the employee assistance services for individual counselling for Child Safety staff show a general decrease in staff usage rates over the last five years. This may reflect a more stabilised workforce, or other factors such as lack of knowledge about how to access the service.

Respondents to the Commission's frontline staff survey commented on their knowledge of and access to the employee assistance service. For example:

> 'No one has actually told me how to access EAS. Perhaps new staff should have a more thorough induction at their office so they know such things.'
>
> 'Workplaces supportive of staff is dependent upon location and capabilities of management teams. I don't find EAS service beneficial – though are encouraged to access.'

8.2.6 Career progression

The Victorian Government has advocated the need to develop a career pathway for those wishing to remain in practice to refine and improve their skills (Department of Human Services 2011a). Child protection agencies can devalue frontline practice in a variety of ways, particularly through inequities in pay, career opportunities and working conditions available to frontline workers compared with those in managerial and administrative streams. To respond to this there is a need to develop initiatives to keep experienced staff working in frontline roles with advancement options and associated pay and conditions comparable to those offered in management and administration.

In the former Department of Communities' *Strategic workforce framework 2008–2012*, the learning and organisational development strategy focused on:

- developing leaders and managers
- developing employees
- quality corporate and local induction
- enabling employees to successfully advance their careers
- fair and ethical conduct
- improving the culture of learning and continuous development (Department of Communities 2008b).

One measure of the value of staff to an organisation and the community is their level of remuneration. Although remuneration levels in Queensland are comparable to those in other jurisdictions, Queensland has the second-lowest pay entry level (see Table 10). In a focus group with frontline staff conducted by the Commission, one staff member commented that 'the pay [was] not adequate enough for the risk and responsibility'.

Table 10: Entry-level salary for child protection workers (government), selected jurisdictions, 2012

State/territory	Position	Salary (including super and leave loading)
Queensland	Child Safety Officer – Po2/Po3	$52,074–$76,459
New South Wales	Case Workers	$59,705–$82,491
Victoria	Entry Level Child Protection Practitioner (CPW2) Advanced Practitioner (CPW3)	$49,173–$60,378 $62,098–$69,850
Western Australia	Child Protection Worker (level 1)	$55,677–$76,337
Northern Territory	Professional 1 Professional 2	$58,426–$75,347 (+ 2 weeks extra Recreation Leave) $77,581–$92,771 (+ 2 weeks extra Recreation Leave)

Source: Compiled by Queensland Child Protection Commission of Inquiry.

8.2.7 Developing a culturally capable workforce

Developing a culturally capable workforce is an important part of addressing the growing over-representation of Aboriginal and Torres Strait Islander children in Queensland's child protection system. It is also part of the Queensland Government's commitment to the *Closing the gap* strategy (Department of Families, Housing, Community Services and Indigenous Affairs 2012a). This long-term national strategy seeks to improve the lives of Aboriginal and Torres Strait Islander people by addressing disadvantage in living standards, education, health and employment.

The *Cultural capability framework* of the Department of Communities, Child Safety and Disability Services describes the central cultural considerations in place in the department. This framework requires that all child safety officers undergo mandatory training in foundation studies in culture and Aboriginal and Torres Strait Islander cultural capability. The two-day training module is designed to build and strengthen child protection services for Aboriginal and Torres Strait Islander children and young people.

The success of the department's approach to training its workforce in cultural competency has been questioned through the results of the Commission's frontline staff survey. Of those responding to the survey, 60 per cent said they felt their training had prepared them well for working with Aboriginal and Torres Strait Islander families and 84 per cent of respondents reported feeling confident working with Aboriginal and Torres Strait Islander families. However, of the 23 frontline staff who identified as Aboriginal or Torres Strait Islander, only 26 per cent agreed that the training received by their colleagues prepared them well to work with Aboriginal and Torres Strait Islander families and only 21 per cent said they felt their colleagues were competent at working with these families. Fewer than half (48 per cent) of the Aboriginal and Torres Strait Islander workers responding to the survey said they felt their colleagues recognised the importance of applying the Aboriginal and Torres Strait Islander child placement principle.

The Commission acknowledges that the cultural competency of frontline child protection workers is an area that requires more emphasis, and will be considering initiatives to build this area of expertise. For example, the Commission will consider if it would be beneficial for the department and Aboriginal and Torres Strait Islander controlled organisations to develop an exchange program for staff to build relationships, skills and cultural knowledge across their agencies. This has previously been suggested as part of the department's response to the *Aboriginal and Torres Strait Islander Child Safety Taskforce* through the *Blueprint for implementation strategy* (Department of Communities (Child Safety Services) 2010c).

Another way to build the department's cultural competency is by employing additional Aboriginal and Torres Strait Islander staff, who can share their cultural knowledge with non-Indigenous staff and provide more culturally responsive interventions to Aboriginal and Torres Strait Islander children, young people and families. The commitment to increasing opportunities in public sector employment was outlined in the former government's *Queensland Government reconciliation action plan 2009–12*, which required each government agency to implement an Aboriginal and Torres Strait Islander employment action plan. The plans set targets for recruitment of Aboriginal and Torres Strait Islander staff. However, advice from the current Department of Aboriginal and Torres Strait Islander and Multicultural Affairs is that the future plans or initiatives in this area are still under consideration by the government.

The department aims to encourage Aboriginal and Torres Strait Islander students to become entry-level child safety officers through the Indigenous Cadetship Support

Program. Cadets are generally students in social work, psychology, human services and other social sciences. Currently the department funds 11 students under the program.[36] Each cadet receives a $300 per week study allowance, paid by the Australian Government, and the department funds 12 weeks (60 days) paid work experience at A02.1 or P01.4. Although the Indigenous Cadetship Support Program is an effective pathway to employment in child protection for Aboriginal and Torres Strait Islander professionals, there are no designated positions for these cadets once they have graduated. This seems to be counterproductive, given the investment in the program and the identified shortage of Aboriginal and Torres Strait Islander professionals within the department.

Professor Bob Lonne states that he and others have advised that the child protection system needs more Aboriginal and Torres Strait Islander workers to address the increasing over-representation of Aboriginal and Torres Strait Islander children who are now in child protection systems. This over-representation is greater than that of the stolen generation (Lonne, Harries & Lantz 2012). Professor Lonne states: 'we should set a benchmark of at least a third of child protection staff being Aboriginal or Torres Strait Islander people and work steadfastly towards this'. Professor Lonne goes on to say: 'this requires an integrated system of financial and other supports to build the skills and qualifications of Aboriginal and Torres Strait Islander people' (Lonne, Harries & Lantz 2012, p73).

This is consistent with feedback from the Commission's advisory group about the need for an increase to Aboriginal and Torres Strait Islander employment targets in both the para-professional and professional streams within the statutory child protection organisation.[37]

The *Aboriginal and Torres Strait Islander workforce plan* (Department of Communities (Child Safety Services) 2010b) gives a range of strategies to focus on 'finding', 'keeping' and 'growing' the potential of Aboriginal and Torres Strait Islander staff. Measures and targets are included, but it is unclear if this document has been reviewed and evaluated. Strategies include:

- developing an Aboriginal and Torres Strait Islander cadetship and traineeship program
- developing leadership and consultative networks
- prevention of discrimination and harassment
- ensuring that Aboriginal and Torres Strait Islander staff contribute effectively to service delivery
- providing career counselling.

The Western Australian Government, in particular the Department for Child Protection, has made a strong commitment to attracting and retaining Aboriginal people as a vital part of the workforce. The attraction and retention strategy for Aboriginal and Torres Strait Islander staff in Western Australia's Department for Child Protection has focused on increasing the Aboriginal employment rate through:

- developing a marketing toolkit to help directorates to attract Aboriginal staff and having additional attraction strategies in areas heavily populated by Aboriginal people (see Table 11)
- ensuring that each service delivery area establishes appropriate targets of Aboriginal staff.

Table 11: Key targets for the attraction and retention of Aboriginal staff in child protection services, Western Australia, 2009–14

Target	Business area
10%	Service delivery support directorates, other districts
20–30%	Accommodation and care services
20–50%	Pilbara, Murchison, and Goldfields
50% and above	Aboriginal engagement and coordination, and the Kimberley

Source: Department for Child Protection 2009.

The Commission acknowledges that demand is growing for Aboriginal and Torres Strait Islander workers in a range of professional roles, particularly in the human services delivery sectors. Attraction and retention strategies for Aboriginal and Torres Strait Islander workers will need to become increasingly cognisant of the competition for Aboriginal and Torres Strait Islander workers and must aim to be innovative in achieving their improved representation in the child protection workforce.

8.2.8 Rural and remote practice

Recruitment and retention of human services staff in remote and regional areas is a particularly acute and ongoing problem for government and non-government service providers. The challenge of recruitment and retention of appropriately skilled frontline child protection staff in rural and remote communities has been widely reported in academic research (Lonne & Cheers 1999; Chenoweth & Stehlik 1999; McDonald & Zetlin 2004), public sector reports and studies sponsored by professional organisations.

Recruitment of child protection staff in these areas can be more challenging because of the increased complexity and tension of the role in small communities. This is a problem not just for child protection workers but also for other professionals with statutory responsibilities who exercise their powers in the same small community in which they live. For workers this can require a delicate balance between their professional and personal lives.[38]

Research has indicated that parts of the role of child protection workers, such as removing children from families and the associated reaction of community members, are highly stressful (Chenoweth et al. 2008). The capacity to juggle the statutory

demands of child protection work while living in small communities has been found in research to be a crucial factor influencing the decisions of child protection staff to either remain or leave. Specific strategies are needed to adequately prepare and support child protection workers operating in rural and remote communities.

The department recognises that staff should not be disadvantaged financially when living in these locations, especially in mining towns, where housing and living expenses can be substantial. Incentives are available to support staff both financially and with housing, and to meet their needs in relation to the cost of living in a rural or remote area. These incentives are offered to staff making a three-year commitment. The Commission is learning that, perversely, this may in fact lead to lower retention of staff in these areas, if staff seek to relocate after this period to trigger a new set of incentives. In Western Australia, the Department for Child Protection administers its staff incentives proportionately to the consumer price index figures. It also provides staff and their families with air fares once a year to visit Perth.

It is widely recognised that there is a shortage of skilled staff to fill professional roles in rural and remote communities throughout Australia. The 2012 *National analysis of workforce trends* report found that all jurisdictions identified significant challenges in recruitment for practice in regional and remote areas. Recruitment of local people in rural and remote communities does occur, but these people are generally recruited to administrative roles. The recruitment of staff at remote locations may be more effective by targeting local people, possibly through a cadetship or vocational education and training pathway.

8.3 Proposals for consideration

8.3.1 An overarching workforce strategy

The Commission proposes the establishment of an overarching workforce strategy that encompasses both government and non-government sectors. This strategy would drive a series of industry-wide workforce education and development initiatives. A child protection workforce initiative for recognition of prior learning could also be used as part of this strategy to assist experienced workers with obtaining formal qualifications, and to provide pathways into the workforce for those with appropriate personal attributes but without formal qualifications.

An overarching workforce strategy should include:

- improving qualifications and competencies of the child protection workforce, including child safety officers, team leaders, senior practitioners, managers and court coordinator positions
- partnerships with universities, TAFEs and other external training bodies
- a review of current workloads
- enhancing support initiatives for Child Safety staff

- increasing Aboriginal and Torres Strait Islander employment targets within Queensland's child protection sector
- training and professional development initiatives
- career progression mapping

8.3.2 Qualifications

The Commission seeks feedback on two very different proposals for reform of child safety officer qualifications. These proposals have been put to the Commission in submissions and evidence. The first involves refocusing university qualifications on the traditional core field of human services – mainly social work and psychology. The second involves introducing an alternative TAFE pathway for child safety officers, as piloted by the department in 2008. There could also be a possibility of developing a hybrid of these two models, with an alternative pathway for Aboriginal and Torres Strait Islander staff.

Arguments for retaining university qualifications and refocusing them on core human services degrees, such as social work and psychology, are set out in 8.2.1 and 8.2.2 above. In addition, it should be noted that the staff shortages that gave rise to the diversification of qualifications as one way to boost staff numbers also occurred at a time when there were only two professional social work programs with about 150 graduates annually. Since that time there has been significant change: there are now five social work programs available in South-East Queensland, with more than 1,500 current enrolments and a cohort of about 500 graduating per year. This does not take into account significant numbers of graduates from human services, psychology and social sciences. Therefore any concerns about a shortage of supply of appropriately qualified entry-level staff should now have been dispelled.

Findings from the department's frontline work analysis and job design project also indicated that there was some concern about decreasing professionalism in the field of child protection, as all jurisdictions regarded university qualifications in social work as the preferred qualification for child welfare professionals (Department of Child Safety 2008).

However, in his evidence to the Commission, Mr David Bradford former director of the Training and Specialist Support Branch in the department, advocated a re-implementation of the model piloted in 2008, whereby a para-professional could become a child safety officer through a combination of on the job training and a vocational certificate.[39] Mr Bradford in his evidence espoused the view that this would attract people with a broad range of life experiences. One of the anecdotal criticisms of child protection workers is that they operate with inappropriate and unrealistic middle class assumptions and values. Broadening the criteria out to a TAFE qualification would widen the net to include those people who had not had access at a young age to the advantages of university, including many Aboriginal and Torres Strait Islander people.[40] Mr Bradford's proposal challenges the orthodoxy that university qualifications are

essential for case managing the vulnerable and at-risk clientele.

However, a practical hurdle with this approach was raised during Mr Bradford's evidence. He advised that during the pilot the Sunshine Coast Institute of TAFE partnered with the department to deliver the training, and that the funding had to be sought cohort by cohort: 'to make that process happen we had to actually go and get special assistance from the Department of Education in terms of funding.'[41] He proposed alternatively that the registered training organisation could be in-house. In short, TAFE education costs the state, whereas university education is a cost for the Australian Government (and the individual). If Mr Bradford's suggestions were to be adopted, optimally a way would need to be found to off-set these additional costs.

New South Wales, the Northern Territory and Western Australia have an alternative non-degree pathway for Aboriginal. In the Northern Territory and Western Australia, this alternative pathway is available only for specified Aboriginal child protection officer positions. One possibility for Queensland would be to use the model proposed by Mr Bradford to widen the net for the recruitment of Aboriginal and Torres Strait Islanders only and to provide a pathway for promotion to statutory positions based on acquired on the job learning and training. Such a proposal may go some way towards addressing recruitment challenges in remote locations in particular.

The Commission heard proposals through its staff forums and survey that managers of child protection teams should be required to have the same qualifications as frontline staff. Currently there is no mandatory qualification requirement for a service centre manager. The contention is that if the managers had human services capabilities as well as management strengths, they could offer more support and advice to staff in relation to difficult cases. The absence of such a requirement means that people managing the staff may never have had any experience in undertaking the challenging frontline roles themselves.

Finally, it is noted that in Chapter 5 above, a proposal was put forward that, in the long term, multi-disciplinary casework teams could replace the current Child Safety officer workforce. As set out in that chapter, this would mean that case files would be allocated to a team of workers from specified occupations or professions. For example, a team may consist of a human service professional (social work or psychology) with experience in child protection, a child and youth mental health worker, a qualified nurse and a disability worker. If the multi-disciplinary team model were adopted, the discussion above would only have relevance to the position in the team designated as the professional in child protection.

Question 26

Should child safety officers be required to hold tertiary qualifications in social work, psychology or human services?

Question 27

Should there be an alternative Vocational Education and Training pathway for Aboriginal and Torres Strait Islander workers to progress towards a child safety officer role to increase the number of Aboriginal and Torres Strait Islander child safety officers in the workforce? Or should this pathway be available to all workers?

8.3.3 Training and professional development

The Commission has heard that access to ongoing training is an important component of staff development, including competency and skills development. A range of views has been expressed on what should be considered in the development of training for child protection staff.

Bromfield and Ryan (2007) state that the existence of statutory child protection training in all jurisdictions reflects the need for specialist vocational training to prepare incumbents for the role of statutory child protection work. In evidence before the Commission, Mr Robert Ryan stated that to retain more staff there needs to be consistent investment with a learning model staggered over time.[42]

The Action Centre for Therapeutic Care suggests that training needs to take into account current research on evidence-based practice:

> Ideally training should follow the preferred practice framework, with entry level, basic and advanced training modules for workers who develop their practice over a period of time. Training should always be tied to supervision structures, on-the-job learning, coaching, mentoring so that each individual practitioner is held to a learning plan, and taken through their learning in relation to their actual practice.[43]

The Mater Kids in Mind program suggests that a child protection worker competency and capability framework should be developed in conjunction with national and international expertise in the fields of psychology, psychiatry, child development and child welfare. Training and development should then be attached to the competency framework, with career structures linked to achieving demonstrated skills and knowledge.[44]

These comments reflect a need for a deliberate and ongoing approach to training that is linked to other workforce support mechanisms such as professional supervision, coaching, mentoring and individual learning plans.

The Commission considers that there are a range of practice issues that may require specific additional training to improve decision-making and practice. One of these issues is the removal of newborn children. The Commission has heard evidence about practices pertaining to unborn babies and difficult decisions confronting child safety staff. Investigations, assessment and decisions concerning the removal of newborn

babies are very complex, difficult and sensitive, requiring experienced staff to consider the relevant issues.

Question 28

Are there specific areas of practice where training could be improved?

8.3.4 Workloads

The current fiscal environment and the commitment to reduce public debt in Queensland are likely to increase caseloads and workloads. The Commission is aware that there are currently some discretionary 'backfilling' arrangements for frontline child protection roles. However, in some instances, those who take the opportunity for career progression and act at a higher level have to carry their own caseloads and perform the work of both positions.

One option is to consider introducing regional 'backfilling' teams. These teams of experienced workers could fill the gaps when officers take leave, as well as be available to provide short-term assistance for service centres that are struggling to meet demand. It is proposed that such a strategy could retain experienced workers and provide an additional career path. Both the staff survey and staff forums suggested that a 'backfilling' team would be a valuable resource for child safety service centres.

Such a proposal also has the potential to be cost effective. In 2008, the department undertook an exercise to estimate the cost of recruiting a child safety officer, which concluded that the cost for the replacement of one officer was $41,572. Providing additional back-up resources for staff and reducing staff turnover therefore represent a cost saving for the department.

Question 29

Would the introduction of regional backfilling teams be effective in reducing workload demands on child safety officers? If not, what other alternatives should be considered?

8.3.5 Enhancing support initiatives

Feedback from the Child Safety staff survey as well as the staff forums indicates that many officers feel unsupported in their roles. This is of concern, especially given the demanding and complex nature of child protection practice. Many staff members have expressed disappointment with current supervision practices and have called for more

attention to be given to supervision as one aspect of professional development.

The Australian Association of Social Workers (2010) states that supervision of professional staff should include administrative, educational and supportive functions, which all interrelate. Kadushin's model (1976) of professional supervision includes a working alliance between practitioners in which they aim to improve clinical practice to meet ethical, professional and best-practice standards, while providing personal support and encouragement in relation to professional practice covering administrative, educational and supportive elements.

Goddard and Hunt (2011) emphasise the role of supervision in staff retention. They cite Depanfilis and Zlotnik (2008), who state that six organisational factors are the key to staff retention: salary, supervisory support, acceptable workload, co-worker support, advancement opportunities, and valuing of employees. Goddard and Hunt further state that the role of the supervisor is able to influence all of these factors except salaries.

The Commission proposes that the department develop a supervision framework that includes all three administrative, education and supportive elements. This would include reviewing the current supervision policy to emphasise a supportive and educational function and building the capacity of team leaders to deliver supervision of this nature. Resources to support supervision may also need to be developed.

In March 2010, Staffcare, which oversaw the Peer Support Program, commissioned an external review of its work and its relevance to staff support needs across the Department of Communities. The findings of the report noted the needs for staff support for those working directly with clients and communities with complex needs (Encompass Family and Community 2010).

The Commission proposes that Child Safety reconsider the merits and operation of the Peer Support Program and the functions of Staffcare as part of a range of strategies to improve support to staff.

Question 30

How can Child Safety improve the support for staff working directly with clients and communities with complex needs?

8.3.6 Career progression

A consistent theme in the comments from Child Safety staff is their desire to be valued and supported by their organisation, and to be offered opportunities to grow and develop as professionals.

The Commission has been told that the current professional development and career progression processes depend on local supervisors, managers and regional culture. The Commission recognises that training alone has its limitations; staff members must have the desire to learn and improve their practice while navigating the system.

The Commission proposes that, under the workforce strategy, the department should develop a career progression strategy. This strategy should outline career pathways for child protection workers that guide them to make long-term choices for their careers within child protection.

It should encompass opportunities in the non-government sector and also focus on enhancing the leadership potential of all staff, particularly Aboriginal and Torres Strait Islanders.

8.3.7 Aboriginal and Torres Strait Islander employment targets

Consideration should be given to significantly increasing Aboriginal and Torres Strait Islander employment targets within the Queensland child protection sector in both government and non-government agencies. The focus should be on developing the leadership potential of Aboriginal and Torres Strait Islander staff while at the same time creating integrated support structures to facilitate learning and development opportunities and maintain retention levels.

It is important that the department and the non-government sector both work to maintain representation of Aboriginal and Torres Strait Islander staff at all levels and in all streams, including working in multi-disciplinary teams that focus on using skills from a variety of professionals with joint management of cases. Consideration should be given to reaching a 10 per cent target in the first year of implementation, 20 per cent in years two to five, and 30 per cent after five years.

The Commission proposes that Aboriginal and Torres Strait Islander employment targets be significantly increased across the child protection sector in Queensland. For tertiary child protection, changes should be made to the child safety support officer A04 position to ensure a consistent approach statewide, including changing the name of the position to Aboriginal/Torres Strait Islander community worker so as to distinguish the duties of this role from the other non-identified child safety support officer roles (A02, A03) within a child safety service centre. Consideration could be given to the introduction of a number of new positions such as:

- Aboriginal/Torres Strait Islander caseworker position (there are similar positions in Western Australia, the Northern Territory and New South Wales)
- Aboriginal/Torres Strait Islander community worker (A04, A03, A02 living in the 19 discrete communities – there are similar positions in Western Australia and the Northern Territory)
- Aboriginal/Torres Strait Islander practice leader – A06 position (regionally based

positions that are part of a multi-disciplinary team – there is a similar position in Western Australia)

- Aboriginal and Torres Strait Islander Diversity Team in Human Resources
- Aboriginal and Torres Strait Islander Policy Coordination.

Question 31

In line with other jurisdictions in Australia and *Closing the gap* initiatives, should there be an increase in Aboriginal and Torres Strait Islander employment targets within Queensland's child protection sector?

[1] Statement of Scott Findlay, 21 September 2012 [p22: para 93].
[2] Statement of Scott Findlay, 21 September 2012 [p22: para 94].
[3] Statement of Scott Findlay, 21 September 2012 [p22: para 98].
[4] Statement of Scott Findlay, 21 September 2012 [p22: para 100].
[5] Exhibit 9, Statement of Brad Swan, 10 August 2012 [p99: para 432].
[6] Exhibit 9, Statement of Brad Swan, 10 August 2012 [p102: para 446].
[7] Submission of Department of Communities, Child Safety and Disability Services, December 2012 [p97].
[8] Submission of the Department of Communities, Child Safety and Disability Services, December 2012 [p97].
[9] Transcript, David Bradford, 30 October 2012, Ipswich [p10: line 20].
[10] Transcript, David Bradford, 30 October 2012, Ipswich [p12: line 40].
[11] Statement of David Bradford, 15 October 2012 [p2: para 7–8].
[12] Submission of Australian Association of Social Workers (Queensland), August 2012 [p3].
[13] Transcript, Karen Healy, 29 August 2012, Brisbane [p60: line 25].
[14] Exhibit 42, Statement of Professor Bob Lonne, 16 August 2012 [p7: para 35].
[15] Advisory Group meeting, 2 November 2012.
[16] Submission of Department of Communities, Child Safety and Disability Services, December 2012 [p97].
[17] Exhibit 9, Statement of Brad Swan, 10 August 2012 [p99: para 435].
[18] Exhibit 9, Statement of Brad Swan, 10 August 2012 [p100: para 436, 438].
[19] Exhibit 9, Statement of Brad Swan, 10 August 2012 [p100: para 437].
[20] Exhibit 9, Statement of Brad Swan, 10 August 2012 [p103: para 453].
[21] Exhibit 9, Statement of Brad Swan, 10 August 2012 [p100: para 439–440].
[22] Exhibit 9, Statement of Brad Swan, 10 August 2012 [p103: para 455].
[23] Frontline staff forums, 2012; Frontline staff survey (Child Safety), 2012.
[24] Submission of Action Centre for Therapeutic Care, September 2012 [p17].
[25] Submission of Youth Advocacy Centre, October 2012 [p3].
[26] Submission of Youth Advocacy Centre, October 2012 [p9].
[27] Submission of Aboriginal and Torres Strait Islander Women's Legal Service NQ, October 2012 [p11].
[28] Submission of School of Criminology and Criminal Justice, Griffith University, 26 September 2012 [p3].
[29] Transcript, Brad Swan, 13 August 2012, Brisbane [p62: line 30].
[30] Exhibit 104, Statement of Robert Ryan, 31 October 2012 [p3: para 17].
[31] Exhibit 9, Statement of Brad Swan, 10 August 2012 [p 93: para 404].
[32] Exhibit 95, Statement of Katina Perren, 16 October 2012 [p3: para 14].
[33] Submission of Australian Association of Social Workers (Queensland), August 2012 [p5].
[34] A critical incident is any incident of sufficient criticality to require reporting to the Deputy Director-General of the Department of Communities, Child Safety and Disability Services, by means of a 'critical incident report' form. Critical incidents may relate to:

- children and young people subject to interventions by the department
- departmental staff and carers
- matters where media attention has occurred or is possible.

[35] Statement of Scott Findlay, 31 August 2012 [p3: para 16].
[36] Statement of Scott Findlay, 21 September 2012 [p19: para 82].
[37] Advisory Group meeting, 2 November 2012.
[38] Exhibit 47, Statement of Professor Lesley Chenoweth, 16 August 2012 [p5: para 19].
[39] Transcript, David Bradford, 30 October 2012, Ipswich [p10: line 20].
[40] Transcript, David Bradford, 30 October, Ipswich [p17: line 40].

[41] Transcript, David Bradford, 30 October, Ipswich [p.24: line 9].
[42] Transcript, Robert Ryan, 31 October 2012, Ipswich [p53: line 22].
[43] Submission of Action Centre for Therapeutic Care, September 2012 [p17].
[44] Submission of Mater Child and Youth Mental Health Service, September 2012 [p2].

Chapter 9

Chapter 9

Oversight and complaints mechanisms

Recommendations of both the Forde Inquiry (Commission of Inquiry into Abuse of Children in Queensland Institutions 1999) and the 2004 Crime and Misconduct Commission Inquiry into abuse of children in foster care (Crime and Misconduct Commission 2004) emphasised the need for children to be heard, for the public to have confidence in the child protection system, and for it to be accountable and transparent. The recommendations from these inquiries strengthened business and reporting systems within the former responsible departments and expanded the monitoring and review functions of external oversight mechanisms.

As a result, Queensland has the most comprehensive and far-reaching oversight mechanisms for child safety in Australia through:

- broad powers of the Commission for Children, Young People and Child Guardian
- community visitors visiting children in out-of-home care and youth detention monthly or every two months
- complaints systems allowing for various levels of internal and external assessment and resolution of complaints
- a two-tiered review process of deaths of children known to the department within three years of the death
- mandated performance reporting by the Department of Communities, Child Safety and Disability Services and the Commission for Children, Young People and Child Guardian
- inter-departmental governance committees
- employment screening of all volunteers and employees working with children and daily monitoring of blue card holders for changes in their criminal history.

'Accountability' refers to the requirement for departments that regulate child protection and services essential to the wellbeing of children in care to explain or justify their actions to another person or body to legitimise their authority to the public (Bird 2001).

Government agencies with roles as regulators are accountable for the way in which they exercise their powers and discretions, and for the way they expend resources. In addition to such agencies explaining their actions, accountability may include mechanisms that require further actions from agencies not meeting expected performance standards, such as a reversal of decision, removal from office, or a penalty in the form of civil or criminal sanctions.

However, accountability also has to be balanced against efficiency, expertise and independence (Bird 2001, p739). Although strong oversight mechanisms can reduce the risk of harm and increase the safety and wellbeing of those within the system, excessive oversight can be counterproductive in creating inefficiencies by diverting resources unduly from frontline services towards compliance and administrative systems that may not add value. Typically, after serious breaches of public trust, greater external scrutiny is required, but as internal accountability systems mature it is important to consider whether the level of external oversight continues to be fit for purpose, or whether public confidence has increased to a point where external controls can be streamlined and resources redirected.

Term of reference 3(d) requires the Commission to consider 'the effectiveness of monitoring, investigation, oversight and complaint mechanisms and ways to improve the oversight of and public confidence in the child protection system'.[1]

This chapter outlines current oversight and complaint mechanisms, identifies issues and concerns about their impact and effectiveness, and poses questions about how best to balance accountability and openness with practical levels of supervision to achieve the goal of a reliable, efficient child protection system that ensures the safety and wellbeing of children for which it is responsible.

To date, comments to the Commission on term of reference 3(d) have been few. Therefore, the questions in this chapter are inviting perspectives on the efficiency and effectiveness of each existing oversight mechanism, as well as of the broader oversight of the child protection system.

9.1 Current status in Queensland

Oversight includes the functions of audit, evaluation, monitoring, inspection and investigation to help an organisation improve service delivery quality, effectiveness, productivity and integrity.

The Department of Communities, Child Safety and Disability Services has direct responsibility for regulating child protection through administering the *Child Protection Act 1999*. In addition, the following agencies have responsibility for identifying children in need of protection and for providing the necessary services to children within the child protection system for their wellbeing:

- Department of Education, Training and Employment – early childhood, education, training and employment services

- Queensland Health – health services
- Queensland Police Service – safety and law and order functions
- Department of Justice and Attorney-General – administering court services and youth justice services.

State government entities are subject to a number of internal and external oversight processes to meet public accountability and regulatory compliance. These include:

- internal audit and governance requirements under the *Financial Accountability Act 2009*, including the *Financial and Performance Management Standard 2009*
- the Queensland Audit Office, which is legislated to undertake:
  - annual financial audits
  - performance audits to assess how effectively, efficiently and economically public sector entities are meeting their objectives (Queensland Audit Office 2012)
- the Crime and Misconduct Commission, which investigates allegations of misconduct to ensure that Queensland's public institutions are accountable for their conduct (Crime and Misconduct Commission 2012)
- the Queensland Ombudsman, which investigates complaints about Queensland Government departments (Queensland Ombudsman 2008)
- the Queensland Civil and Administrative Tribunal, which reviews administrative decisions and a range of disputes (Queensland Civil and Administrative Tribunal 2012b)
- the State Coroner, who investigates reportable deaths (Queensland Courts 2012a)
- inter-departmental committees and networks such as the Child Safety Directors Network and independent Queensland parliamentary committees who oversee the performance of agencies within their portfolio
- Workplace Health and Safety Queensland, which investigates complaints and enforces legislation related to the welfare of workers at work (Department of Justice and Attorney-General 2012)
- the Office of the Information Commissioner, which promotes access to information held by the government, and protects people's personal information held by the public sector under the *Right to Information Act 2009* and the *Information Privacy Act 2009* (Office of the Information Commissioner 2012).

In addition, specific monitoring arrangements for Queensland's child protection system constitute a multi-tiered network of internal, external and judicial review mechanisms:

- Tier 1 – internal oversight mechanisms used by the Department of Communities, Child Safety and Disability Services to provide a system of performance monitoring, licensing and quality standards, complaints management, review and evaluation

- Tier 2 – external oversight mechanisms: the Commission for Children and Young People and Child Guardian (the Children's Commission) and specific functions of the Queensland Ombudsman
- Tier 3 – judicial oversight mechanisms comprising the Queensland Civil and Administrative Tribunal and the courts. Judicial oversight mechanisms are considered more closely in Chapter 10.

9.2 Tier one: internal oversight of Department of Communities, Child Safety and Disability Services

9.2.1 Performance monitoring and reporting

On its website, the Department of Communities, Child Safety and Disability Services presents quarterly performance data on key performance measures based on the child protection framework (Department of Communities, Child Safety and Disability Services 2012h). This includes services delivered, and safety and wellbeing measures. As well, the department is required to produce a number of public reports annually:

- a departmental service delivery statement and an annual report, which set performance measures and report against them, with explanations for changes from previous years and strategies for improvement
- the *2010–11 Child protection partnerships report*, an annual report on the operations of Queensland Government agencies relevant to child protection[2]
- reporting against six broad outcome areas in response to the *National framework for protecting Australia's children*, a Council of Australian Governments agreement in September 2009 (until 2020).

Comparisons with other Australian jurisdictions are published annually in:

- the Report on Government Services using the performance indicator framework referred to above, which reports on equity, efficiency and effectiveness, and publishes the outputs and outcomes of child protection and out-of-home care services (Steering Committee for the Review of Government Service Provision 2012)
- the Australian Institute of Health and Welfare's *Child protection Australia* reports (Australian Institute of Health and Welfare 2012).

9.2.2 Licensing, quality standards, criminal screening

The Crime and Misconduct Commission Inquiry recommended that a quality assurance strategy be developed and implemented for all services (government and non-government) and a minimum standard be set for the licensing of non-government services (2004, p180). In response, in 2006 the department developed and implemented quality standards for non-government organisations with independent

external assessment. In July 2012, the Human Services Quality Framework replaced six sets of quality standards required for delivering services to different client groups within the Department of Communities, Child Safety and Disability Services. The intent is to create a streamlined and client-focused quality framework for human services that facilitates continuous quality improvement. The framework contains six human service quality standards:

- governance and management
- service access
- responding to individual need
- safety, wellbeing and rights
- feedback, complaints and appeals
- human resources.

The framework will be introduced over three years as organisations renew their quality status, with the first audits to commence in 2013 for disability service providers and services licensed to provide child safety care services. Multiple individual service licences will transition to a single organisational-level licence.

Services providing care to children in the custody or guardianship of the chief executive of the department are licensed to ensure that care provided meets the statement of standards in the Child Protection Act (Department of Communities, Child Safety and Disability Services 2012g). External audits to meet the requirements of licensing will be conducted under the Human Services Quality Framework.

Suitability checks are undertaken through the department's Central Screening Unit for carers, directors and staff of licensed care services. Where blue cards are required, these applications are processed and determined by the Commission for Children and Young People and Child Guardian. The Central Screening Unit undertakes other checks such as checks of traffic offences and child protection history, depending on the context and the role the applicant will undertake. The department can also undertake criminal history checks pending the issue of a blue card where placement of children is required urgently.

The department participated in the development of the National Standards for Out-of-Home Care, a Council of Australian Governments initiative. The 13 standards came into effect on 1 July 2011 and cover areas such as children and young people's education, health and participation in decisions that affect their lives (Department of Communities, Child Safety and Disability Services 2012e).

9.2.3 Complaints management

The department has a dedicated internal complaints management process and operational procedures (Department of Communities, Child Safety and Disability Services 2011b, 2011c) which incorporate the minimum standard required in Australian Standard IS 10002-2006 *Customer satisfaction – guidelines for complaints handling in organisations* and the Queensland Government Public Sector Commission Directive No. 13/06 *Complaints management systems*.

The department's process for complaints relating to a child safety matter involves the following steps:

- The complainant makes initial contact with the complaints officer at the local Child Safety service centre. Where possible, the complaint is managed locally either by the local Child Safety service centre or by regional office.
- If the complaint is not resolved, or it is inappropriate for the complaint to be managed locally, it is escalated to the Child Safety Central Complaints Unit.
- If not satisfied with the way in which concerns have been managed, the complainant may seek an internal review or an external review by the Queensland Ombudsman (Department of Communities, Child Safety and Disability Services 2012d).

The majority of accepted complaints for 2010–11 and 2011–12 were managed by the local Child Safety service centre (59 per cent and 61 per cent respectively). The top five complaint issues were in relation to child protection orders, officer conduct and employment, investigation and assessment, foster and kinship carers, and intake.[3]

Complaints concerning alleged misconduct of a public official may be elevated to the Ethical Standards Unit, where the matter may be referred to the Crime and Misconduct Commission.

As described in section 9.2.2 of this chapter, the Human Service Quality Framework includes a standard in relation to feedback, complaints and appeals. Non-government services are required to have complaint management processes. Complaints referred back to non-government-funded organisations for resolution are monitored by the department to ensure that they comply with the organisation's internal complaints policy.

9.2.4 Child death review

The Queensland child death case review process consists of a two-tier system for reviewing deaths of children in cases where the department received information about alleged harm or risk of harm to the child in the three years prior to the child's death.[4] The department's Child Death Case Review Unit conducts Tier 1 reviews, which do not investigate the cause of death, but consider the services delivered to the child under

the Child Protection Act and explore the decisions and factors that significantly affected service delivery.

The department decides the terms of reference of its review, which can include consideration of any of the following:

- compliance with legislation and policies
- adequacy and appropriateness of the department's involvement with the child and the child's family
- sufficiency of the department's involvement with other entities in the delivery of services to the child and the child's family
- adequacy of legislative requirements and the department's policies relating to the child
- recommendations relating to the above and strategies to put the recommendations into effect.

Trends in child deaths are reported on the department's website (Department of Communities, Child Safety and Disability Services 2012b). Tier 2 reviews are described in section 9.3 below.

Question 32

Are the department's oversight mechanisms – performance reporting, monitoring and complaints handling – sufficient and robust to provide accountability and public confidence? If not, why not?

Question 33

Do the quality standards and legislated licensing requirements, with independent external assessment, provide the right level of external checks on the standard of care provided by non-government organisations?

9.3 Tier 2: External oversight

9.3.1 Functions of the Commissioner for Children and Young People and Child Guardian

The Commissioner for Children and Young People and Child Guardian provides oversight of the child protection system through:

- the community visitor program
- complaints and investigations

- monitoring and reporting activities
- strategic policy and research
- employment screening.

There is significant variation of the role, scope and function of children's commissioners and child guardians across Australian jurisdictions. In other jurisdictions, the functions of the Queensland Commission for Children and Young People and Child Guardian are performed by a number of agencies.

In Queensland, the role of the Commissioner for Children and Young People and Child Guardian includes monitoring the child protection system, managing the community visitor program, responding to complaints and investigations, leading case reviews into child deaths and delivering the 'working with children' checks.

Although the role of most children's commissioners and child guardians includes a monitoring function for the out-of-home care system, not all commissioners respond to complaints about individual children or conduct Child Death Case Reviews. In New South Wales and Western Australia, the Ombudsman performs these functions, and, although the Australian Capital Territory and South Australia have a complaints and review function, child deaths in those jurisdictions are reviewed by the department responsible for child protection.

The community visitor program

The community visitor program commenced in 2001 with visits to children in detention and at residential care sites, and was extended to children in foster homes in 2004 after the Crime and Misconduct Commission Inquiry into abuse of children in foster care. The role of community visitors is to promote and protect the rights, interests and wellbeing of children in care.[5]

Community visitors report to the Child Guardian and the Children's Commissioner and are independent of any other government department or community organisation. They regularly visit children and young people who are in care, record problems or complaints in relation to service delivery and their safety and wellbeing, and follow up centrally or with the local Child Safety service centre to resolve the problems. Service delivery concerns are also followed up with other government and non-government service providers. The most common matters raised by children are contact with family or their child safety officer, placement arrangements (including safe living environments or stability of placement) and therapeutic care needs.

Community visitors also undertake unscheduled visits to 'visitable sites' where children and young people are living in other residential care contexts such as youth shelters or disability respite facilities.

In 2011–12, there were 153 community visitors with 42 children allocated to each (at any one time), supervised by 11 zonal managers and supported by a five-person unit that provides training and IT support. Community visitors visit an average of between 2,000 and 3,000 children on a monthly basis and between 3,500 and 4,000 children every two months. Although the majority of children and young people receive either monthly or two-monthly visits, quarterly visits can be implemented should a child or young person directly request a decreased visiting schedule.

For the 7,911 children and young people visited by community visitors in 2011–12, 44,356 individual child reports and 4,017 site reports were generated. Through a regular survey of young people in care, the Commission for Children and Young People and Child Guardian reports on the views of children and young people, who have rated the helpfulness of community visitors as 9.0 (2010–11) and 9.1 (2011–12) out of 10 (Commission for Children and Young People and Child Guardian 2012a, pp86, 90).

Information gathered by community visitors is aligned with complaints data and departmental performance data to identify systemic and practice issues that are negatively affecting the delivery of quality service.

In a recent submission, the department acknowledged the importance of the community visitor program being maintained to provide an ongoing mechanism for children in out-of-home care to raise issues independently. However, it submits that additional requirements now exist, such as the requirement for all family-based carers to be approved under the Child Protection Act, to have a blue card, and to meet the standards of care. The department suggests that there may be opportunities for improving efficiency within the community visitor program by concentrating on more frequent visits to children who have higher support needs or who are placed in particular types of arrangements.[6]

Different variations of community visitor programs have been adopted by most Australian states and territories. Though each program exists as a mechanism that enables vulnerable children to have their voice heard by an adult who has the capacity to advocate on their behalf, there are differences in the population subgroups that the community visitors connect with. In some jurisdictions, these subgroups include children and young people with disabilities or mental illness, and those in residential care facilities, those in juvenile justice centres or those who meet a ‘most vulnerable’ criterion. Many jurisdictions do not specifically target children and young people in state care under child protection orders, but it is recognised that those who fall within the specific subgroups will receive visits: for example, those also with a disability or in youth detention. Queensland is the only jurisdiction that currently visits all children in out-of-home care. Visiting schedules include both planned and unplanned visits, with Queensland’s program requiring the most regular visits.

Complaints and investigations

The Commission for Children and Young People and Child Guardian receives and responds to complaints about any government or non-government service provided (or not being provided) to young people in the child safety system. Complaints can be accepted from a child or young person, or from any other person (including an anonymous complaint on behalf of a child).

In 2011–12, the Children's Commission resolved 4,561 complaint issues on behalf of children and young people.[7]

The Children's Commission has broad powers to support its investigative functions.[8] This includes a power enabling the Commissioner to initiate an investigation, whether a complaint has been received about the matter or not. This may occur in such circumstances as those where the matter raises issues of public interest or where there is a significant issue about a law, policy or practice underlying a service to a child in the child safety system.[9]

The Commissioner can make recommendations to government on matters affecting the performance of the child protection system.[10] Traditionally the acceptance rate of recommendations by relevant departments and service providers has been exceptionally high, with 100 per cent of recommendations made in the 2010–11 and 2011–12 periods being accepted (Commission for Children and Young People and Child Guardian 2012b, p92). Although the Children's Commissioner does not have the power to compel acceptance and implementation of recommendations made, the Commissioner can give a copy of the report with her comments to the Minister responsible for the service provider if the Commissioner is not satisfied that a recommendation has been accepted by the relevant department or satisfactorily implemented.[11]

Investigation reports are not usually released publicly, but the Commissioner does have the power to ask the Minister to table a report.[12] The most recent investigation tabled in Parliament was in 2008 (Queensland Parliament 2012). The Children's Commission periodically releases versions of its reports on its website that do not provide any identifying details, so as not to breach any privacy or confidentiality provisions or constraints. This provides a further level of transparency for its investigative function.

The Commission for Children and Young People and Child Guardian advised that in the past five years more than 75 investigations, audits and reviews have been considered, resulting in over 450 recommendations, mostly for improvements to child protection service delivery.[13] All recommendations are monitored to ensure effective implementation by relevant service providers.

All jurisdictions across Australia have an external complaints and investigations function, with varying powers. The function is undertaken by different agencies in

different jurisdictions, including the ombudsman or children's commission.

Monitoring and reporting activities

Through its Child Guardian function, the Children's Commission monitors and reviews the systems, policies and practices of the department and other service providers who deliver programs to children and young people in the child protection system. Monitoring activities are carried out under Chapter 3 of the *Commission for Children and Young People and Child Guardian Act 2000*, which provides powers to:

- require information or documents from a service provider
- require periodic reporting from a service provider
- require service providers to review their systems, policies or practices
- make recommendations to a relevant service provider
- monitor the implementation of recommendations made to a service provider.

The Commission for Children and Young People and Child Guardian enters into monitoring agreements with service providers, setting out key data it requires them to report against.[14] These agreements are reviewed regularly to promote information gathering to enable better understanding of outcomes for children.

Further to the recommendations arising from the Crime and Misconduct Commission Inquiry, the Children's Commission publicly releases information about the outcomes experienced by children and young people in the child protection system. This includes the annual Child Guardian report and other reports (such as the Indigenous Child Placement Principle Audit) as a result of its targeted monitoring activities.

Since 2006, the Children's Commission has reported annually on the 10 Child Guardian key outcome indicators agreed to by service providers. This annual report is intended to be an objective system-level and evidence-based assessment of the safety and wellbeing of children and young people in out-of-home care. Reporting under this framework is intended to:

- highlight trends and issues (both positive and negative) in child protection service delivery
- create transparency and accountability of service delivery
- provide an additional 'early alert' of system failure
- enable government, stakeholders and the community to be kept informed of both developments and failings in the child protection system
- promptly contextualise any individual critical incidents within broader system performance.

Through the 'Views surveys' series, the Commission for Children and Young People and

Child Guardian regularly collects information about children and young people's perspectives on and experiences of the child safety and youth justice systems, and their needs and circumstances. Community visitors help those children and young people whom they visit to complete these surveys, which ask a range of questions about such matters as their sense of safety and happiness, current living situation, placement history, educational, health and disability needs, experiences of the child protection system (including the availability, responsiveness and quality of services and programs), and having a say in decisions.

These surveys are the largest cross-sectional longitudinal study of their kind involving the direct participation of children and young people in state care. The information is then used to inform child protection policy and practice decisions to shape departmental performance indicators. The surveys provide critical insight into children's needs and experience of out-of-home-care, and are used by academics, stakeholders[15] and service providers.

Children's commissions and child guardians in most states and territories have a monitoring and reporting function in respect of the child protection system.

Strategic policy and research

The Children's Commission contributes to the development of policy and legislation to promote and protect the rights, interests and wellbeing of children and young people by:

- developing evidence-based submissions on issues affecting children and young people, including those in the child protection system
- supporting, conducting and analysing research data to identify emerging and ongoing issues in relation to prevention and early intervention services provided to children and young people in Queensland
- identifying and promoting networks and alliances in research with academic, government and non-government partners
- learning and reporting on the views of children and young people on a range of issues affecting their safety and wellbeing.

Some of the current strategic policy and research priorities of the Commission for Children and Young People and Child Guardian are the relationship between child protection and the Family Court of Australia, and conducting two-yearly surveys of children and young people in foster care and residential facilities.

Policy, research and advocacy functions are carried out by all state and territory children's commissions and child guardians.

Employment screening

The Commission for Children and Young People and Child Guardian's employment screening and blue card system complements the statutory oversight model by managing risks to children and young people in service environments. The blue card check is a national criminal history check that assesses:

- any charge or conviction for an offence (even if no conviction was recorded)
- child protection prohibition orders (whether a person is a respondent or subject to an application)
- disqualification orders
- if a person is subject to reporting obligations under the *Child Protection (Offender Reporting) Act 2004* or the *Dangerous Prisoners (Sexual Offenders) Act 2003*
- disciplinary information held by certain professional organisations, including those for teachers, child care licensees, foster carers and certain health practitioners
- information that the Police Commissioner may provide in relation to police investigations into allegations of serious child-related sexual offences, even if no charges were laid.

A person whose application is approved is issued with a positive notice letter and a blue card. If a person's application is refused, they are issued with a negative notice that prohibits them from carrying on a business or providing child-related activities in the categories regulated by the Commission for Children and Young People and Child Guardian Act.

A subset of the blue card screening function includes screening and monitoring of employees, organisations and government agencies that deliver services to children in out-of-home care. This includes those working in or operating residential facilities, foster and kinship carers, and businesses relating to licensed care service under the Child Protection Act.[16]

The Commission for Children and Young People and Child Guardian also:

- monitors police information relating to all applicants and card holders; if the information changes, the Commission can take steps to immediately protect children from harm, including suspending or cancelling a card
- monitors and audits service providers' compliance with blue card system obligations to ensure that appropriate safeguards are being implemented and maintained
- monitors organisations and self-employed people who fall within the scope of the blue card system to ensure that there are appropriate policies and procedures in place to identify and minimise the risk of harm to children, including codes of conduct, procedures for recruiting, managing and training staff, and policies for identifying and reporting disclosures or suspicions of harm.

Currently, the statutory application fee of $72.50 applies to obtain a blue card, although this fee is waived for volunteers such as foster carers, kinship carers, adult occupants also living in the same home as foster and kinship carers, volunteers in licensed care facilities and student trainees.[17]

Over 850,000 blue cards have been issued since 2009–10 and daily monitoring of changes in criminal history occurs for blue and exemption card holders and applicants. The screening has provided negative notices to nearly 2,200 applicants.[18]

Most states and territories have introduced, or are working towards, legislation providing for child-related employment pre-screening. The legislation identifies broad categories of child-related work where employers, employees and volunteers must fulfil screening requirements. There are important differences across jurisdictions in the types of screening programs that are in place, what records are checked and information considered, who is required to undergo screening, where the responsibility is placed (employer or individual) and renewal timeframes.

In addition, there is variation across Australia in terms of the government agency responsible for undertaking these checks. For example, in the Northern Territory, Victoria, South Australia and the Australian Capital Territory, 'working with children' checks are primarily delivered by justice and police agencies, and in Western Australia the checks are undertaken by the Department of Child Protection. The Commission for Children and Young People manages the 'working with children' check process in New South Wales.

9.3.2 External oversight by the Child Death Case Review Committee

As outlined above, the Tier 1 review of the death of a child or young person known to the department within three years of his or her death is conducted by the department. The Tier 2 review is undertaken by the Child Death Case Review Committee against a set of criteria that includes whether any action or inaction of the service system was linked to the child's death.

The Child Death Case Review Committee was established under s 116 of the Commission for Children and Young People and Child Guardian Act in response to the Crime and Misconduct Commission Inquiry (2004). The Child Death Case Review Committee is not under the control of any other entity, and must act independently in performing its functions.[19] The committee is chaired by the Commissioner for Children and Young People and Child Guardian, and has a multi-disciplinary membership of experts from fields including paediatrics, forensic pathology, investigations and child protection. There are also two Aboriginal and Torres Strait Islander representatives. The objective is to better inform government action directed towards the prevention of child deaths, and its primary focus is to identify shortcomings in the child safety service system implicated in a child's death.

The criteria used by the Child Death Case Review Committee in reviewing an 'original review' are to determine the following:

- Were any actions or inactions of the service system linked to the child's death?
- What risk factors were relevant to the child's death?
- Were any service system issues relevant to any adverse outcomes experienced by the child (while he or she was living)?
- Are there any recurring or unrectified risk factors or service system issues that require further action?
- Was the original review of sufficient quality to enable timely responses to any relevant risk factors or service system issues, or is further action required?

The Child Death Review Committee may make recommendations to the Director-General of the department about:

- improving policies that affect services to children in the child safety service system
- improving relationships between Child Safety and other agencies involved with children and their families
- whether disciplinary action should be taken against any departmental staff member in relation to their involvement with a child.

All reviews are to be completed within a three-month timeframe. A copy of the final review report, with recommendations made by the Child Death Case Review Committee, is provided to the Director-General of the department and to the Coroner to inform a coronial inquiry. Recommendations are monitored to ensure that appropriate implementation has taken place.

The Child Death Case Review Committee contributes to broader policy and practice development and child death prevention strategies. Over a period of seven years, the committee has reviewed 449 cases (relating to the deaths of 456 children known to the child protection system) and made 672 recommendations targeting improvements to the child protection system.[20]

Nearly every state and territory has an external child death review function that is carried out by agencies including the children's commission, the ombudsman or other government departments. One of the main differences between the jurisdictions relates to the category of case that is considered for review.

9.3.3 External oversight undertaken by the Queensland Ombudsman

External oversight also provides a quality control mechanism for any internal review process within government agencies. Although complainants are encouraged to use the department's internal complaints and review systems, they also have an option for their complaints to be resolved externally if they remain dissatisfied (NSW Ombudsman

2010). A complainant's right of external review in relation to the decisions or actions of the department is to the Queensland Ombudsman (Department of Communities, Child Safety and Disability Services 2011c).

The Queensland Ombudsman is an independent statutory officer who provides the public with a means of challenging the decisions of government agencies by investigating the administrative actions of state government agencies.[21] The majority of investigations undertaken arise from complaints received, but the Ombudsman's Office may also conduct investigations on its own initiative. The Ombudsman is authorised to provide a report after the investigation and can make recommendations for administrative improvement to agencies.[22] Its decisions and recommendations are not enforceable, but it tables an annual report in Parliament.

The Queensland Ombudsman has jurisdiction to respond to complaints raised about the department and other government agencies that provide services to children and young people in care. However, its jurisdiction does not extend to non-government agencies, carers or private service providers. The Ombudsman can decline to take action on a complaint if the complainant has not exhausted the agency's internal complaints management system before contacting the office, or if the action giving rise to the complaint became known to the complainant more than 12 months before the complaint was raised.

In 2011–12, the Ombudsman received 330 complaints about the department (Queensland Ombudsman 2012, p13) and completed five investigations involving actions of the department (Queensland Ombudsman 2012, p15). The Ombudsman's Office also has jurisdiction to receive complaints about the Commission for Children and Young People and Child Guardian. In 2011–12, it received 20 complaints about the actions and decisions of the Commission (Queensland Ombudsman 2012, p14).

In New South Wales, the Ombudsman has a broader oversight function as it also undertakes the review of child deaths (as does the Western Australian Ombudsman) and administers the New South Wales community visitor program.

9.3.4 External oversight through inter-agency committees

The Child Safety Directors Network was established to support coordinated responses to child safety across government. Child safety directors represent agencies with a key role in the promotion of child protection. The network includes representatives from human service departments, the Commission for Children and Young People and Child Guardian, Queensland Treasury and the Department of Justice and Attorney-General.

The Interagency Complaints Management Committee was established in 2005 with managers of complaints management teams from the Commission for Children and Young People and Child Guardian, the Queensland Ombudsman and the Department of Communities, Child Safety and Disability Services. The committee's role is to develop protocols and to work cooperatively.

Question 34

Are the external oversight mechanisms – community visitors, the Commission for Children and Young People and Child Guardian, the child death review process and the Ombudsman – operating effectively? If not, what changes would be appropriate?

9.4 Tier 3: Judicial oversight

Judicial oversight refers to the Queensland Civil and Administrative Tribunal and the courts. These are reviewed in Chapter 10 of this discussion paper.

Question 35

Does the collection of oversight mechanisms of the child protection system provide accountability and transparency to generate public confidence?

Question 36

Do the current oversight mechanisms provide the right balance of scrutiny without unduly affecting the expertise and resources of those government and non-government service providers which offer child protection services?

[1] *Commissions of Inquiry Order (No. 1) 2012.*
[2] *Child Protection Act 1999* (Qld) s 248.
[3] Statement of Michael Bond, 11 December 2012 [p3: para 26].
[4] *Child Protection Act 1999* (Qld) s 246A.
[5] *Commission for Children and Young People and Child Guardian Act 2000* (Qld) s 86.
[6] Submission of Department of Communities, Child Safety and Disability Services, December 2012 [pp114-5].
[7] Submission of Commission for Children and Young People and Child Guardian, 21 September 2012 [p94: para 339]. This figure also includes issues raised by young people in detention centres.
[8] *Commission for Children and Young People and Child Guardian Act 2000* (Qld) ch 4.
[9] *Commission for Children and Young People and Child Guardian Act 2000* (Qld) s 64(1).
[10] *Commission for Children and Young People and Child Guardian Act 2000* (Qld) ch 4.
[11] *Commission for Children and Young People and Child Guardian Act 2000* (Qld) s 80(4).
[12] *Commission for Children and Young People and Child Guardian Act 2000* (Qld) s 83.
[13] Exhibit 23, Statement of Elizabeth Fraser, 8 August 2012 [p24: para 88.4].
[14] Monitoring agreements are available at www.ccypcg.qld.gov.au/support/monitoring/index.html.
[15] Submission of Bravehearts, 5 November 2012 [p36].
[16] *Commission for Children and Young People and Child Guardian Act 2000* (Qld) sch 1.
[17] Commission for Children and Young People and Child Guardian response to information request from QCPCI, 7 November 2012.
[18] *State Budget 2012–13*, Service Delivery Statements, Commission for Children and Young People and Child Guardian, p36.
[19] *Commission for Children and Young People and Child Guardian Act 2000* (Qld) s 118.
[20] Exhibit 23, Statement of Elizabeth Fraser, 8 August 2012 [p24: para 88.6].
[21] *Ombudsman Act 2001* (Qld) s 14.
[22] *Ombudsman Act 2001* (Qld) s 50.

Chapter 10

Chapter 10

Courts and tribunals

Once the Department of Communities, Child Safety and Disability Services (the department) decides that a tertiary response is needed for protection of a child, it will either work with a family with their agreement (for example, a safety plan, care agreement or intervention with parental agreement)[1] or it will apply to the Childrens Court of Queensland for assessment and/or child protection orders to secure ongoing intervention.[2] A range of administrative decisions made by the department are also reviewable by the Queensland Civil and Administrative Tribunal.

This chapter will focus on the courts and tribunals that make decisions about child protection. In particular it will explore whether:

- reform of case management is required, including consideration of current legislation, court rules and practice directions
- there should be greater specialisation for child protection matters
- certain applications for child protection orders should be considered by a judge rather than a magistrate
- changes are needed to ensure appropriate and effective use of alternative dispute resolution processes.

10.1 Current status in Queensland

10.1.1 Childrens Court of Queensland

The Childrens Court of Queensland is established under the *Childrens Court Act 1992* and operates under that Act and the *Childrens Court Rules 1997*. The Childrens Court is constituted by a member who is a Childrens Court judge (or, if one is not available, a District Court judge) or a Childrens Court magistrate (or, if one is not available, any magistrate, or two justices of the peace).[3] Among other things, the Childrens Court has jurisdiction over child protection matters and young people who commit criminal offences.

Of relevance to this Commission is the jurisdiction of the Childrens Court to determine applications for assessment and child protection orders. Although s 102 of the *Child Protection Act 1999* provides that the court can be constituted by a judge or magistrate when hearing applications for child protection orders, in practice the significant majority of applications for child protection orders are heard and determined in the Childrens Court by a magistrate. This includes applications for orders ranging from a supervision order, and one- to two-year custody or guardianship orders in favour of the department, to a long-term guardianship order, which is the most intrusive order available to a judicial decision-maker and places a child in the care of the department or another person until the age of 18 years.[4]

Section 102 of the Child Protection Act also provides that the Childrens Court of Queensland must be constituted by a judge when exercising its jurisdiction to hear appeals against the decisions of the court constituted by a magistrate or two justices of the peace.

The Childrens Court of Queensland is headed by a President who is a Childrens Court judge and whose function is to ensure the orderly and expeditious exercise of the jurisdiction of the court when constituted by a Childrens Court judge.[5] The President of the Childrens Court is empowered to make relevant practice directions for the court's operation.[6] However, the bulk of the court work is undertaken by Childrens Court magistrates, who come under the direction of the Chief Magistrate rather than the President. The Childrens Court of Queensland *Annual report* concentrates on its criminal law jurisdiction and does not make any reference to its child protection jurisdiction, which is instead reported in the Magistrates Court *Annual report*.

The Childrens Court Act provides that the Governor in Council may, on the recommendation of the Attorney-General:

- appoint one or more District Court judges as Childrens Court judges; in recommending such an appointment, the Attorney-General must have regard to the appointee's particular interest and expertise in jurisdiction over matters relating to children (s 11)
- appoint one or more magistrates as Childrens Court magistrates (s 14).

There are now 26 District Court judges who hold commissions as Childrens Court judges in Queensland, presiding in Brisbane and other larger regional areas, namely Ipswich, Southport, Beenleigh, Maroochydore, Townsville and Cairns (Childrens Court of Queensland 2012). There is only one Childrens Court magistrate appointed in Queensland who presides over the specialist Childrens Court located in Brisbane, although the Childrens Court Act allows any state magistrate to constitute a Childrens Court when required.[7]

The Childrens Court of Queensland, in exercising its jurisdiction or powers, must have regard to the principles stated in sections 5A to 5C of the Child Protection Act to the

extent that those principles are relevant to decision-making. The Court must state its reasons for the decision.[8] The Childrens Court is not bound by the rules of evidence and may inform itself in any way it thinks fit. The burden of proof applied is the balance of probabilities.[9]

In 2011–12, there were 3,776 initial applications lodged under the Child Protection Act and 885 orders appointing separate legal representatives for children and young people in the Childrens Court (Table 12).

Table 12: Childrens Court lodgements, backlogs and finalisations under the *Child Protection Act 1999*, Queensland, 2005–06 to 2011–12

Year	Lodgements	Age of pending matters (months) as at 30 June				Finalisations	Orders appointing separate representatives for children
		6 or less	Over 6 to 12	Over 12	Total pending		
2005–06	3,587	483	106	28	617	3,545	247
2006–07	3,405	471	101	28	600	3,417	366
2007–08	3,888	672	150	44	866	3,627	935
2008–09	4,075	580	171	46	797	4,156	1,042
2009–10	3,532	456	155	51	662	3,669	815
2010–11	3,959	581	177	37	795	3,826	727
2011–12	3,776	680	248	111	1,039	3,549	885

Source Provided by Department of Justice and Attorney-General.

Notes: Includes lodgement of all initialising applications under the *Child Protection Act 1999*, but excludes secondary applications (i.e. applications for revocation or variation of orders). The counting methodology is consistent with national counting rules as applied in the Report on Government Services. Data on separate representatives may vary from Legal Aid Queensland data because of variation in data counting methods. Reconciliation of figures between years is not possible because of minor variations in pending and finalised figures.

In 2011–12, there were 14 appeals from a Magistrates Court to the Childrens Court of Queensland relating to temporary assessment orders, temporary custody orders, court assessment orders or child protection orders under the Child Protection Act, up from 12 the previous year (Childrens Court of Queensland 2012).

10.1.2 Queensland Civil and Administrative Tribunal

The Queensland Civil and Administrative Tribunal was established on 1 December 2009 as an amalgamation of 18 tribunals and 23 jurisdictions into a 'one-stop shop' for community justice and dispute resolution in Queensland. It took over from the former Children Services Tribunal and has the same jurisdiction to make decisions that the Children Services Tribunal had before the amalgamation. Matters previously heard under the repealed Children Services Tribunal Act are heard in the Human Rights Division of the tribunal.

The Queensland Civil and Administrative Tribunal has the delegated power under the Child Protection Act to hear a range of applications for review of administrative decisions made by the department under the legislation regarding children. The most relevant for the present purposes are decisions under the Child Protection Act about where a child has been placed and what contact they will have with their family.[10]

When making decisions under the Child Protection Act, the tribunal must:

- be constituted by three members, at least one of whom is a legally qualified member
- include, if practicable, a member who is an Aboriginal or Torres Strait Islander if the child in the hearing is Aboriginal or Torres Strait Islander
- be constituted by members who the President of the tribunal considers are committed to the principles in sections 5A to 5C of the Act, have extensive professional knowledge and experience of children and have demonstrated knowledge or experience in one or more of the fields of administrative review, child care, child protection, child welfare, community services, education, health, Indigenous affairs, law, psychology or social work.[11]

In 2011–12, there were 188 applications filed in the Queensland Civil and Administrative Tribunal for review of decisions made under the Child Protection Act (Table 13). Applications for review have remained relatively stable since the transfer of jurisdiction but are down slightly on the number of applications filed with the former Children Services Tribunal at its peak.

Table 13: Review applications filed under the former Children Services Tribunal and the Queensland Civil and Administrative Tribunal by matter type, Queensland, 2000–01 to 2011–12

Year	Tribunal	Matter type for review under			Total applications
		Child Protection Act 1999	*Commission for Children & Young People & Child Guardian Act 2009*	Other (school exclusion; *Child Care Act 2002; Adoption Act 2009)*	
2000–01	CST	38	–	3	**41**
2001–02	CST	47	2	–	**49**
2002–03	CST	50	9	–	**59**
2003–04	CST	109	13	3	**125**
2004–05	CST	142	39	8	**189**
2005–06	CST	149	29	4	**182**
2006–07	CST	172	38	2	**212**
2007–08	CST	231	56	2	**289**
2008–09	CST	224	35	1	**260**
2009–10	CST/QCAT	187	41	3	**231**
2010–11	QCAT	170	37	12	**219**
2011–12	QCAT	188	48	1	**237**

Source: Provided by Queensland Civil and Administrative Tribunal.

Notes: The Children Services Tribunal (CST) commenced operation on 2 February 2001. The 2009–10 data are the sum of applications for CST for the period 01/07/09–30/11/09 and the Queensland Civil and Administrative Tribunal (QCAT) for the period 01/12/09–30/06/10.

10.2 Issues raised about Childrens Court processes

10.2.1 Case management and timeliness

The importance of ensuring that court processes are timely in the child protection arena has been graphically illustrated by His Honour Judge Nicholas Crichton's observation:

> Two months of delay in making decisions in the best interest of a child or young person equates to one per cent of childhood that cannot be restored. (Judge Nicholas Crichton, Family Drug and Alcohol Court)

Timeliness in decision-making is enshrined in the Child Protection Act, which provides that a delay in making a decision in relation to a child should be avoided, unless appropriate for the child.

When considering adjournment periods, the court must take into account the principle that it is in the child's best interests for the application to be decided as soon as possible.[12] Although there is capacity for judges and magistrates to case manage proceedings before them on an individual basis, there is no comprehensive case

management framework (including appropriate rules and practice directions) for the child protection jurisdiction.[13]

To commence an application for an assessment order or child protection order, the department files an application and supporting affidavit. The matter is listed before a Childrens Court magistrate and can be frequently adjourned for various reasons, such as to convene a family group meeting to develop a case plan, to allow parents to obtain legal representation or for a separate representative to be appointed. If the application is contested, the matter is listed for a court-ordered conference, to be convened by a court-appointed convenor. If the matter does not settle at this conference, it is listed for a final hearing.

In theory, this Childrens Court process appears relatively simple. In practice, however, countless variations of that process can occur throughout the life of the matter. There is no identified list of issues to be explored at particular points in the process, such as whether all the parents relevant to the application have been identified, whether sibling matters should be heard together, or whether there are non-parties (such as extended family members) who wish to make submissions as provided for by s 113 of the Child Protection Act.[14] Currently there are no time limits that apply to any stage of the proceedings.

In 2011-12, 3,776 child protection applications were filed. In the same year 12,709 interim orders and 4,356 child protection orders were made (Magistrates Court of Queensland 2012). The relatively high number of interim orders suggests a high rate of mentions and adjournments. It could be argued that mentions and interim orders are one mechanism for the court to ensure case management in individual matters. However, that approach does not factor in the financial and emotional drain of numerous mentions on legally aided parents, children and young people or indeed self-represented litigants. Currently, legal aid funding offers a grant of aid for a maximum of three mentions (Legal Aid Queensland 2012). Any grants of aid for mentions above that number will require further applications for aid and a clear justification of why they are needed.

As Table 12 (above) shows, in 2011–12 there were 248 child protection applications pending that were between 6 and 12 months old and 111 matters that were more than 12 months old. A range of legal stakeholders have offered support for the introduction of a case management system, in the belief that this will improve the timeliness and effectiveness of court processes. Legal Aid Queensland has submitted:

> One of the most significant improvements to the child protection court process would be the establishment of a court case management system, supported by rules of court and practice directions. A case management system for child protection litigation would establish a defined litigation process by outlining a sequence of events that would progress matters in a child focussed, efficient and timely way.[15]

A range of case management models existing in other jurisdictions have been highlighted in submissions.

Less Adversarial Trial family court model

The Less Adversarial Trial model is considered to be 'one of the most significant achievements of the Family Court' (Bryant 2010, p6). The model was trialled in Sydney and Parramatta Family Court in 2004–05 and in Melbourne Family Court in 2005 under the title *Children's cases pilot program*. The model is founded on principles of 'respect, mutuality and inclusion, all of which are hallmarks of a collaborative approach' (Bryant 2010, p6).

The Less Adversarial Trial model was entrenched in legislation through the 2006 Family Law Act amendments. At this time, Division 12A of the *Family Law Act 1975* (Cth) was included, which allowed judges of the Family Court to use inquisitorial methods to focus on specific issues and on arrangements that are in the best interests of the child (Cummins, Scott & Scales 2012). This process is set out in Principles 1 and 2 of Division 12A (s 69ZN of the Family Law Act):

- Principle 1: the court is to consider the needs of the child concerned and the impact that the conduct of the proceedings may have on the child in determining the conduct of the proceedings
- Principle 2: the court is to actively direct, control and manage the conduct of the proceedings.

Division 12A removed control from the parties to the proceedings (or their legal representatives) and placed it in the hands of the judge. The immediate focus must be one that is geared to the needs of the child. As a consequence of the new Division 12A procedures, parties are no longer free to conduct litigation as a forensic contest between each other at the expense of the interests of the child (Harrison 2007). Less adversarial and problem-solving approaches to children's matters are arguably better able to act as a 'check and balance on the executive's power to remove children' (Walsh & Douglas 2011, p650).

The allowance for the parties to speak directly to the judge, who determines how the trial will run, is integral to the Less Adversarial Trial model. This approach allows for the 'judicial officers to take an inquisitorial approach to proceedings, rather than merely adjudicating between two opposing sides' (Walsh & Douglas 2011, p650). This enables a collaborative approach and is essential for enabling single issues of disputed fact to be determined separately and, where warranted, for judgements to be delivered on single issues through the course of the trial. In Queensland this could be of particular benefit in relation to an early hearing and determination on the issue of harm.

The parties themselves are actively involved in the process. The Less Adversarial Trial model enables the judge, in concert with the parties, to determine which issues are contentious and which are not, to direct the evidence to be filed in the proceedings, and to make directions for the conduct of the trial on the first day. This is an essential procedural element, one that allows the parties to talk to the judge without interference from legal representatives, and to consider the issues in dispute. Early evaluations of the model indicated that a 'less adversarial approach can deliver a

faster result, at less cost to the parties, and one which has a higher level of satisfaction for the parties' (Bryant 2010, p7).

The Cummins Inquiry (Cummins, Scott & Scales 2012) highlights that both the Victorian Children's Court and the Law Institute of Victoria support the adoption of the Less Adversarial Trial model. The Victorian Law Reform Commission endorses the conduct of matters under Division 12A of the Family Law Act as an 'excellent model'. The Cummins Inquiry recommends that the Children's Court be empowered through legislative amendment to conduct matters in a similar manner to the way in which the Family Court of Australia conducts matters under Division 12A of the Family Law Act (Cth).

There is no doubt that due consideration of the Less Adversarial Trial model is a worthwhile exercise, but there are limitations which suggest that a wholesale adoption of this approach in practice may not be appropriate for child protection matters. The evaluation of the *Children's cases pilot program: a report to the Family Court of Australia*, presented in June 2006 and conducted by Professor Rosemary Hunter, has highlighted a number of practical difficulties for incorporation of this program into the current child protection system. The primary objective of the originating children's cases program was to 'achieve better outcomes for children, by means of a less adversarial and more child focused court process, and either directly or indirectly providing assistance to the parties that would enable them to parent more co-operatively in the long term' (Hunter 2006, p234).

The entry into the children's cases program by consent of the participants is an integral aspect of the program from a participatory framework and a procedural perspective. This indicates that the success of the program is more likely when participation is given freely. Although it is understandable that private family law issues can be complex, almost all child protection matters are further complicated by significant disadvantage and marginalisation, combined with the interference by the state and the power of the state as a litigant. Further, there are no provisions for the participation or representation of grandparents, extended family members or siblings in the children's cases program. The children's cases program is a specific and valuable source for use in the family law arena, but it is arguable that it does not make provision for the specialised understanding needed, to handle multiple parties and the associated complexities in child protection matters.

Professor Hunter observed that cases involving allegations of domestic violence were viewed as posing the 'greatest challenges for Division 12A proceedings' (2006, p231). The children's cases program was to be used for family court disputes where it was accepted that the dispute was a product of parental conflict, and that 'parties needed to set aside that conflict and if possible mend their parental relationship, in order to promote their children's welfare, this premise does not hold in domestic violence cases' (Hunter 2006, p231). The very nature of domestic violence involves one of the 'parties exercising power and control over the other, in this situation children are likely to be damaged by the abuse perpetrated by one of their parents against the other' (Hunter 2006, p231). Another issue raised in relation to the children's cases program is

a court reliance on lawyers to protect vulnerable clients. It was argued that 'not all legal representatives are attuned to issues of violence, take instructions on that issue, or act to ensure the safety of their client and the children' (Hunter 2006, p233).

Domestic violence is not uncommon in child protection matters. The implicit principles on which the children's cases program was founded, and on which the Less Adversarial Trial model is based – such as setting aside the conflict, mending the parental relationship, that contact with both parents is good for children, looking to the future rather than the past and avoiding adversarialism (Hunter 2006, pp231–2) – further highlight that the children's cases program model used in the private family court context may not directly apply to child protection proceedings without appropriate adaptation. Any model adapted for the child protection jurisdiction would need to appropriately and adequately address the inherent power imbalance in proceedings involving the state against the individual parent, child, young person or other family member.

Docket systems

The Cummins Inquiry considered the introduction of a docket system to be used in conjunction with the Less Adversarial Trial model. A docket system allows for the assignment of one judicial officer to oversee a protection matter from commencement to conclusion, and is seen as providing the opportunity for a more inquisitorial approach to the court process (Cummins, Scott & Scales 2012). This model would help to address concerns that court resources, including judges, magistrates and staff, can be better used in managing the court process for matters that require specialist knowledge and understanding of the critical issues. In particular, this might include matters involving Aboriginal and Torres Strait Islander families and those involving sexual abuse allegations. Cases would be assigned to specialist lists, allowing for greater consistency and case management. The Victorian Children's Court has supported the introduction of a docketing system and has recommended the piloting of the system in an appropriate court location.[16]

Magellan

An evaluation of the Magellan case management model further highlights a number of benefits of the 'one child, one judge' system (Higgins 2007). The Magellan system is a Family Court case management model that manages cases where one or both parties have raised serious allegations of sexual or physical abuse of children in the context of a parenting dispute (Higgins 2007). The Queensland Law Society suggests that this approach is worthy of consideration for child protection matters: [17]

> Litigant satisfaction is high, compared to lots of frustration ... They are satisfied that they've been dealt with, with respect. It's better coming to Court and having the same judicial officers, not being put off. The fact that the Judge is doing it raises the performance level of everyone. When clients have different Registrars, Judges, and so on, clients complain ... It's important to maintain the same judicial officer ... (Higgins 2007, p130)

Having a single judge responsible for managing a matter also increases the likelihood of a consistent approach across the life of the matter. This provides greater confidence for the legal profession in predicting how a matter will proceed, and builds trust between the parties and the court. Further, the satisfaction of litigants that their story will be remembered and understood is vital to the principles of procedural fairness and natural justice.

A judge-led case management process also affects other elements of the process: all the other stakeholders, the independent children's lawyer (best interests legal representatives for children and young people in private family law), lawyers for each of the parties, the family consultant and other expert witnesses all fall under the direction of the judge rather than the registrar. Judges involved in the case management process felt that these factors have led to improved compliance (Higgins 2007).

Judges within the Magellan system have emphasised that a judge-led process communicates an important perception to the parties. In many ways this approach does not necessarily deliver different outcomes, but improves the mechanisms by which those outcomes are arrived at (Higgins 2007).

Although the Magellan model relates to the Family Court system, the problems being dealt with have very similar elements to those being dealt with in the child protection arena (child harm, abuse, neglect, parental alcohol and substance misuse, mental health, homelessness, violence, low socio-economic status and overall marginalisation). It is accepted that these factors further complicate and dominate the child protection system.

Question 37

Should a judge-led case management process be established for child protection proceedings? If so, what should be the key features of such a regime?

10.2.2 Case management and disclosure in child protection matters

Section 190 of the Child Protection Act outlines the law in relation to disclosure of departmental records to a party in a court proceeding. These provisions, and the use of subpoenas, are currently the only mechanisms that enable respondents to gain access to relevant departmental material (other than filed affidavits). The current Childrens Court Rules (and indeed the consultation draft referred to below) allow for the production of documents in a proceeding by way of subpoena. There is no provision for a process of general disclosure as provided for in the Uniform Civil Procedure Rules or the Criminal Code. It is arguable that an interpretation of s 190 of the Child Protection Act suggests that there is no positive duty of disclosure on the department. In the

absence of a clear and unequivocal requirement to disclose, the Childrens Court Rules cannot impose that duty. Further, the current process of issuing subpoenas causes delay, and is a difficult and cumbersome process for self-represented litigants to understand and negotiate.

In the interests of procedural fairness and natural justice, it is arguable that these barriers to disclosure should not be maintained, and indeed a positive duty to disclose should be established because of the importance of the decisions being made and the cost considerations for self-represented and legally aided clients. The court's discretion to accept that certain documents ought not be disclosed, because of their sensitive nature and the risk of any ongoing investigation in child protection matters being compromised, could be maintained under any proposed disclosure regime. In the Moynihan review of the civil and criminal justice system in Queensland, His Honour stated:

> Timely disclosure minimises delay and supports the effective use of public resources. It fosters early pleas of guilty, founds negotiations and reduces wasting resources. Proper and timely disclosure also serves to balance the inequality of power and resources between the executive government (the prosecution) and an accused (citizen charged with an offence). (Moynihan 2008, p86)

The same arguments are easily applied to the child protection jurisdiction.

A range of legal stakeholders have identified the lack of a clear regime to give full and frank disclosure to the other parties in the proceedings of all relevant material relied on by the department in making its decision.[18] This can include original case file documents, risk assessments, relevant witness statements and expert reports that have been considered by the department in its decision-making. The Women's Legal Service points out that:

> … there is no requirement under the Child Protection Act for the Child Protection Agency to provide full disclosure of its material to a party other than a separate representative. The lack of full disclosure of material not only deprives other parties of their right to natural justice it also impedes a party from securing ongoing legal aid funding.[19]

South West Brisbane Community Legal Centre observes:

> We have noted a broad frustration among parties and practitioners resulting from the refusal by the Department to disclose materials at a timely stage and forcing the parties to rely on subpoenas and right to information requests, the Department being unable or unwilling to negotiate an outcome in a matter until the morning of the trial when Crown Law becomes involved.[20]

According to the Queensland Law Society there is:

> … no other litigation involving the State acting as a model litigant that requires a party to the dispute to subpoena the model litigant for disclosure of material that is relevant to the dispute/litigation. It is concerning that an application can be brought against a person, and that person does not have the right to have the full details and supporting

> documentation. We consider that this brings into question issues of natural justice and procedural fairness in these important matters.[21]

This lack of disclosure strikes at the heart of a fair and transparent process:

> … the principles of natural justice and procedural fairness (used interchangeably here) have always been central to the common law and its protections against abuses of State power. In Kioa v West, Mason J explained that it is a 'fundamental rule of the common law doctrine of natural justice' that 'generally speaking, when an order is to be made which will deprive a person of some right or interest or the legitimate expectation of a benefit, he is entitled to know the case sought to be made against him and to be given an opportunity of replying to it.' In addition, the principles of natural justice forbid participation in a decision by a person who is affected by ostensible or actual bias. The dictates of the rules of procedural fairness are those 'which are appropriate and adapted to the circumstances of the particular case, having regard to the intention of the legislature, and any expectations that the particular Act brings about. The decision-making process as a whole, rather than just isolated "sub-decisions", must be looked to in order to determine whether or not procedural fairness has occurred …' (Walsh & Douglas 2012)

Any duty of disclosure could have due regard to establishing appropriate safeguards: for example, in circumstances where the release of the information would compromise the safety of the child or where there is a serious public interest consideration. Any provision in this regard might be informed by the Criminal Code, Uniform Civil Procedure Rules and Family Law Rules, although this should be appropriately adapted to suit child protection litigation. The duty of disclosure could also be supported by the development of a case management guide similar to the United Kingdom's Public Law Outline (see below).

In 2010, the Department of Justice and Attorney-General began a review of the Childrens Court Rules. This review sought submissions from stakeholders about the process of court proceedings in the Childrens Court. Stakeholders included the department, Legal Aid Queensland, the Queensland Law Society and the Bar Association of Queensland. The Department of Justice and Attorney-General is in the process of negotiating amendments to the current rules and the Commission has considered this consultation in the context of its own work. These amendments are a crucial starting point.

Adapting the United Kingdom Public Law Outline to establish a disclosure regime

In April 2008, the United Kingdom reformed its child protection proceedings after the 2006 *Review of the child care proceedings system in England and Wales* (Department of Constitutional Affairs and Department for Education and Skills 2006). Reforms were implemented through the introduction of:

- Practice Direction: Guide to Case Management in Public Law Outline, initially a 41-page document produced by the Ministry of Justice

- Children Act 1989 Guidance and Regulations, Volume 1: Court Orders in England, and the Children Act 1989 Guidance and Regulations, Volume 1: Court Orders (Wales) in Wales.

The overall aim of these reforms was to ensure the efficiency of child protection proceedings by reducing delay and improving outcomes for families with children in care. The reforms focused on the department's equivalent agency in the United Kingdom undertaking a number of pre-proceedings processes to provide an opportunity for the social worker to work with the family (with the intention of avoiding a contested court proceeding) and to ensure that all necessary information would be put before the court if and once proceedings were initiated.

In 2009, the Public Law Outline was reviewed by the Ministry of Justice (Jessiman, Keogh & Brophy 2009). The review found overall that the Public Law Outline provided clear structure for child protection proceedings, but it did note that there were inconsistencies in compliance with the requirements and that the paperwork was overly burdensome for local authorities. As a result of this finding, the Public Law Outline was revised to a 31-page practice direction.[22] The revised Public Law Outline sought to reduce the number of documents required at the time of issue of the application, and to further clarify the 'timetable for the child principle'.

The main principles of the Public Law Outline were to ensure continuity and consistency for the progress and determination of child protection matters. This involved allocating no more than two case management judges for each matter, who are responsible for every stage in the proceedings through to final hearing. Each case is managed in a consistent way, using standard steps detailed in the Public Law Outline.

There are four stages prescribed by the Public Law Outline:

- Issue and first appointment. The local authority files the C110 application form[23] and annexes documents where available (in compliance with the pre-proceedings checklist).[24] At the point of filing, the court gives standard directions.[25] By day 3, the relevant children's guardian should be allocated and the local authority serves all the documents on the parties. By day 6, the first appointment is to occur, in which the court will confirm initial case management directions to progress the matter through stages 2–3.
- Case management conference (to occur no later than day 45). The conference should identify the issues that need to be resolved, confirm the timetable for the child and provide case management directions. An advocates meeting occurs no later than two days before the case management conference. This meeting allows legal representatives to draft a case management order for the upcoming case management conference (to be filed before the case management conference), identify experts and draft questions for them. In this meeting, legal representatives should consider information on the application form, case summaries from all other parties, case analysis and recommendations.

- Issues resolution hearing to occur between weeks 16 and 25. The hearing is used to resolve and narrow issues in dispute. An advocates meeting is to occur between days 2 and 7 before this hearing, in which parties are to consider each other's case summaries, case analysis and recommendations, and draft a case management order (which is to be filed before the issues resolution hearing).
- Final hearing.

10.2.3 Specialist Children's Court magistrates or availability of specialist expertise

A range of stakeholders have made submissions to the Commission supporting a specialist jurisdiction for child protection matters, including calls for the appointment of additional dedicated specialist magistrates.[26] It is argued that a specialist child protection jurisdiction could be created for decision-making for children and young people. The Queensland Law Society highlights this point and states:[27]

> In other states the magistracy contains several specialised Childrens Court magistrates. For example:
>
> - In NSW, there are 13 specialist children's magistrates and five children's registrars to assist in administrative matters in the Children's Court
> - In Victoria, there are 12 full-time Children's Court magistrates
> - In Western Australia, there are four full-time Children's Court magistrates and one casual magistrate
> - In South Australia, there are two District Court judges and two specialist magistrates
> - In Tasmania, there is one specialist magistrate.

Tilbury and Mazerolle (in press) note that the limited skills and specialisation among Queensland magistrates and judges in relation to children's matters was a strong theme in consultations they conducted. However, they also note that the size of the state and its decentralised population were seen as barriers to increased specialisation, as resources dictate that local courts must be generalist (Tilbury & Mazerolle (in press), pp18–9).

Given the vast extent of Queensland and the state's limited number of specialist magistrates, consideration should also be given to how non-specialist magistrates can use and get access to specialist expertise.

Section 107 of the Child Protection Act provides that the Childrens Court may appoint a person having special knowledge or skill to help the court. In reality, to have any utility such a power must be supported by an appropriate budget allocation. The Queensland Civil and Administrative Tribunal model provides the potential for a multi-disciplinary team from a range of professional disciplines to constitute the decision-making panel. The decisions made in child protection law by both the Childrens Court and the

Queensland Civil and Administrative Tribunal intersect with a wide range of social science considerations, including attachment theory, an understanding of child development, risk assessments and psychiatric assessments. The Commission has heard from a range of mental health professionals about developments in that field in understanding the impact of long-term abuse on brain development in children.[28] The challenge is for decision-makers and lawyers to keep abreast of significant developments in various research fields. In matters involving Aboriginal and Torres Strait Islanders, families from culturally and linguistically diverse backgrounds, or families with members who have cognitive or other impairments, magistrates may need help to understand family and parenting practices.

Children's Court clinics

The Children's Court of Victoria has access to the Children's Court Clinic: 'an independent body which conducts assessments and provides reports on children and their families at the request of the Children's Court magistrates throughout Victoria' (Children's Court of Victoria 2011a, p31). In 2010–11, the clinic received 613 child protection referrals. In the same year, 3,317 child protection applications were initiated in the Family Division. The clinic is funded by the Children's Court of Victoria (Children's Court of Victoria 2011b).

The Australian Law Reform Commission noted that the clinic was generally well regarded and functioned efficiently (Australian Law Reform Commission 1997). The Commission recommended that similar clinics be incorporated into children's courts nationwide. The Australian Law Reform Commission observed that such clinics are of benefit in child protection matters, given that they offer consistent clinical assessment of what are usually complex family dynamics involving vulnerable people and sometimes disturbing facts or situations. The report noted that the clinics would need to be adequately resourced to provide the court and legal representatives with expert advice on the best interests of the child. Contrary to this recommendation, not all states have access to Children's Court clinics.

New South Wales also has a Children's Court clinic, which was established under s 15B of the *Children and Young Persons (Care and Protection) Act 1998.* The clinic provides independent clinical assessment of children and families to the Children's Court when required, pursuant to sections 52–59 of the Act.

Further, it is acknowledged that the Family Court and the Federal Magistrates Court use in-house family consultants who are available to complete family reports at the request of the courts and provide counselling for parties if needed.

In the Queensland context, if an independent assessment is required, such reports are commissioned by parties to the child protection proceedings. In practice this is mainly the department and the separate representative. Anecdotal evidence suggests that there are often significant time delays involved in commissioning such reports, and there is a particular problem with lack of skilled assessors available in rural and remote

areas to complete such work. There also could be a disparity in the quality of relevant reports paid for by the department compared with those paid for by a separate representative who is legally aided, given the different amounts of funding allocated for these services.[29]

Question 38

Should the number of dedicated specialist Childrens Court magistrates be increased? If so, where should they be located?

Question 39

What sort of expert advice should the Childrens Court have access to, and in what kinds of decisions should the court be seeking advice?

10.2.5 Applications for long-term guardianship orders

A long-term guardianship order provides for the department or a suitable person to have guardianship decision-making for a child up to the age of 18 years. Currently the order is made by a Childrens Court magistrate. The Queensland Law Society has submitted to the Commission that:

> Given the seriousness and significance of these orders for children and their families, perhaps there would be some benefit in these decisions lying with the higher jurisdiction. We note that a provision allowing for this would be comparable to s 77, Youth Justice Act 1992 where a Magistrate is to refrain from exercising its jurisdiction to determine an indictable offence unless it is satisfied that the charge can be adequately dealt with summarily by the court. Also s 39, Federal Magistrates Act 1999 and Rule 8.02, Federal Magistrates Court Rules 2001 provide for the factors to be considered when transferring a matter from the Federal Magistrates Court to the Federal Court or the Family Court.[30]

In the United Kingdom, child protection matters can be heard at three levels:

- Magistrate Court level in the family proceedings court. The matter will be heard by a District Court judge and possibly two magistrates (non-legally qualified individuals who have been specifically trained to hear cases about children and families).
- County (District) Court level in the family proceedings court. The matter will be heard by a District Court judge.
- Complex matters are heard in the family division of the High Court, headed by the President, which has jurisdiction to hear, among other matters, all matrimonial matters, the *Children Act 1989* (UK) and the *Child Abduction and Custody Act 1985* (UK).

As pointed out by the Queensland Law Society, when dealing with children's issues, a similar jurisdictional distinction is made in Australia between the Federal Magistrates Court of Australia and the Family Court of Australia.

Another issue regarding long-term guardianship was raised by the Aboriginal and Torres Strait Islander Legal Service, which submitted that 'when determining applications for long term guardianship, the inquiry should consider recommending legislative reform to raise the standard of proof to "must be satisfied to a high level of probability"'.[31]

Question 40

Should certain applications for child protection orders (such as those seeking guardianship or, at the very least, long-term guardianship until a child is 18) be elevated for consideration by a Childrens Court judge or a Justice of the Supreme Court of Queensland?

10.2.6 Alternative dispute resolution processes

Current arrangements in Queensland

Currently in Queensland there are two mechanisms that could be considered alternative dispute resolution processes available in child protection matters before the Childrens Court:

- family group meetings (convened by the department)
- court-ordered conferences (in the Childrens Court and convened by the Department of Justice and Attorney-General).

Family group meetings

The 2004 Crime and Misconduct Commission report on abuse in foster care made a number of recommendations in relation to case planning, including that:

- the department conduct family group meetings for all children requiring protection (recommendation 7.37)
- case plans must be submitted to the court before an order can be made (recommendation 7.38)
- case plan reviews are carried out every six months (recommendation 7.36)
- all relevant stakeholders are invited to participate in every planning meeting (recommendation 7.39) (Crime and Misconduct Commission 2004).

In 2005, further legislative amendments were commenced to address these recommendations.[32]

Section 51C of the Child Protection Act requires that the chief executive must ensure that a case plan is developed for each child in need of protection and who needs ongoing help under the Act. It must be carried out in a way that enables timely decision-making, is consistent with the principles of the Act and encourages and facilitates the participation of all attendees (s 51D of the Act). Section 51G of the Child Protection Act states that the purposes of family group meetings are to provide family-based responses to children's protection and care needs and to ensure an inclusive process for planning and decision-making relating to children's wellbeing, protection and care needs.

Section 51H of the Child Protection Act requires that a family group meeting be convened:

- to develop a case plan
- to review a case plan and prepare a revised case plan
- to consider, make recommendations about, or otherwise deal with, another matter relating to the child's wellbeing, protection and care needs
- if the Childrens Court orders that it must be convened under s 68 of the Act.

For Aboriginal and Torres Strait Islander families, s 6(5) of the Child Protection Act provides that:

> ... as far as is reasonably practicable, the chief executive or an authorised officer must try to conduct consultations, negotiations, family group meetings and other proceedings involving an Aboriginal person or Torres Strait Islander (whether a child or not) in a way and in a place that is appropriate to Aboriginal tradition or Island custom.

In Chapter 7 above the Commission proposed that legislative changes be made to delegate the coordination and facilitation of family group meetings for Aboriginal and Torres Strait Islander families to suitably accredited Aboriginal and Torres Strait Islander child and family wellbeing services (see 7.3.1).

The Commission has received submissions observing that the current family group meeting process in Queensland could benefit from aspects of the family group conferencing model adopted in New Zealand.[33] However, it should be noted that the legislative amendments that introduced family group meetings in 2005 were in fact based, in part, on consideration of the New Zealand model (Harris 2008; Department of Communities, Child Safety and Disability Services 2012f). In his Second Reading speech, Minister Reynolds observed:

> Provision for these meetings is consistent with contemporary best practice approaches in child protection and with models in other jurisdictions within Australia and in other countries, such as the United Kingdom, the United States and New Zealand.[34]

To guide practice, the department has outlined how to prepare for and participate in family group meetings and case planning in the *Child safety practice manual* (Department of Communities, Child Safety and Disability Services 2012c) and has developed a *Family group meeting convenor handbook* (Department of Communities, Child Safety and Disability Services 2012f). Although both are valuable resources, there is a strong focus on preparation of departmental participants rather than non-departmental participants such as children, young people and families. It is important that resources are developed to support family group meetings and that other similar processes emphasise the importance of the genuine participation of children, young people and their families.

A number of stakeholders have made submissions to the Commission that a major failure of the current family group meeting model is that the meeting convenor is a departmental officer and is not independent of the department, and that the meetings are held at Child Safety service centres.[35] There is provision in the Child Protection Act for a private convenor to be appointed to facilitate these meetings.[36] Since the introduction of the family group meeting process in Queensland, a range of convenor options have been adopted, including outsourcing to a private convenor, establishing a dedicated specialist position or, in certain instances, using another departmental officer, preferably one who does not have any decision-making responsibility for the matter (Murray 2007). It is worth noting that Harris (2008) has commented that, although New Zealand facilitators are employed by the child protection service, they are employed within specialist positions.

The risk of a preparation process that is focused significantly on departmental participants is that it may serve to reinforce any existing power imbalance. The Commission is advised that some family group meeting convenors make time to meet with children, young people and their families to redress this imbalance. However, it would appear that overall the current departmental approach to family group meetings has lost sight of the importance of 'private family time' in involving and empowering the family to identify placement options, support contact arrangements and assist in developing responses to solve the identified child protection problems.[37] This is a key feature of the Maori model and is more in the spirit of developing a partnership between the family, departmental officers and other professionals to work on addressing child protection concerns and building parenting capacity.

The Family Inclusion Network has observed that parents, faced with an imbalance of power in the family group meeting, report feeling anxious, intimidated and compelled to agree to unreasonable conditions and targets (2007, p6). Though Healy, Darlington and Yellowlees (2012) comment that family group conferencing is a solution-based and collaborative decision-making model that aims to share the power and responsibility for decisions about children, their observational study of 11 family group meetings found that there was no legal requirement for families to be offered private family time or for the family group meeting to be held at a neutral venue.

The Australian Association of Social Workers has similarly observed that 'there is a dominance of professional voices and the absence of opportunities for private family time'.[38] This potentially intimidating environment is a major problem for Aboriginal and Torres Strait Islander families, for those from culturally and linguistically diverse backgrounds (especially those who have war and refugee experiences) and for those with reduced cognitive impairment. Firestone (2009, p102) observes that, for parents:

> … the issues discussed are deeply personal and the consequences are much more significant in their day-to-day lives. As a result, when children have been removed from the home, it is typically the parents who feel a greater pressure to settle the dispute and compromise early, in the hope that their children will be returned to their care sooner. Ironically, the greater increased personal stake that parents have in the outcome can actually contribute to their disempowerment.

Cultural differences in communication norms and language difficulties may not be adequately identified or understood, with a risk that the family does not feel supported to contribute to discussions and, more importantly, decision-making.

Legal Aid Queensland observes that key opportunities to inform and engage families are not being effectively used and are becoming an 'overly bureaucratic exercise'.[39] Section 51X of the Child Protection Act provides for the preparation of a review report in relation to case planning. This is an important process to review progress to date to determine whether or not the case plan goals have been achieved. This review should apply not only to the family but also to the department. Although it would be most beneficial if the review report was available before the family group meeting to help the family to prepare, this is usually not the case. South West Brisbane Community Legal Centre has commented: 'Section 51X reviews are not completed until after the case planning meeting and are not used to guide the development of the new case plan.'[40] Further, key assessments that the department intends to rely on to support decision-making should be available in advance for consideration.

There is a provision in s 51M of the Child Protection Act that the department should provide information to the family about the details of the family group meeting beforehand, including who will be attending. This is not always used in a way that is helpful to the family as they prepare. The Aboriginal and Torres Strait Islander Women's Legal and Advocacy Service proposes 'consulting with families prior to family group meetings to see whether there are extended family or community members who should be involved in case planning and also to ascertain whether changes could be made to make the process more comfortable for the participants'.[41] A lack of meaningful cultural planning and the inadequate cultural competence of some departmental officers have been highlighted as barriers to participation in practice.[42]

Family group meetings that discuss case planning can become particularly combative when litigation is under way. The department may try to argue that a family group meeting to discuss a case plan is about case planning only and is entirely separate from the court process. The Australian Association of Social Workers (Queensland) argues that 'family group meetings may be used by child safety officers as a forum for

collecting evidence against families' and the intent of the family group meeting process has been 'diminished as workers experience the pressure to meet both Court and performance obligations'.[43] In contrast, lawyers consider a case plan to be a crucial piece of evidence and a family group meeting a crucial opportunity to advocate for their clients. Indeed, s 59 of the Child Protection Act provides that the Childrens Court Queensland cannot make a child protection order without a case plan. In litigation, lawyers for parents will seek to argue that case planning has not provided an adequate opportunity for parents to demonstrate that they are willing and able. Lawyers for children (both separate representatives and direct representatives) will seek to argue that, unless their clients' needs are adequately and appropriately addressed in a case plan, the lawyers may not be able to support the making of the order sought by the department.

Question 41

What, if any, changes should be made to the family group meeting process to ensure that it is an effective mechanism for encouraging children, young people and families to participate in decision-making?

Court-ordered conferences

Section 59 of the Child Protection Act provides that, if a child protection matter before the court is contested, then a court-ordered conference should be convened, or at least a reasonable attempt to convene one should be made before the court may make a child protection order. The Child Protection Act and the Childrens Court Rules provide limited guidance as to how, when and why a court-ordered conference is convened. The court registrar must appoint a chairperson (the chair) to convene the conference as soon as practicable after the order is made and the chair 'must have the qualifications or experience prescribed under the rules of court made under the *Childrens Court Act 1992*' (s 69 of the Child Protection Act).

In relation to court-ordered conferences, the Child Protection Act provides:

- that the chair and the parties must attend the conference (s 70); a child is a party (as defined by the dictionary in the Child Protection Act) but is not compelled to attend; legal representatives and the recognised entity may attend, but all other attendees must obtain the chair's approval
- that discussions at the court-ordered conference are inadmissible in a proceeding before any court other than with the consent of all the parties (s 71)
- that the chair must file a report of the conference to indicate whether the parties have reached an agreement, to confirm a mention time or to set the matter down for final hearing (s 72).

Rule 19 of the Childrens Court Rules provides that the chair must have an ability to facilitate voluntary dispute resolution processes and a knowledge and understanding of the issues and processes for the protection of children under the Child Protection Act. The *Child safety practice manual* provides limited guidance to departmental officers, including only one reference to the court-ordered conference in its glossary of terms.

Table 14 shows some variations but no clear trend in the number of court-ordered conferences since 2005–06. The data does not enable us to know what proportion of matters involve a court-ordered conference – the number of lodgements shown in Table 12 relates to applications for both assessment and child protection orders (court-ordered conferences are only ordered to occur in applications for child protection orders).

Table 14: Court-ordered conferences, Office of Child Protection Conferencing, Department of Justice and Attorney-General, Queensland, 2005–06 to 2010–11

	2005–06	2006–07	2007–08	2008–09	2009–10	2010–11
Number of court-ordered conferences	583	632	748	705	638	596
Average case load per coordinator per month	19	26	22	20	18	17

Source: Department of Communities, Child Safety & Disability Services 2012a.

Currently there is a lack of clarity about at what stage in the child protection proceedings a court-ordered conference should be convened and for what purpose. Reading the provisions in the Child Protection Act and Childrens Court Rules in their totality, it is reasonably clear that the court-ordered conference is intended to provide an alternative dispute resolution process when a party does not agree with the department's application. It should be understood that when a party contests an application this could be in relation to all critical issues as set out in s 59 of the Child Protection Act (that is, harm, whether a parent is willing and able, whether the case plan or the order sought is appropriate) or could be limited to particular concerns such as the type of order sought. The court-ordered conference can be convened without the filing of all relevant material, including crucial expert assessments. This means that parents, children and young people are often at a disadvantage because the department is not required to outline its case at this point in the process. Legal Aid Queensland submits:

> … none of those matters can be addressed at a COC [court-ordered conference] unless there has been full disclosure by the Department of the evidence it has in respect of its intervention in the family. Lawyers representing parties in child protection proceedings cannot advise their clients to mediate about and/or accept untested allegations by Departmental officers if the evidentiary basis of the allegations has not been clearly disclosed. Without appropriate disclosure, there cannot be effective engagement in a COC.

> It is submitted that … COCs would offer a far more effective opportunity for settlement discussions if all parties have disclosed their positions and evidence in advance.
>
> The current model, where material is not filed until shortly before a trial, encourages settlement discussions on the first day of hearing rather than at the COC, causing matters to take longer to resolve and burdening the court with trials that must be catered for in the court diary but regularly do not proceed to a full hearing.[44]

Departmental officers who attend court-ordered conferences often do so without the benefit of formal legal advice before they attend and are not legally represented. This means they do not have access to advice to help them identify possible deficiencies in their own application. This can impair the ability to reach an agreement. Added to this, the relevant departmental decision-makers may not attend the court-ordered conference. This means that the delegated decision-maker with the authority to change the application for a child protection order is not present, often rendering settlement discussions ineffectual.[45]

In addition to these concerns, regional court-ordered conferences are often being held by phone because the current Department of Justice and Attorney-General convenors are based in Brisbane and only limited travel is approved.[46] This places Aboriginal and Torres Strait Islander, culturally and linguistically diverse families, and those with cognitive impairment at a particular disadvantage, and can undermine the building of rapport and trust. A further complication is the use of interpreters. Ms Diana McDonnell, acting manager of the Maryborough Child Safety service centre, reports that 'parents have voiced to the court coordinator that they feel undervalued and disempowered by the process'.[47]

The Queensland Law Society highlights that legal representation is not always available for parents at court-ordered conferences.[48] South West Brisbane Community Legal Centre submits that 'subject children are currently not allowed to attend court ordered conferences even when it is their application'.[49] Legal Aid Queensland has submitted that at the conclusion of the conference the court-ordered conference reports are filed with the Childrens Court by the chairperson pursuant to s 72 of the Child Protection Act, but are not subsequently served on all parties.[50]

Question 42

What, if any, changes should be made to court-ordered conferences to ensure that this is an effective mechanism for discussing possible settlement in child protection litigation?

Given the range of issues highlighted by stakeholders, it is arguable that family group meetings, court-ordered conferences and compulsory conferences (referred to below) need to be clearly established as models of alternative dispute resolution. This process

could involve consideration by the department, legal stakeholders and the courts and tribunals about:

- an accepted definition of alternative dispute resolution, guided by established terms
- development of a shared language and understanding about the aims of these processes (for example, Legal Aid Queensland in its submission recommends the adoption of the Signs of Safety model,[51] which is described in more detail in Chapter 4 of this discussion paper and further below)
- when these mechanisms should occur in the process of decision-making and litigation
- the establishment of guidelines for the operation of these mechanisms, giving due consideration to the inherent power imbalance in child protection proceedings and the concepts of natural justice and procedural fairness
- the qualifications and skills required for those convening these processes.

Firestone (2009) identifies some of the benefits of involving and empowering parents in child protection mediation:

- increased exchange of information among the parties
- greater input from all parties, leading to improvement in the quality of agreements
- reinforcement of the role of parents by providing them with the opportunity to contribute to solutions
- increased sense of ownership and understanding by parents of the agreement
- increased compliance with the agreement
- reduced conflict between parents and professionals and increased ability of the group to work effectively as a team
- increased confidence of parents in the child protection process.

Mayer (2009) highlights the importance of 'buy-in' by key stakeholders to effectively support conferencing and mediation models used in child protection, and proposes a range of strategies to do this, including providing training opportunities. Certainly, in the development of the Western Australian model explored below there has been a focus on this collaborative and multi-disciplinary approach.

A review of other jurisdictions

United Kingdom

As described earlier, the Public Law Outline[52] details the requirement for a number of conferences to occur throughout the care proceedings, to ensure that all parties and the court are in agreement about the issues in dispute and the facts that relate to each

issue. The outline details processes to occur pre-proceedings and includes a detailed pre-proceedings checklist of documents to be annexed to the application form after proceedings are filed.

Once the concerns of the local authority have reached a point where the threshold appears to have been met,[53] a meeting is held with the social workers and legal advisers (legal planning meeting/legal gateway meeting), and a decision is made as to whether the threshold has actually been met and whether the concerns require immediate legal action to ensure the child's safety. If a decision is made to apply for a protection order, but the concerns do not require immediate action, the social work team manager will issue a 'letter before proceedings'. This letter states that the local authority (social worker, manager) would like to meet with the parents and their legal representative to discuss the concerns with a view to reaching agreement on what should occur to safeguard the child. If no agreement is reached, the local authority will begin legal proceedings.

Once proceedings are commenced, regular advocacy meetings are to occur before each stage of the Public Law Outline to discuss and narrow issues in dispute in preparation for the case management conference and interim resolution hearing.

Victoria

The final report of the Protecting Victoria's Vulnerable Children Inquiry proposed multiple alternative dispute resolution opportunities at critical points in child protection proceedings. The Inquiry recommended:

- an initial family group meeting run by the department to determine child protection concerns
- a child safety conference once an application for a child protection order is commenced to appropriately divert matters away from the court where possible
- a new model conference before the trial to determine whether there is any possibility of settlement or, if not, to narrow the issues for the trial (Cummins, Scott & Scales 2012).
- The new model conference was trialled on particular cases in the Victorian Children's Court over a six-month period in 2010, and from January 2011 the model was applied to child protection matters. The trial was evaluated in 2012 and is being improved and expanded.

Western Australia

In Western Australia, the *Children and Community Services Act 2004* (WA) details the use of pre-hearing conferences (ss 136–137). Related to these provisions is *Practice Direction 1 of 2012 – Signs of Safety Pre-Hearing Conferences*, which notes that all parties must complete a Signs of Safety Pre-Hearing Conference document. This document gives a summary of disputed facts and other relevant information from each

party. The conference is to occur as early in the proceedings as possible. The Signs of Safety Pre-Hearing Conference is aimed at resolving protection applications early, in a less adversarial way and by involving family members informally. The aim of the conference is to be collaborative and to focus on the future protection of the child. Everything discussed in the conference is confidential, and it is presided over by a judge, a magistrate or a convenor appointed by the President of the Court.[54] There is also provision for a Signs of Safety lawyer-assisted pre-birth meeting to be conducted by a facilitator.

A pilot of the conference model began in November 2009 after collaboration between Legal Aid Western Australia, the Department of Child Protection, King Edward Memorial Hospital for Women and the Perth Children's Court. As part of the implementation of the pilot, Legal Aid Western Australia and the Department of Child Protection developed a training program for a combined pool of facilitators (who run the meetings) and convenors (who run the conferences) to prepare them for their roles in the pilot. They also provided a separate training program to lawyers representing the department, parents and children. Modelling the collaborative approach required in the process, each training group included legal practitioners from the Department of Child Protection, Legal Aid Western Australia, Aboriginal Legal Services, Community Legal Centres, private firms and support agencies. 'A team from Legal Aid [WA], the [Department of Child Protection] Legal Services and Best Practice Unit also provided seminars to staff at [departmental] district offices involved in the pilot (including Peel and Wheatbelt-Northam), to the President and magistrates of the Children's Court and to social work staff at King Edward' (Howieson & Coburn 2011, p19).

In March 2010 an evaluation of the pilot was commenced and a final report was published in June 2011. The final report noted:

> The primary finding of the Inquiry is that the Pilot is delivering a product that is more effective, inclusive and constructive than previous models. Most participants clearly acknowledge that the benefits of the Conferences and Meetings outweigh the risks, and hence the focus on the Pilot seems to have shifted from 'if' to 'how'. That is, instead of the participants asking the question, 'Should we have the Conferences and Meetings?' they are asking, 'How can the Conferences and Meetings work in the best possible way?' (Howieson & Coburn 2011)

The evaluation report made a number of recommendations to expand the pilot regionally, improve processes and develop child-inclusive models. It is arguable that the most interesting and important aspect of this work is the attempt to develop a common language and shared understanding of the purpose of the alternative dispute resolution models being employed. A recommendation for the next steps in the project's development is the need for greater collaboration between professionals to cement their understanding of Signs of Safety and the alternative dispute resolution framework, and to increase their confidence in these processes.

Chapter 4 of this discussion paper provides additional details about the Signs of Safety approach.

New South Wales

In New South Wales, s 65 of the *Children and Young Person (Care and Protection) Act 1998* (NSW) and Practice Note 3 detail the alternative dispute resolution process to be followed. A matter cannot proceed to a final hearing until such a process has been undertaken, unless a Children's Court registrar has dispensed with this requirement.[55] The conference is held before a Children's Court registrar and should be convened as soon as possible in the proceedings to facilitate early resolution. The conference may be held at different stages in the proceedings if deemed appropriate.[56]

Care Circles are currently used in New South Wales as an alternative avenue for care matters (once it has been established that a child is at risk) involving Aboriginal or Torres Strait Islander children. In 2008, the New South Wales Attorney General's Department began piloting the use of Care Circles in the Nowra region (Best 2011). Care Circles aim to increase the participation of Aboriginal families and communities in child protection proceedings before the Children's Court.

Care Circles may be convened at the discretion of a magistrate once a decision has been made that a child is in need of protection (Department of Attorney General and Justice 2011). The membership of the circles includes a magistrate, the Care Circle project officer, the child protection case worker and manager, the child's family and their legal representatives, and the child's legal representatives. Each circle is also attended by three trained Aboriginal community representatives.

Care Circles may provide input on a range of matters before the court, but they act in an advisory role only. The matters that may be considered by Care Circles include:

- what interim arrangement there should be for the care of the child
- what services and support can be made available to the family
- where the child should live
- what contact arrangements should be in place
- alternative family placements
- any other matters considered relevant to the child's care.

The Cultural and Indigenous Research Centre Australia (2010) has prepared an evaluation report on the New South Wales program based on nine Care Circles conducted in the Nowra pilot. They concluded that the families involved felt that the program provided opportunities for input that were not available in traditional court processes. In response to the report's favourable conclusions, the New South Wales Government expanded Care Circles to the Lismore region (Smith 2011).

In December 2012, the Australian Institute of Criminology released an evaluation of alternative dispute resolution initiatives in the care and protection jurisdiction of the New South Wales Children's Court. This report considered changes to alternative

dispute resolution processes that were implemented after the Wood Report recommended embedding alternative dispute resolution processes in care and protection proceedings (Morgan et al. 2012). The findings of the report are positive in many respects, suggesting ongoing use, and observing benefits in improving stakeholder relationships across the child protection sector and in resolving disputes, or at the very least narrowing the issues for dispute.

Implications for Queensland

Any future reform process in Queensland will greatly benefit from due consideration of the changes in all these jurisdictions. Two further challenges that Queensland faces are the need for access for rural and remote communities and, given the key problem of over-representation of Aboriginal and Torres Strait Islander families in the child protection jurisdiction, the need for a culturally appropriate alternative dispute resolution model.

10.3 Issues raised about the jurisdiction and role of the Queensland Civil and Administrative Tribunal

As noted earlier, the Queensland Civil and Administrative Tribunal can review administrative decisions of the department about the placement of a child and the contact arrangements concerning that child.

The Queensland Civil and Administrative Tribunal Act only has limited procedural provisions. Specific procedures that apply to these matters are set out in the *Queensland Civil and Administrative Tribunal Rules 2009* (QCAT Rules) and the President's practice directions. A new part inserted into the Child Protection Act on 1 October 2010 addresses the specific provision for the conduct of reviews under that Act, overriding the general procedural matters in the Queensland Civil and Administrative Tribunal Act to provide for these proceedings. Chapter 2A of the Child Protection Act specifically outlines:

- the guiding principles to which the tribunal must have regard
- how to make applications and send notices of application to the tribunal
- the constitution of the tribunal
- privacy of hearings and confidentiality
- children's participation in proceedings – including, for example, cross examination and legal representation
- the conduct of compulsory conferences
- how the tribunal's decisions and recommendations will be given effect.

10.3.1 Use of the review process

There are currently over 7,500 children and young people in the out-of-home care system, yet only 188 applications to review decisions under the Child Protection Act were made in the 2011–12 financial year (refer to Table 13).

Although this low number of review applications could mean that children, young people and families are largely satisfied with departmental decision-making, an alternative explanation offered by a number of stakeholders[57] is that there is a lack of awareness about the review rights of children and families in relation to these decisions, despite the requirement to notify them of these rights.[58] Of particular note is that the numbers of children and young people seeking review to the Queensland Civil and Administrative Tribunal is extremely low, with only four of the 2011–12 applicants being a child or young person (Table 15).

Table 15: Applicants for Children Services Tribunal and Queensland Civil and Administrative Tribunal reviews under the *Child Protection Act 1999* by applicant type, Queensland, 2007–08 to 2011–12

Applicant type	2007–08	2008–09	2009–10	2010–11	2011–12
	CST	CST	CST/QCAT	QCAT	QCAT
Carer	54	34	56	45	42
Parent	141	170	136	86	124
Relative	20	30	44	33	33
Child/young person	1	3	6	3	4
On behalf of child	25	18	Not captured	Not captured	Not captured

Source: Provided by Queensland Civil and Administrative Tribunal.

Notes: Numbers may not correspond with numbers for applications as more than one applicant may file a single review application.

10.3.2 Specialist expertise within the Queensland Civil and Administrative Tribunal

As noted earlier in the chapter, the Child Protection Act requires that the constitution of the Queensland Civil and Administrative Tribunal include members who are committed to the principles in the Act and who have an extensive professional knowledge and experience of children. Questions have been raised with the Commission about whether there has been or will be a loss of specialist expertise in child protection matters since making them part of the larger tribunal. Although the Australian Association of Social Work Queensland supported the tribunal as a multi-disciplinary review mechanism, it also submitted that:

> Key to an effective QCAT process remains having a multi disciplinary tribunal panel, with child protection expertise being crucial. The AASW would further support the need for an increased focus on ensuring all tribunal members have particular understanding

> and expertise in child protection matters, as opposed to general tribunal experience. Further, we would be considered [sic] if the current panel constitution is further diluted by opening this up to panel members with non child protection expertise.[59]

10.3.3 Other issues concerning Queensland Civil and Administrative Tribunal processes

Other issues raised with the Commission relate to natural justice and procedural fairness in Queensland Civil and Administrative Tribunal proceedings. The department may attend tribunal hearings (such as the compulsory conference) with a range of departmental officers, including past and present child safety officers, team leaders and in some instances Child Safety service centre managers. This means that a self-represented applicant could attend the Queensland Civil and Administrative Tribunal with anywhere between two and four departmental officers in attendance. These departmental officers often stay for the duration of the matter, taking part in discussions or waiting to see whether they are required. This can create an intimidating environment for applicants.

10.3.4 Alternative dispute resolution in the Queensland Civil and Administrative Tribunal– compulsory conference

Section 99N of the Child Protection Act provides for a compulsory conference and that it may be used to:

- identify information to be given to the tribunal by the parties
- give the parties information about the tribunal's practice and procedures
- refer the parties to alternative dispute resolution.

The Queensland Civil and Administrative Tribunal's website states that the aims of compulsory conferences are to:

- identify and clarify the issues between the parties
- find a solution to the dispute without proceeding to a hearing
- identify the questions to be decided by the tribunal
- make orders and give directions to resolve the dispute
- if the proceeding is not settled, to make orders and give directions about how the case will proceed so that it can be resolved (Queensland Civil and Administrative Tribunal 2012a).

In practice, the compulsory conference is the key alternative dispute resolution process used in the Queensland Civil and Administrative Tribunal. The tribunal has a practice direction that details the procedure to be followed if agreement is not reached at a compulsory conference.[60] The *Child safety practice manual* has no reference to Queensland Civil and Administrative Tribunal compulsory conferences.

In response to a request for information by the Commission, the tribunal provided the following information about applicable case management processes in child protection matters:

> **Step 1:** Upon receipt of applications for matters that fall under the Human Rights Division – Child Protection List the application is allocated to a registry officer based on the level of complexity of the application and experience of the staff. Registry staff follow procedures as detailed in the registry practices and procedures manual. The tribunal is also involved early upon receipt of the application and provides guidance to registry staff on how the application is case managed.
>
> **Step 2:** The decision maker (or Department) is sent an 'Information Notice to Decision-maker about Application for Review under section 99E (1) of the *Child Protection Act 1999*'. This notice requires the decision maker (the Department) to provide details to QCAT of parties who are entitled to apply for a review within seven (7) days of receiving such notice. Once those details are received by QCAT, the relevant notices are issued to all parties regarding the current application.
>
> **Step 3:** The decision maker (or Department) must provide the following to the tribunal in a reasonable period of not more than 28 days after the decision maker is given a copy of the application for the review, the written statement of reasons for the decision and any document or thing in the decision maker's possession or control that may be relevant to the tribunal's review of the decision. QCAT's Practice Direction 6 of 2011 'Access to documents in applications for review and referral matters' applies to require an indexed and page numbered bundle, in date or other logical order, of any documents or other things in its possession or control that may be relevant to the tribunal's review of the decision, or consideration of the matter to every other party to the proceedings.
>
> **Step 4:** A Stay Hearing (where requested)/Compulsory Conference is scheduled and a hearing scheduled if the matter is not resolved (for example, withdrawn, agreement reached etc). The Tribunal will in some instances, list the matter for directions hearing to assist in preparation for future proceedings. Directions to the parties are also commonly made at a compulsory conference.
>
> Prior to the Compulsory Conference registry staff communicate with parties by correspondence, phone and email. All outgoing correspondence has the name, direct phone number and email of the registry staff member.

The Queensland Civil and Administrative Tribunal has reported high settlement rates at the compulsory conference stage, but this should be assessed with caution.[61] From the perspective of the tribunal and the department this may be considered a positive result, but it is only meaningful if the department's undertakings given to support settlement negotiations in the Queensland Civil and Administrative Tribunal prove genuine once the matter is finalised before the tribunal. Furthermore, the withdrawal of applications before the tribunal requires further analysis to determine the reasons for withdrawal. The Queensland Public Interest Law Clearing House makes this observation about withdrawal:

> The aggrieved parent then withdrew their review application, as the decision which was the subject of the review no longer stood. Although this achieved a resolution of the

> matter for the parent concerned, it was a resolution which was achieved at significant expense, which did not hold the Department accountable for its erroneous decision-making, and which did not result in the development of any precedent which may be drawn upon to guide the Department, QCAT, and applicants who have commenced review proceedings about what is a good decision-making process. We understand the motivation for such an approach is non-adversarial resolution of matters where an ongoing relationship between the parent and/or carer and the Department is important. However, the value of formal decisions, which can have a normative effect on decision makers, is lost.[62]

The Commission has also heard from those legally representing or supporting applicants for review that the department will often provide lengthy reasons for decisions just prior to a compulsory conference, affording already marginalised and disadvantaged clients very little opportunity to consider what is often 'voluminous or complex material', yet there remains an expectation that these applicants must be ready to respond in the compulsory conference process.[63] This is despite the requirements set out in s 158 of the Queensland Civil and Administrative Tribunal Act in relation to notice of reasons being required 28 days before a compulsory conference. It is understandable that matters may be listed as a matter of urgency (such as stay proceedings), which may make compliance with this requirement difficult. However, it is still a concerning barrier to participation for marginalised and disadvantaged applicants, who often have literacy or language difficulties, cognitive impairment or mental health problems.

Question 43

What, if any, changes should be made to the compulsory conference process to ensure that it is an effective dispute resolution process in the Queensland Civil and Administrative Tribunal proceedings?

10.3.5 Interface between the Queensland Civil and Administrative Tribunal and the Childrens Court

Some submissions have argued that placement and contact decisions should be able to be made by the Childrens Court of Queensland where applications for assessment and child protection orders are ongoing. Both the Queensland Law Society and Legal Aid Queensland have argued that, where matters are before the Childrens Court for determination, decisions about placement and contact should be considered in that forum rather than by the Queensland Civil and Administrative Tribunal.[64]

The Child Protection Act currently provides that a review matter before the tribunal may be suspended if it relates to a matter already before the Childrens Court, if the President is satisfied that the matters would effectively decide the same issue and that the matters will be dealt with quickly by the court (s 99M). Legal Aid Queensland

submits that this review jurisdiction should be able to be exercised by the Childrens Court without reference from the Queensland Civil and Administrative Tribunal. It argues that the Childrens Court has the ability to appoint a person having specialist knowledge or skills pursuant to s 107 of the Act to replicate what happens at the tribunal (where the matter is often determined by a panel of three members – see section 10.1.2 above). This process would allow the court to make a decision dealing more comprehensively with all the circumstances of the child and would therefore be more efficient and in the best interests of the child.[65]

Question 44

Should the Childrens Court be empowered to deal with review applications about placement and contact instead of the Queensland Civil and Administrative Tribunal, and without reference to the tribunal where there are ongoing proceedings in the Childrens Court to which the review decision relates?

10.4 Issues still being considered by the Commission

The Commission is aware that there are other issues to be considered in relation to court and tribunal processes. Some of these are whether:

- the process of coming to a settlement agreement in child protection matters needs further legislative clarification – for example, should there be legislative recognition of 'consent' orders?
- there is adequate funding for and appropriately competent legal representation for all parties involved in child protection matters, including parents, children and departmental officers
- the range of child protection orders currently available is adequate and appropriate
- reform is needed to improve the involvement of recognised entities in providing cultural advice to the department, the Childrens Court of Queensland and the Queensland Civil and Administrative Tribunal
- there is a need for specialist training and accreditation for lawyers and decision-makers in child protection matters.

The Commission welcomes comment on these and any other matters that could help to make the court and tribunal processes in Queensland more effective.

Question 45

What other changes are needed to improve the effectiveness of the court and tribunal processes in child protection matters?

[1] *Child Protection Act 1999* (Qld) ch 2, part 3B.
[2] *Child Protection Act 1999* (Qld) ch 2, parts 2, 3, 3AA, 4.
[3] *Childrens Court Act 1992* (Qld) s 5. Note that it also provides for two justices of the peace to constitute the court if no magistrates are available.
[4] *Child Protection Act 1999* (Qld) s 61.
[5] *Childrens Court Act 1992* (Qld) ss 9, 10.
[6] *Childrens Court Act 1992* (Qld) s 8.
[7] *Childrens Court Act 1992* (Qld) s 5.
[8] *Child Protection Act 1999* (Qld) s 104.
[9] *Child Protection Act 1999* (Qld) s 105.
[10] *Child Protection Act 1999* (Qld) ss 51VA, 78, 86(2), 86(4), 87(2), 89, 129, 136–138, 140, 247, sch 2.
[11] *Child Protection Act 1999* (Qld) s 99H.
[12] *Child Protection Act 1999* (Qld) ss 5B(n), 66(3).
[13] *Childrens Court Act 1992* (Qld) s 8.
[14] Submission of Queensland Law Society, 19 October 2012 [p28].
[15] Submission of Legal Aid Queensland, 26 October 2012 [p11]. See also Submission of Queensland Law Society, 19 October 2012 [pp8–9]; Submission of Women's Legal Service, September 2012 [p4]; Submission of South West Brisbane Community Legal Centre, 28 September 2012 [p7].
[16] Children's Court of Victoria, Submission to the Protecting Victoria's Vulnerable Children Inquiry, April 2011 [p47].
[17] Submission of Queensland Law Society, 19 October 2012 [p36].
[18] Submission of Queensland Law Society, 19 October 2012 [pp8–9]; Submission of Legal Aid Queensland, 26 October 2012 [pp11–12]; Submission of Women's Legal Service, September 2012 [p4]; Submission of South West Brisbane Community Legal Centre, 28 September 2012 [p7].
[19] Submission of Women's Legal Service, September 2012 [p4].
[20] Submission of South West Brisbane Community Legal Centre, 28 September 2012 [p7].
[21] Submission of Queensland Law Society, 19 October 2012 [p9].
[22] Family Division, *Practice direction – public law proceedings guide to case management*, 6 April 2012.
[23] C110 Application under the Children Act 1989 for a care or supervision order form. Available from: ‹http://webarchive.nationalarchives.gov.uk/20110218200720/http://www.hmcourts-service.gov.uk/cms/479.htm›.
[24] This includes filing 'annex documents' – social work chronology, initial social work statement, initial and core assessments; letters before proceedings; schedule of proposed findings and care plan.
[25] Including pre-proceedings checklist compliance; allocate or transfer file; appoint children's guardian; appoint solicitor for child; case analysis for first appointment; appoint guardian ad litem or litigation friend for protected party or any non-subject child who is a party, including the official solicitor (i.e. akin to adult guardian), where appropriate, and list the matter for first appointment.
[26] Submission of South West Brisbane Community Legal Centre, 28 September 2012 [p8]; Submission of Youth Advocacy Centre, October 2012 [pp3–4]; Submission of Legal Aid Queensland, 26 October 2012 [p14]; Submission of Queensland Law Society, 19 October 2012 [pp39–41].
[27] Submission of Queensland Law Society, 19 October 2012 [p40].
[28] Exhibit 122, Submission of Brett McDermott, November 2012.
[29] Exhibit 114, Statement of Grant Thomson, 26 October 2012 [pp9–10].
[30] Submission of Queensland Law Society, 19 October 2012 [p9].

[31] Submission of Aboriginal and Torres Strait Islander Legal Service, 21 December 2012 [p28].
[32] *Child Protection Act 1999* (Qld) s 59, part 3A.
[33] Submission of Aboriginal and Torres Strait Islander Legal Service, November 2012 [p20].
[34] Hon. MF Reynolds, *Hansard*, Queensland, Legislative Assembly, 28 September 2004, p2399.
[35] Submission of Australian Association of Social Workers (Queensland), August 2012 [pp6–7]; Submission of Queensland Public Interest Law Clearing House, September 2012 [p19]; Submission of Aboriginal and Torres Strait Islander Women's Legal Service NQ, October 2012 [p13; p20]; Submission of Legal Aid Queensland, 26 October 2012 [p16]. See also Walsh and Douglas 2012.
[36] *Child Protection Act 1999* (Qld) s 51I.
[37] Submission of Aboriginal and Torres Strait Islander Legal Service, November 2012 [p20]; Submission of Australian Association of Social Workers (Queensland), August 2012 [p7].
[38] Submission of Australian Association of Social Workers (Queensland), August 2012 [p7]. See also Submission of Queensland Public Interest Law Clearing House, September 2012 [p18]; Submission of South West Brisbane Community Legal Centre, 28 September 2012 [pp5–6].
[39] Submission of Legal Aid Queensland, 26 October 2012 [p16].
[40] Submission of South West Brisbane Community Legal Centre, 28 September 2012 [p5].
[41] Submission of Aboriginal and Torres Strait Islander Women's Legal and Advocacy Service, September 2012 [p21].
[42] Submission of Aboriginal and Torres Strait Islander Legal Service, November 2012 [pp8–9]; Submission of Aboriginal and Torres Strait Islander Women's Legal Service NQ, October 2012 [pp11–12].
[43] Submission of Australian Association of Social Workers (Queensland), August 2012 [p6].
[44] Submission of Legal Aid Queensland, 26 October 2012 [p17].
[45] Submission of Aboriginal and Torres Strait Islander Legal Service, 21 December 2012 [p31].
[46] Submission of Legal Aid Queensland, 26 October 2012 [p18]; Statement of Diana McDonnell, 5 October 2012 [p7: para 54].
[47] Statement of Diana McDonnell, 5 October 2012 [p7: para 54].
[48] Submission of Queensland Law Society, 19 October 2012 [p17].
[49] Submission of South West Brisbane Community Legal Centre, 28 September 2012 [p7].
[50] Submission of Legal Aid Queensland, 26 October 2012 [p17].
[51] Submission of Legal Aid Queensland, 26 October 2012 [pp15–6].
[52] Family Procedure Rules, *Practice Direction 12A – public law proceedings guide to case management: April 2010*, 6 April 2010.
[53] *Children Act 1989* (UK) s 31.
[54] *Children and Community Services Act 2004* (WA) s 136(4).
[55] *Children and Young Persons (Care and Protection) Act 1998* (NSW) s 65(1A).
[56] Children's Court of New South Wales, *Practice Note No 3 – alternative dispute resolution procedures in the Children's Court*, 4 February 2011.
[57] Submission of Aboriginal and Torres Strait Islander Legal Service, November 2012 [p17]; Submission of Youth Advocacy Centre, October 2012 [p7]; Submission of Queensland Law Society, 19 October 2012 [p12]; Submission of Queensland Public Interest Law Clearing House, September 2012 [p5]; Submission of PeakCare Queensland, October 2012 [p96].
[58] *Child Protection Act 1992* (Qld) ss 85–86.
[59] Submission of Australian Association of Social Workers (Queensland), August 2012 [p16].
[60] Queensland Civil and Administrative Tribunal, *Practice Direction No 6 of 2010 – compulsory conferences and mediations*, 20 April 2010.
[61] Queensland Civil and Administrative Tribunal, *Practice Direction No 6 of 2010 – compulsory conferences and mediations*, 20 April 2010.
[62] Submission of Queensland Public Interest Law Clearing House, September 2012 [p19].

[63] Submission of Queensland Law Society, 19 October 2012 [p24]; Submission of Aboriginal and Torres Strait Islander Legal Service, 21 December 2012 [p30].
[64] Submission of Queensland Law Society, 19 October 2012 [pp18–9]; Submission of Legal Aid Queensland, 26 October 2012 [p15]. See also Submission of Aboriginal and Torres Strait Islander Legal Service, 21 December 2012 [p30].
[65] Submission of Legal Aid Queensland, 26 October 2012 [p15].

Chapter 11

Chapter 11

Funding for the child protection system

The Commission has been asked to determine:

> Whether the current use of available resources across the child protection system is adequate and whether resources could be used more efficiently.[1]

Paragraph 6 of the terms of reference also requires the Commissioner to make recommendations that:

> ... take into consideration the Interim Report of the Queensland Commission of Audit and the fiscal position of the State, and [that] should be affordable, deliverable, and provide effective and efficient outcomes.[2]

Many of the proposals put forward in the previous chapters might, if implemented as stand-alone initiatives, require greater financial investment in the system. These proposals include:

- increasing secondary support services to families and children at risk of entering the care system
- improving the retention rates and effectiveness of the frontline workforce
- improving case management for children and young people in the system
- providing more support for children and young people transitioning from care
- enhancing legal safeguards and processes for children, young people and their families who find themselves in the child protection system.

The terms of reference make it clear that the Commission is not to make unaffordable, undeliverable or aspirational reform recommendations that would be pointless or counterproductive. Bearing this in mind, the Commission envisages that any additional funds required to fund any of these initiatives would only be achievable to the extent that savings are able to be found in other areas of the system. The Commission notes, however, that additional short-term funding may be needed to reach improved long-term outcomes and efficiency goals and ensure the funding is not prematurely shifted

from existing services to meet the costs of proposed initiatives or priorities.

11.1 The Queensland Commission of Audit interim report

The Queensland Commission of Audit interim report released in June 2012 concluded that '… in recent years, the Government of Queensland embarked on an unsustainable level of spending which has jeopardised the financial position of the State' (Queensland Commission of Audit 2012).

The Commission of Audit interim report also specified that:

> In the Commission's view, the Queensland Government cannot continue to provide services to the same level or in the same way as at present. There is a need to:
>
> - review the range of services which should be provided by government
> - reprioritise and rationalise core service delivery functions; and
> - evaluate whether there may be better ways of delivering some services. (Queensland Commission of Audit 2012, pp10–11)

Child Safety is identified as one of six key areas where there has been a marked increase in expenditure between 2000–01 and 2010–11. The report identifies the Child Safety budget as a significant funding pressure posing a notable and ongoing risk to the state's financial position. If the current child protection system and associated funding model were to continue, this would constitute a major liability for the state (Queensland Commission of Audit 2012).

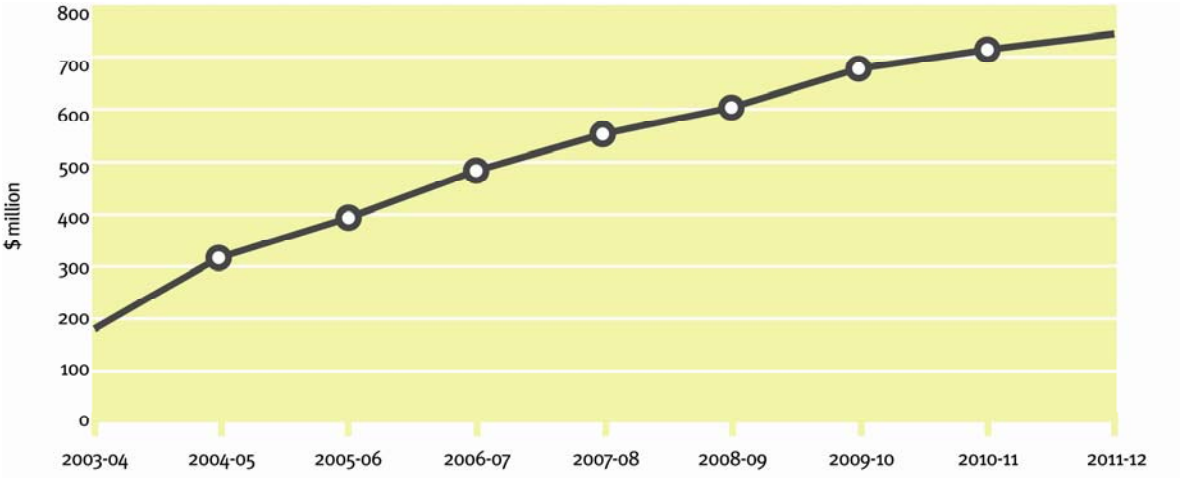
This Commission has been unambiguously tasked with positioning these budgetary issues at the centre of its consideration in reviewing the system and formulating final recommendations. The Audit Report concludes:

> In the absence of any policy change, the ability to meet the increasing costs internally would appear to be limited given the increase in the number of children currently entering care is greater than population growth. The budget and policy issues influencing the increase in child protection cases are expected to be considered in the proposed Child Protection Inquiry. (Queensland Commission of Audit 2012, p135)

11.2 Previous budgets

Expenditure on child protection services has more than tripled in the last eight financial years from $182.3 million in 2003–04 to $735.5 million in 2011–12 at an average year on year increase of about 19 per cent per annum (Figure 23).

Figure 23: Total expenditure for the provision of child protection, out-of-home care and intensive family support services and adoptions, Queensland, 2003–04 to 2011–12



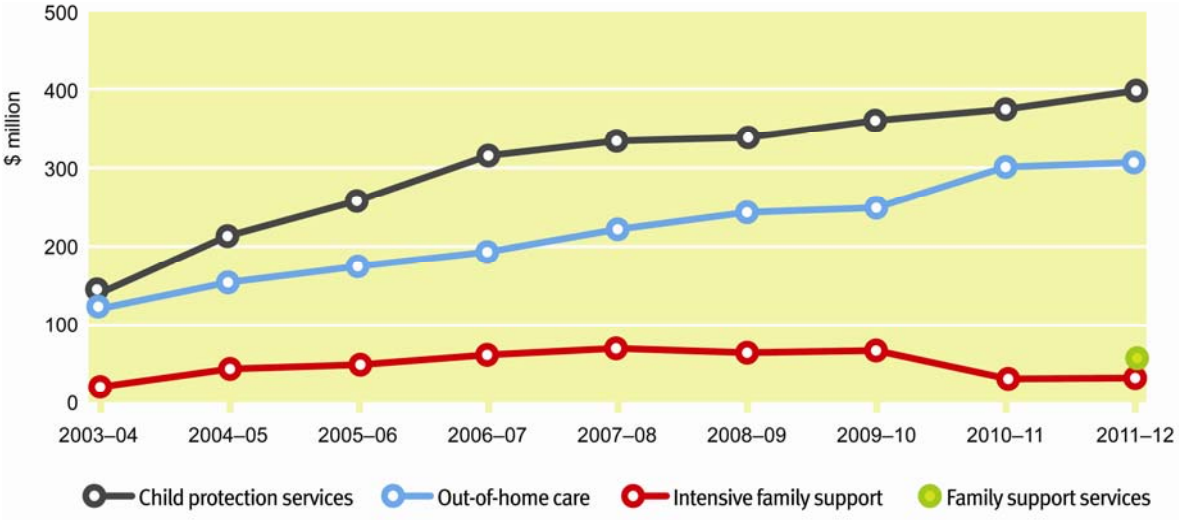
Source: Statement of Brad Swan, 14 September 2012, Attachment 1; Steering Committee for the Review of Government Service Provision 2013, Table 15A.1

Notes: Data for 2009–10, 2010–11 and 2011–12 has been updated to reflect latest data in the *Report on Government Services 2013*.

The growth in the Child Safety budget includes increases for population growth, grant indexation and enterprise bargaining. Despite these regular increases in funding, the growth shown in Figure 23 is also a result of significant injections of new funding by government in an attempt to keep pace with the number of children having contact with the child protection system.

Expenditure on child protection services reported in the Productivity Commission's *Report on government services 2013* is broken into three expense items – child protection services, out-of-home care services and intensive family support services and family support services. Intensive family support services and family support services aim, where practicable, to keep children united with family and out of the child protection system. As already proposed elsewhere in this paper, these intervention services could be considered a long-term strategy to reduce the number of children in the system, with flow-on benefits to the juvenile justice, criminal justice and welfare systems more generally.

Figure 24: Expenditure for the provision of child protection, out-of-home care and intensive family support services by type of service, Queensland, 2003–04 to 2011–12



Source: Steering Committee for the Review of Government Service Provision 2013

Notes: The data do not match Figure 23 as the expenditure data were obtained from different sources. Differences in the data may be attributed to the specific reporting requirements of the *Report on Government Services* in order to achieve a level of national consistency across all jurisdictions. Expenditure on *family support services* is included in 2011–12. These services are less intensive in nature and do not typically involve planned follow up and case management by child protection agencies (as is often the case with intensive family support services).

The data presented in Figure 24 from 2003–04 to 2011–12 indicate that expenditure on child protection services has increased 150 per cent, out-of-home care has increased 167 per cent and intensive family support services has increased 73.5 per cent. Despite the increase in funding, in 2011–12 intensive family support services only amounted to 11 per cent of all expenditure on child protection (Steering Committee for the Review of Government Service Provision 2013, Table 15A.1).

Based on evidence from hearings and submissions to date, the Commission has reported a consistent view in both the *Emerging issues* and *Options for reform* papers that, although increased funding is perceived to be needed for early intervention services, a practiced balance needs to be struck between tertiary and secondary services emphasis and funding. The funding trajectory reflected in Figure 24 suggests that government has continually injected funding into tertiary child protection services to meet demand, rather than directing funding to early intervention services to stop more fundamental and preventable problems from escalating.

From 2003–04 to 2010–11, intake numbers grew by 152 per cent, from 44,631 to 112,518.[3] In the same period, the number of children living in out-of-home care grew 83 per cent, from 4,413 to 8,063.[4] Should current policy continue, it is expected that the number of children known to Child Safety (1 in 5.4 of all Queensland children and 1 in

2.5 Aboriginal and Torres Strait Islander Queensland children in 2010–11),[5] and the number of children in the care of the state, are likely to continue to grow. To meet demand, the funding required will also need to increase.

As highlighted in Queensland's Commission of Audit report, the current growth in child safety services expenditure is unsustainable. Based on the Commission's terms of reference, the Commission must consider ways in which child safety services in Queensland can be delivered more efficiently and effectively, with better outcomes for children.

11.3 Can costs be shifted to improve outcomes?

Ms Linda Apelt, Director-General of the various departments responsible for child safety services from 2009 to March 2012, has stated that the key cost driver for child safety services has been the increasing number of children reported because of a concern that they have been harmed or are at risk of harm (this includes emotional harm).[6] Such reports almost tripled over the last eight years, from 44,631 in 2003–04 to 112,518 in 2010–11. However, experience has shown that fewer than half of the notifications require a full statutory intervention.[7]

Ms Apelt recommended that it would be a more efficient use of resources for the less serious concerns to be filtered, so that only the serious ones were captured by the tertiary system.[8] The less serious concerns would then more appropriately be dealt with by universal or secondary support services. As outlined in Chapter 3, the Helping Out Families initiative, funded at $55 million over four years, was introduced in an attempt to refocus funding and services in this way. However, Ms Apelt also expressed the view that such a refocus would require some additional funding to extend secondary services before savings could be made in the tertiary sector without putting children and young people at risk in the interim.

Several submissions to the Commission support increased funding for services in the primary and secondary sectors, with or without reduced funding of the tertiary sector. PeakCare, for instance, proposes that a new paradigm needs to be developed, looking at options for differential responses to safety or harm concerns and attendant prevention and early intervention services. In Chapter 3 of this discussion paper, proposals are made to expand the Helping Out Families initiative to provide better secondary support services to families at risk of entering the care system. This would no doubt require additional funding. If funding is to be re-directed to secondary services provided either by government or by non-government organisations, accountability for those funds must be assured.

11.4 How can current resources be used more efficiently and effectively across the system?

Based on submissions and hearings to date, the Commission has begun exploring options for more effective use of current resources for child protection in Queensland to achieve the best possible outcomes. There are a number of aspects of the current system where the Commission has identified that some changes could lead to greater efficiency.

Investigations

The *Child Protection Act 1999* provides that Child Safety may respond to a notification in one of two ways: either by investigating, or taking other appropriate action (s 14(1)). However, the *Child safety practice manual* stipulates that an investigation needs to be undertaken for every notification made to the department.[9] Yet, figures show that only a small proportion of notifications actually require full statutory intervention. In other jurisdictions such as Victoria, there are mechanisms in place to allow cases to be screened so that, instead of an investigation, matters can be referred to a non-government organisation.[10] Chapter 4, above, proposes a model similar to this.

Administrative practices

Evidence presented to the Commission so far indicates that it can take on average up to four hours for a child safety officer to process one intake after it has been received and screened and a decision has been made by a team leader about what action to take.[11] Considering that Child Safety recorded 114,503 intakes in 2011–12, a significant amount of time is spent by child safety officers on administrative processing when better outcomes may be achieved if they spend that time working with children and families.

Also, there is significant red tape involved in contracts between the department and non-government organisations. It may be more cost-effective to reduce some of this administrative burden to ensure a more streamlined approach and lessen the reporting burden for the non-government sector. The Commission has noted that the government has recently announced, as part of its *January–June 2013 Six month action plan* (Department of the Premier and Cabinet 2013), that it intends to:

- begin streamlining child safety licence applications and processes for non-government organisations
- begin a review to streamline contracts with non-government organisations, reducing the number of individual contracts
- begin streamlining quality standards for non-government organisations.

This work will go some way to progressing the Commission's own ideas for identifying cost savings to fund other priorities for child protection.

Grant payments – value for money

In 2011–12, about $249 million was paid in grants to the non-government sector for the provision of services in the child protection system. This included funding for foster and kinship care, intensive foster care, residential care, supported independent living, counselling and intervention services, sexual abuse counselling, recognised entities and peak agencies.[12] Chapter 9 describes current oversight and accountability mechanisms in the child protection system. The Commission needs to investigate the extent to which accountability frameworks for the expenditure of funding by non-government organisations could be improved, to ensure that government is receiving the best value for money in terms of outcomes for clients and taxpayers.

Secondary sector

Increased investment in the secondary sector could in the long term prevent children from entering the tertiary sector, and also reduce demands on the welfare and justice sectors in the longer term. Evidence received by the Commission to date on the effectiveness of the Helping Out Families pilot provides some confirmation of these assumptions.

Overall, the Commission will look for cashable savings together with efficiency gains which may enable a reallocation of resources to high priority areas and to the highest-'yielding' services. The above list is by no means meant to be definitive or comprehensive, and the Commission welcomes other suggestions and ideas for consideration in the final report.

Question 46

Where in the child protection system can savings or efficiencies be identified?

The Commission is still assessing the current allocation of resources across the Queensland child protection system. The cost implications of any of the proposals considered in this paper cannot be fully considered in isolation. The Commission aims to develop a package of affordable recommendations for Queensland: a 'road map' for the next 10 years.

1 *Commissions of Inquiry Order (No. 1) 2012* s 3(c)(i).
2 *Commissions of Inquiry Order (No. 1) 2012*.
3 Exhibit 9, Statement of Brad Swan, 10 August 2012, Attachment 3 [p2].
4 Exhibit 9, Statement of Brad Swan, 10 August 2012, Attachment 3 [p7].
5 Exhibit 9, Statement of Brad Swan, 10 August 2012 [p46: para 180 – p47: para 181].
6 Exhibit 14, Statement of Linda Apelt, 11 August 2012 [p2: para 3].
7 Exhibit 14, Statement of Linda Apelt, 11 August 2012 [p2: para 3].
8 Exhibit 14, Statement of Linda Apelt, 11 August 2012 [p2: para 4].
9 *Child Protection Act 1999* (Qld) s 14.
10 Transcript, Brad Swan, 13 August 2012, Brisbane [p47: line 18].
11 Transcript, Brad Swan, 13 August 2012, Brisbane [p53: line 16].
12 Statement of Brad Swan, 14 September 2012 [p2].

Chapter 12

Chapter 12

Conclusion – Next steps in the work of the Commission

This paper has described some critical pressure points in a system under stress. It has outlined the view of those individuals and organisations who have, to date, contributed statements and submissions or who have appeared as witnesses before the Commission. Many of these views have not been tested or validated against an evidence base, or against opposing perspectives. In many cases an evidence base is not available to enable this. The paper has also tried to present selected academic literature relating to the various topics discussed, as well as some alternative approaches used in other jurisdictions in Australia or overseas.

This Discussion Paper does not attempt to cover all the concerns that have been brought to the attention of the Commission, nor does it intend to present the Commission's analysis and position on the full range of matters that will be explored in the Final Report.

12.1 Key issues yet to be explored by the Commission

Child protection in Queensland is a complex system attempting to respond to difficult and multi-faceted problems. In the Commission's attempts to analyse the current system and look for effective solutions to the problems confronting it, it has identified a broad range of issues warranting examination. Many of these are addressed in this paper and others are canvassed in this section. The Commission recognises that there are many people with experiences of the system, and with views on how it can be improved, whose ideas may not have been raised in the discussion to date. The Commission welcomes and encourages any meaningful contribution on the matters raised in this paper or on any other issue within the Commission's terms of reference.

The Commission intends to consider the particular needs of children and families from culturally and linguistically diverse backgrounds, as well as those who face particular challenges because of a physical disability or intellectual impairment. These matters

have received scant attention in the Discussion Paper, but have certainly been brought to the Commission's attention. They deserve specific commentary about how services to these groups might be improved.

The Commission has also identified a range of matters that require further investigation in relation to court and tribunal processes, such as whether the range of court orders for children and young people in care is adequate and flexible.

The Commission is yet to fully describe the problems faced by the child protection system in terms of information sharing, as identified by many stakeholders. The Commission intends to explore options for greater sharing of information while recognising the constraints on agencies and individuals, in an effort to foster greater sharing of knowledge between agencies when it comes to individual cases. This in turn raises a question about the need for greater risk-sharing and responsibility for child protection across government departments, between different tiers of government and between the government and non-government sectors. The Commission also recognises that effective information sharing is crucial for decision-making and case management.

It has been noted that there appears to be a gap in knowledge about the extent and location of universal and secondary services throughout Queensland. The need for a better understanding of the service delivery system and the current capacities of the non-government sector will be a further focus for the Commission over the coming months.

The Commission has undertaken an initial review of the implementation of recommendations from both the Forde Inquiry (which inquired into abuse of children in Queensland institutions) and the Crime and Misconduct Commission's 2004 child protection inquiry (which inquired into the abuse of children in foster care). Following receipt of additional information from the department, the Commission's assessment about the progress that has been made in response to recommendations from these two inquiries will form a component of the Commission's final report.

Finally, the Commission is aware that recommendations made by previous Queensland inquiries into the child protection system have not always been well implemented. This may have been because of the recommendations themselves, it may have been that the political and operational climate changed and the recommendations were no longer relevant or useful, or it may have been that implementation of the recommendations led to unintended negative consequences. The Commission intends to try to understand the barriers to effective change and to mould recommendations in such a way as to take account of these barriers.

12.2 Final stages of the project

The Commission invites submissions in response to this Discussion Paper. Feedback should be received by 15 March 2013.

In the time it has left, the Commission will invite key legal stakeholders to meet and provide specific input on matters relating to court and tribunal processes. Separate meetings will also be arranged with the peak child protection bodies and with relevant government agencies to seek comment on the Discussion Paper and any additional issues that should be addressed by the Commission. The Commission's Advisory Group will meet again to workshop the ideas presented in the Discussion Paper and those that are still being considered by the Commission.

In a separate piece of work that is currently under way, Commission research officers are undertaking a series of interviews with officers of the department, the Commissioner for Children and Young People and Child Guardian, academics and the non-government sector to discuss matters relating to complaints and oversight mechanisms.

Aside from gathering comments from stakeholders on the Discussion Paper, there are several additional projects in progress to be completed over the next two months. These are:

- a survey of the non-government frontline workforce
- a survey of legal practitioners
- a small case review project (where departmental records relating to 20 child protection cases will be analysed)
- final hearings to seek further comment from the Director-General of the Department of Communities, Child Safety and Disability Services.

The Commission is also conscious of relevant reforms outlined in the State Government's *Six month action plan* (January–June 2013). The Commission's recommendations will need to take account of the progress of these reforms.

Question 47

What other changes might improve the effectiveness of Queensland's child protection system?

Glossary

Glossary

Aboriginal and Torres Strait Islander child placement principle	Requires that an Aboriginal or Torres Strait Islander 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) a member of his or her community or language group (c) another Aboriginal or Torres Strait Islander person who is compatible with the child's community or language group (d) another Aboriginal or Torres Strait Islander.
Alternative care	Children are placed in 'alternative care' when they have been removed from their parents or usual carers after an assessment indicating that separation from their family is unavoidable to ensure their safety. Children placed in alternative care can be subject to assessment orders or child protection orders, or placements with parental consent. Alternative care can be either family-based care (that is, with a foster carer) or residential care (that is, in a licensed residential facility).
Alternative dispute resolution	Refers to the processes, other than judicial determination, in which an impartial person assists those in a dispute to resolve the issues between them. The main types of alternative dispute resolution are mediation, arbitration and conciliation.
Case management	Refers to the overall responsibilities of the department when intervening in the life of a child and family. Case management is a way of working with children, families and other agencies to ensure that services are coordinated, integrated and targeted to meet the needs and goals of children and their families.
Case plan	A written plan for meeting a child's protection and care needs. It is developed in a participative process between the department, the child, their family and other people significant to the child and family. It records the goal and outcomes of ongoing intervention and identifies the agreed tasks that will be performed to meet the goal and outcomes.
Case planning	Case planning is a participative process of planning strategies to address a child's protection and care needs and promote a child's wellbeing. It is made up of a cycle of assessment, planning, implementation and review.
Child concern report	A child concern report is a record of child protection concerns received by Child Safety that do not meet the threshold for a notification – for example, where a determination is made that a child and family are better served by family support services rather than a child protection response.
Child protection notification	Information received about a child who may be harmed or at risk of harm which requires an investigation and assessment response. A notification is also recorded for an unborn child when there is reasonable suspicion that they will be at risk of harm after they are born.
Commission for Children and Young People and Child Guardian	The Commission for Children and Young People and Child Guardian promotes and protect the rights, interests and wellbeing of children and young people in Queensland. Its operation is governed by the *Commission for Children and Young People and Child Guardian Act 2000*.
Community conferencing	A Family Responsibilities Commission initiative by which local agencies can refer a resident of the Indigenous community under their jurisdiction to a conference convened by the Family Responsibilities Commissioner and two local Commissioners. The local Commissioners are all respected community Elders. The conference focuses on the reasons for the referral and the actions that should be taken by the resident to rectify the problem.
Crime and Misconduct Commission Inquiry	The Crime and Misconduct Commission Inquiry examined the abuse of children in foster care, and produced the January 2004 Crime and Misconduct Commission report, *Protecting children: an inquiry into abuse of children in foster care*.
Cumulative harm	Harm to a child caused by a series or combination of acts, omissions or circumstances that may have a cumulative effect on the child's safety and wellbeing. The acts, omissions or circumstances may apply at a particular point in time or over an extended period, as well as the same acts, omissions or circumstances being repeated over time.

Directive order	An order made under s 61 of the *Child Protection Act 1999*, directing a parent: • to do or refrain from doing something directly related to the child's protection, and/or • not to have contact (direct or indirect) with the child, or to only have contact when a stated person or a person of a stated category is present.
Discrete Aboriginal or Torres Strait Islander community	A discrete Aboriginal or Torres Strait Islander community refers to a geographic location inhabited or intended to be inhabited by predominantly Aboriginal or Torres Strait Islander people, with infrastructure either owned or managed on a community basis.
Family Responsibilities Commission	The Family Responsibilities Commission began operation on 1 July 2008 as a key component of the Cape York Welfare Reform. The purpose of the Commission is to support the restoration of socially responsible standards of behaviour and to help community members to resume and maintain primary responsibility for the wellbeing of their community and the individuals and families within their community.
Foster care	A form of family-based care where the child is cared for in a family home and where guardianship rests with the chief executive or some other legal entity.
Guardianship	A person who has or is granted guardianship of a child (under a child protection order) has the powers, rights and responsibilities to attend to: • a child's daily care • making decisions that relate to day-to-day matters concerning the child's daily care • making decisions about the long-term care, wellbeing and development of the child in the same way a person has parental responsibility under the *Family Law Act 1975*.
Harm	Any detrimental effect of a significant nature on the child's physical, psychological or emotional wellbeing. Harm can be caused by physical, psychological or emotional abuse or neglect, or sexual abuse or exploitation. Harm can be caused by a single act, omission or circumstance, or a series or combination of acts, omissions or circumstances.
Intake	Intake is the first phase of the child protection continuum, and is initiated when information or an allegation is received from a notifier about harm or risk of harm to a child or unborn child, or when a request for Child Safety assistance is made.
Intervention	The intervention for the child is the action taken by the chief executive to give the help that the child needs. Examples include: • giving support services to the child and his or her family • arranging for the child to be placed in care under a care agreement.
Intervention with parental agreement	Refers to ongoing intervention with a child who is considered in need of protection, based on the agreement of a child's parent/s, to work with the department to meet a child's safety and protection needs.
Investigation and assessment	Investigation and assessment is the second phase of the child protection continuum. It is the Child Safety response to all notifications to determine the safety and protective needs of a child.
Maltreatment	Non-accidental behaviour towards another person, which is outside the norms of conduct and entails a substantial risk of causing physical or emotional harm.
National Framework	*The National Framework for Protecting Australia's Children 2009–2020* is a Council of Australian Governments policy framework that aims to ensure that Australia's children and young people are safe and well.
Natural justice/ procedural fairness	The two principles of the term have been developed by courts to ensure that the process by which a decision is made is fair and reasonable. Put simply, the first requires a decision-maker to give a person or organisation who will be affected by the decision-maker's decision an opportunity to 'have their say' about the case against them, which the decision-maker must then take into account when making a decision. The second principle requires a decision-maker not to have a personal interest in the outcome and to make a decision impartially.
Non-government organisation	For the purposes of the Commission's work, a non-government organisation is a recognised organisation or organised body with an active operation in the child and family welfare sector. Non-government organisations may be funded solely or in part by government (Australian and/or state/territory). Non-government organisations are also referred to as non-government agencies or voluntary services.
Notification	See child protection notification.

Ongoing intervention	Ongoing intervention is the third phase of the child protection continuum. It occurs when it is necessary for the department to provide support and assistance to the family to reduce risk to a child, or to the extent necessary to ensure that the child's protection and care needs are met. There are three types of ongoing intervention: • a support service case • intervention with parental agreement • intervention with a child protection order.
Out-of-home care	Out-of-home care refers to placements of children, subject to statutory child protection intervention, using the authority of the *Child Protection Act 1999,* section 82(1). Out-of-home care includes placements with: • a licensed care service • an approved or kinship carer • another entity.
Primary services	Primary prevention is defined as both the prevention of an adverse outcome before it occurs and the reduction of its prevalence. Primary prevention programs are generally directed at the general population and can include activities such as increasing the economic self-sufficiency of families, making health care more accessible and affordable, expanding and improving coordination of social services, providing more affordable child care services and preventing unwanted pregnancy.
Public health model	The public health model encapsulates a 'composite approach' to prevention whereby interventions to prevent child maltreatment, or to respond to varying degrees of risk of child maltreatment, are available at primary, secondary and tertiary levels. In this model, services are delivered on a continuum from primary services, which offer supports at the universal or community level, through to tertiary services, which target children and families where abuse has occurred and/or where there is significant risk of abuse.
Recognised entities	An entity (an individual or organisation) with whom the chief executive must consult about issues relating to the protection and care of Aboriginal and Torres Strait Islander children.
SCAN teams (Suspected Child Abuse and Neglect teams)	The SCAN team system enables a coordinated multi-agency response to children where statutory intervention is required by facilitating: • the sharing of relevant information between members of the system • the planning and coordinating of actions to assess and respond to children's protection needs • a holistic and culturally responsive assessment of children's protection needs.
Secondary services	Secondary interventions target families who are 'at risk' of child maltreatment. Where families are at risk of harming a child, secondary approaches give high priority to early intervention. Secondary interventions generally involve early screening to detect children who are most at risk, followed by an intervention to deal with the risk factors.
Statutory child protection services	The phrase 'statutory child protection services' refers to statutory agencies/departments (that is, departments established by Parliament) charged with responsibility for securing the safety and welfare of children. Such services/departments are designed to intervene to protect children where children have been harmed or are at risk of harm. Statutory agencies have a legal mandate for such intervention, which is prescribed in relevant legislation.
Structured Decision Making	Structured Decision Making (SDM™) is an assessment and decision-making model to assist the Child Safety officer and team leader in making critical decisions about the safety of children.
Subpoena	A document issued by a court ordering a person to attend court and produce information or testify in a case.
Substantiated harm	The outcome of an investigation and assessment where it is assessed that the child or young person has experienced significant harm and/or there is unacceptable risk of harm, and there is no parent able and willing to protect the child.
Tertiary services	Tertiary interventions target families in which child maltreatment has already occurred. Tertiary interventions seek to reduce the long-term implications of maltreatment and to prevent maltreatment recurring.
Universal services	See primary services.
Unsubstantiated harm	The outcome of an investigation and assessment where it is assessed that there is no evidence that the child has experienced significant harm and there is no unacceptable risk of harm.

Appendix

Appendix 1

Queensland Child Protection Commission of Inquiry advisory group membership

Dr Anne Brennan	Child and Adolescent Psychiatrist
Dr Jan Connors	Director, Child Protection Unit, Mater Children's Hospital
Adjunct Professor Chris Goddard	Director, Child Abuse Prevention Research Australia, Monash University
Dr Scott Harden	Child, Adolescent and Adult Forensic Psychiatrist
Ms Hetty Johnston	Executive Director, Bravehearts
Ms Natalie Lewis	Chief Executive, Queensland Aboriginal and Torres Strait Islander Child Protection Peak
Dr Karen Martin	Associate Professor, Early Childhood School of Education, Southern Cross University
Mr Garth Morgan	Executive Director, Queensland Aboriginal and Torres Strait Islander Human Services Coalition
Associate Professor Stephen Stathis	Clinical Director, Child and Family Therapy Unit, Royal Children's Hospital
Dr Clare Tilbury	Senior Lecturer, School of Human Services, Griffith University
Ms Karyn Walsh	President, Queensland Council of Social Services and Coordinator, Micah Projects
Mr Lindsay Wegener	Executive Director, PeakCare
Ms Llewellyn Williams	Social and Emotional Wellbeing Counsellor, Link Up Queensland

References

References

Aboriginal and Torres Strait Islander Child Safety Taskforce 2009, *Together keeping our children safe and well - Our comprehensive plan for promoting the safety and wellbeing of Aboriginal and Torres Strait Islander children and young people and reducing their over-representation within Queensland's child protection system*, Aboriginal and Torres Strait Islander Child Safety Taskforce, Queensland.

Ainsworth, F & Hansen, P 2009, 'Children and Young People: Their Current Status and Use in Australia' in Courtney, ME & Iwaniec, D. (eds.), *Residential Care of Children: Comparative Perspectives*, Oxford University Press, Oxford.

Ainsworth, F 2007, 'Residential programs for children and young people: What we need and what we don't need', *Children Australia*, vol. 32, no. 1, pp. 32–36.

Anderson, D 2000, 'Coping strategies and burnout among veteran child protection workers', *Child Abuse and Neglect*, vol. 24, no. 6, pp. 839-848.

Atkinson, J 2002, *Trauma trails, recreating song lines: the transgenerational effects of trauma in Indigenous Australia*, Spinifex Press, Melbourne.

Attorney-General for Australia 2012, *National forced adoptions apology date announced*, media release, 19 December, Minister for Emergency Management, viewed 9 January 2013, http://www.attorneygeneral.gov.au/Media-releases/Pages/2012/Fourth%20Quarter/19December2012-Nationalforcedadoptionsapologydateannounced.aspx

Australian Association of Social Workers 2010, *Practice Standards for Social Workers: Supervision,* Australian Association of Social Workers, viewed 25 October 2012, http://www.aasw.asn.au/publications/forms-resources

Australian Bureau of Statistics 2011, *Population estimates by age and sex, Queensland by statistical geography (ASGS 2011), Table 3,* viewed 23 October 2012, http://www.ausstats.abs.gov.au/Ausstats/subscriber.nsf/0/1D46AFE53905ED6ACA257A6A0012EFF7/$File/32350ds0004_qld_2011.xls.

Australian Institute of Family Studies 2012, *Child protection and Aboriginal and Torres Strait Islander children*, Australian Government, viewed 1 August 2012, http://www.aifs.gov.au/cfca/pubs/factsheets/a142117/index.html.

Australian Institute of Health and Welfare 2011, *Adoptions Australia 2010–11*, Child Welfare Series, no. 52, Cat no. CWS 40, Australian Institute of Health and Welfare, Canberra.

Australian Institute of Health and Welfare 2012, *Child protection Australia 2010–11*, Child Welfare Series, no. 53., Cat no. CWS 41, Australian Institute of Health and Welfare, Canberra.

Australian Law Reform Commission 1997, *Seen and heard: priority for children in legal process*, report no. 84, Commonwealth of Australia, Canberra.

Australian Law Reform Commission 2012, *Law reform process*, Australian Government, viewed 3 January 2013, http://www.alrc.gov.au/law-reform-process

Australian Public Service Commission 2007, *Tackling wicked problems: a public policy perspective*, Australian Government, Barton.

Baillieu, T 2012, *Key reforms support Victoria's vulnerable children*, media release, 1 May, Minister for Community Services, viewed 25 September 2012, http://www.premier.vic.gov.au/media-centre/media-releases/3744-key-reforms-support-victorias-vulnerable-children.html

Bamblett, M & Lewis, P 2007, 'Detoxifying the child and family welfare system for Australian Indigenous Peoples: Self-determination, rights and culture as the critical tools', *First Peoples Child and Family Review*, vol. 3, pp. 43-56.

Ban, P 2005, 'Aboriginal child placement principle and family group conferences', *Australian Social Work*, vol. 58, no. 4, pp. 384-394.

Barlow, J & Calam, R 2011, 'A Public Health Approach to Safeguarding in the 21st Century', *Child Abuse Review,* vol. 20, no. 4, pp. 238-255.

Bawdon, F 2011, 'District Court Judge Nicholas Crichton: a family pioneer', *Legal action*, August 2011, pp. 8-9.

Beattie, P 1999, *Stolen generation*, Parliamentary Debates, Queensland Legislative Assembly, 26 May, p. 1946.

Bell, L 2002, *Information Packet: Transition to independent living*, National Resource Center for Foster Care and Permanency Planning, New York, viewed 22 January 2013, http://www.hunter.cuny.edu/socwork/nrcfcpp/downloads/information_packets/transition_to_independent_living-pkt.pdf

Berrick, JD 2009, *Take Me Home: Protecting America's Vulnerable Children and Families*, Oxford University Press, New York.

Berry, M 2005, *Child welfare for the twenty-first century*, Columbia University Press, New York.

Best, R 2011, 'Aboriginal Care Circles: putting principles into practice', paper presented at the Australasian Institute of Judicial Administration Conference on Child Protection in Australia and New Zealand, Brisbane, 5-7 May.

Bird, J 2001, 'Regulating the regulators: accountability of Australian regulators', *Melbourne University Law Review*, vol. 35, no. 3, pp. 739-744.

Black Wattle Consulting 2012, *SAF,T QLD study tour*, SAF,T, Darwin.

Blackstock, C 2003, *Aboriginal Child Welfare: Jurisdiction Models of Survey Delivery*, First Nations Child and Family Caring Society of Canada, Ontario.

Brief Therapy Institute of Sydney 2011, *What is solution-focused brief therapy*, Brief Solutions, Sydney, viewed 18 January 2013, http://www.brieftherapysydney.com.au/btis/aboutbrief.html

Bromfield, L & Higgins, D 2005, *National comparison of child protection systems,* Child Abuse Prevention Issues report no. 22, Australian Institute of Family Studies, viewed 9 November 2012, http://www.aifs.gov.au/nch/pubs/issues/issues22/issues22.html

Bromfield, L & Holzer, P 2008, *A national approach for child protection: Project report,* National Child Protection Clearinghouse, Australian Institute of Family Studies, Melbourne.

Bromfield, L & Osborn, A 2007, *Getting the big picture: A synopsis and critique of Australian out-of-home care research*, Child Abuse Prevention Issues report no. 26, Australian Institute of Family Studies, viewed 9 January 2013, http://www.aifs.gov.au/nch/pubs/issues/issues26/issues26.html

Bromfield, L & Ryan, R 2007, 'A national comparison of statutory child protection training in Australia', *Communities, Children and Families Australia,* vol. 2, no. 1, pp. 59-72.

Bromfield, L, Higgins, J, Higgins, D & Richardson, N 2007, *Why is there a shortage of Aboriginal and Torres Strait Islander Carers?*, Australian Institute of Family Studies, Melbourne.

Bromfield, L, Lamont, A, Parker, R & Horsfall, B 2010, *Issues for the safety and wellbeing of children in families with multiple and complex problems: The co-occurrence of domestic violence, parental substance misuse, and mental health problems*, National Child Protection Clearinghouse Issues no. 33, Australian Institute of Family Studies, Melbourne, viewed 30 November 2012, http://www.aifs.gov.au/nch/pubs/issues/issues33/index.html.

Bryant, D 2010, *Collaboration: Adopting a unified approach to dispute resolution,* Law Institute of Victoria, viewed 25 October 2012, http://www.liv.asn.au/about-

liv/media-centre/speeches/collaboration--adopting-a-unified-approach-to-disp.aspx?rep=1&glist=0&sdiag=0

Buckley, H 2012, 'Using intelligence to shape reforms in child protection', *Irish Journal of Applied Social Studies*, vol. 12, no. 1, pp. 63-73, viewed 27 November 2012, http://arrow.dit.ie/cgi/viewcontent.cgi?article=1182&context=ijass

Burton, J 2012, *Opening doors through partnerships: Practical approaches to developing genuine partnerships that address Aboriginal and Torres Strait Islander community needs*, Secretariat of National Aboriginal and Torres Strait Islander Child Care, North Fitzroy.

Butler, T, Donovan, B, Fleming, J, Levy, M & Kalador, M 1999 'Childhood sexual abuse among Australian prisoners', *Venereology*, vol. 14, no. 3, pp. 109-15.

California Evidence-Based Clearinghouse for Child Abuse 2012, *Signs of Safety*, viewed 3 December 2012, http://www.cebc4cw.org/program/signs-of-safety/detailed.

Calma, T 2008, *Social justice report 2007*, Human Rights and Equal Opportunities Commission, Sydney.

Campbell, L 1998, 'Translating intensive family preservation services across national boundaries: an Australian experience', *Child welfare*, vol. 77, no. 1.

Cashmore, J & Paxman, M 2006, 'Predicting after-care outcomes: the importance of "felt" security', *Child and Family Social Work*, vol. 11, no. 3, pp. 232–241.

Cashmore, J 2001, 'What can we learn from the US experience on permanency planning?', *Australian Journal of Family Law*, vol. 15, no. 3, pp. 215-229.

Cashmore, J 2002, *Evaluation of the Joint Investigation Team (JIT)/ Joint Investigation Response (JIR) Strategy – Summary Report*, viewed 6 November 2012, http://www.community.nsw.gov.au/docswr/_assets/main/documents/jirt_evaluation.pdf

Cashmore, J, Higgins, D, Bromfield, L & Scott, D 2006, 'Recent Australian child protection and out of home care research: What's been done and what needs to be done?', *Children Australia*, vol. 31 no. 2, pp. 4-11.

Chenoweth, L & Stehlik, D 1999, 'Interpreting human service policy in regional and rural Queensland: the practitioners' perspective', *Just Policy,* no. 15, pp. 21-28.

Chenoweth, L, Jervis-Tracey, P, McAuliffe, D, O'Connor, B & Stehlik, D 2008, 'Managing Tensions in Professional Statutory Practice: Essential Research for Living and Working in Rural Communities'*, Australian and International Journal of Rural Education,* vol. 22, no. 2.

Child Rights Taskforce 2011, *Listen to Children: 2011 Child Rights NGO Report Australia*, viewed 12 November 2012, http://www.childrights.org.au/__data/assets/pdf_file/0014/14405/Listening-to-children-Report-2011-colour.pdf

Children's Bureau 2012, *The AFCARS report*, report no. 19, Administration for Children and Families, Washington D.C., viewed 12 October 2012, http://www.acf.hhs.gov/sites/default/files/cb/afcarsreport19.pdf

Children's Court of Victoria 2011a, *Annual report 2010–11*, Children's Court of Victoria, Melbourne.

Children's Court of Victoria 2011b, *Supplementary submission to the Protecting Victoria's Vulnerable Children Inquiry*, viewed 12 October 2012, http://www.childrenscourt.vic.gov.au/CA256902000FE154/Lookup/PVVC_Inquiry_2011/$file/Supplementary_submission_to_PVVC_Inquiry_FINAL_6_September_2011.pdf

Children's Workforce Development Council 2007, *The lead professional: practitioners guide*, Children's Workforce Development Council, United Kingdom.

Childrens Court of Queensland 2012, *Annual report 2011–2012*, Queensland Courts, Brisbane.

Commission for Children and Young People and Child Guardian 2006a, *Feedback on the discussion paper: improving permanency for children in care*, viewed 10 December 2012, http://www.ccypcg.qld.gov.au/pdf/submissions/Improving-Permanency-for-Children-in-Care.pdf

Commission for Children and Young People and Child Guardian 2006b, *Views of Children and Young People in Care, Queensland, 2006*, viewed 7 December 2012, http://www.ccypcg.qld.gov.au/pdf/publications/reports/Views_of_Children_in_Care/SurveyofQLDChildrenYoungPeopleinCare2006.pdf

Commission for Children and Young People and Child Guardian 2008, *Indigenous Child Placement Principle Audit Report 2008*, Commission for Children and Young People and Child Guardian, Brisbane.

Commission for Children and Young People and Child Guardian 2010, *Views of Children and Young People in Foster Care, Queensland, 2010*, Brisbane.

Commission for Children and Young People and Child Guardian 2012a, *2011 Views of Children and Young People in Foster Care Survey: Overview and selected findings*, viewed 22 January 2013, http://www.ccypcg.qld.gov.au/pdf/publications/reports/Views-of-Children-

and-Young-People-in-Foster-Care-Survey-2011/2011-Views-of-Children-and-Young-People-in-Foster-Care-Survey_Overview-and-selected-findings.pdf

Commission for Children and Young People and Child Guardian 2012b, *Annual Report 2011-12*, viewed 11 December 2012, http://www.ccypcg.qld.gov.au/pdf/publications/reports/Child-Guardian-Report_Youth-Justice-System_2012/Domain-Three.pdf

Commission for Children and Young People and Child Guardian 2012c, *Child guardian report: youth justice system 2010-11*, viewed 11 December 2012, http://www.ccypcg.qld.gov.au/pdf/publications/reports/Child-Guardian-Report_Youth-Justice-System_2012/Domain-Three.pdf

Commission for Children and Young People and Child Guardian 2012d, *Indigenous Child Placement Principle Audit Report 2010/11*, Commission for Children and Young People and Child Guardian: Brisbane.

Commission for Children and Young People and Child Guardian 2012e, *Leaving out-of-home care: Aboriginal and Torres Strait Islander status*, viewed 24 October 2012, http://www.ccypcg.qld.gov.au/reportsCP/successful-transitions-to-independence/Aboriginal-and-Torres-Strait-Islander-status.aspx

Commission for Children and Young People and Child Guardian 2012f, *Queensland Child Guardian key outcome indicators update: Queensland child protection system 2008–11*, viewed 12 October 2012, http://www.ccypcg.qld.gov.au/reportsCP/index.aspx

Commission for Children and Young People and Child Guardian 2012g, *2011 Views of Young People in Residential Care Survey – Overview and selected findings*, Brisbane.

Commission for Children and Young People and Child Guardian 2012h, *2011 Views of Young People in Residential Care Survey – Responding to trauma and attachment needs in residential care: What young people's perceptions tell us about how well we're doing in Queensland*, Brisbane.

Commission of Inquiry into abuse of children in Queensland Institutions 1999 (Forde Inquiry).

Community Affairs References Committee 2004, *Forgotten Australians*, Parliament of Australia Senate Standing Committees on Community Affairs, Canberra.

Community Affairs References Committee 2012, *Commonwealth Contribution to Former Forced Adoption Policies and Practices*, Parliament of Australia Senate Standing Committees on Community Affairs, Canberra.

Connolly, M 2006, 'Fifteen years of family group conferencing: Coordinators talk about their experiences in Aotearoa New Zealand', *British Journal of Social Work*, vol. 36, pp. 523-540.

Cortis, N, Katz, I & Patulny, R 2009, *Engaging hard-to-reach families and children,* Occasional Paper no. 26, Australian Government Department of Families, Housing, Community Services and Indigenous Affairs, Canberra.

Council of Australian Governments 2009, *Protecting Children is Everyone's Business: National Framework for Protecting Australia's Children 2009-2020*, viewed 12 October 2012, http://www.fahcsia.gov.au/sites/default/files/documents/child_protection_framework.pdf

Courtney, M & Dworskey, A 2005, *Midwest evaluation of the adult functioning of former foster youth: outcomes at age 19*, Chaplin Hall Publication, Chicago.

CREATE Foundation 2010, *What's the Answer?*, viewed 23 October 2010, http://www.create.org.au/whats-the-answer.

CREATE Foundation n.d., *Create your future,* viewed 23 October 2012, http://www.createyourfuture.org.au/education-and-training/

Crime and Misconduct Commission 2004, *Protecting children: an inquiry into abuse of children in foster care*, Crime and Misconduct Commission, Brisbane.

Crime and Misconduct Commission 2009, *Restoring order: Crime prevention, policing and local justice in Queensland's Indigenous communities,* Crime and Misconduct Commission, Brisbane.

Crime and Misconduct Commission 2012, *Misconduct*, Crime and Misconduct Commission, Brisbane, viewed 21 December 2012, http://www.cmc.qld.gov.au/topics/misconduct

Cross, S & Munro, E 2010, *Reclaiming social work: part one- independent evaluation,* London Borough of Hackney Childrens and Young People's Services, London.

Cultural and Indigenous Research Centre Australia 2010, *Evaluation of the Aboriginal care circles pilot final report*, Cultural and Indigenous Research Centre Australia, Sydney.

Cummins, P, Scott, D & Scales, B 2012, *Report of the protecting Victoria's vulnerable children inquiry*, Department of Premier and Cabinet, Melbourne, viewed 27 November 2012, http://www.childprotectioninquiry.vic.gov.au/report-pvvc-inquiry.html

Daniel, B, Wassell, S & Gilligan, R 2010, *Child Development for Child Care and Protection Workers*, 2nd edn, Jessica Kingsley Publishers, London.

D'Andrade, A, Austin, MJ & Benton, A 2010, 'Family Assessment in Child Welfare Services: Instrument Comparisons' in Austin, MJ (ed.), *Evidence for Child Welfare Practice*, Routledge, New York.

Davis, T 2012, *Estimates – Community Services, Child Safety and Disability Services*, 17 October, Minister for Communities, Child Safety and Disability Services, viewed 19 October 2012, http://www.parliament.qld.gov.au/documents/hansard/2012/2012_10_17_Estimates.pdf

Department for Child Protection 2009, *Aboriginal Employment and Learning Strategy 2009–2014*, Government of Western Australia.

Department of Attorney General and Justice 2011, *New South Wales care circles: procedure guide*, New South Wales Government, Sydney.

Department of Child Safety 2005, *Annual report 2004–05*, Queensland Government, Brisbane.

Department of Child Safety 2006a, *Improving permanency for children in care, Discussion Paper*, Queensland Government, Brisbane.

Department of Child Safety 2006b, *Progress in reforming the Queensland child protection system: Report to the Crime and Misconduct Commission*, Queensland Government, Brisbane.

Department of Child Safety 2007, *Review of the qualifications and training pathways,* Queensland Government, Brisbane.

Department of Child Safety 2008, *Frontline work analysis and job design project*, Queensland Government, Brisbane.

Department of Child Safety, Department of Education, Training and the Arts, Queensland Health, Queensland Police Service, Aboriginal and Torres Strait Islander Child Protection Partnership 2009, *Partnership in action: a shared vision for the SCAN team system*, Brisbane.

Department of Children and Youth Affairs 2011, *Working together for children: A review of international evidence on interagency working to inform the development of Childrens Services Committees*, Ireland Government Publications, Dublin.

Department of Communities (Child Safety Services) 2010a, *2009-10 Child protection partnerships report*, Queensland Government, viewed 3 October 2012,

http://www.communities.qld.gov.au/resources/childsafety/about-us/publications/documents/performance-partnerships-report-2009-10.pdf

Department of Communities (Child Safety Services) 2010b, *Aboriginal and Torres Strait Islander Workforce Plan*, Human Resources and Ethical Standards Branch, Queensland Government.

Department of Communities (Child Safety Services) 2010c, *Blueprint for Implementation Strategy: Reducing the over-representation of Aboriginal and Torres Strait Islander children in Queensland's child protection system*, Queensland Government.

Department of Communities (Child Safety Services), Queensland Police Service, Department of Education and Training, Queensland Health, and the Queensland Aboriginal Torres Strait Islander Child Protection Peak 2010, *Information Coordination Meetings (ICM) and the Suspected Child Abuse and Neglect (SCAN) Team System Manual*, Brisbane.

Department of Communities 2008a, *Child Safety – VET Partnership (Strategy 2)*, Queensland Government, Brisbane.

Department of Communities 2008b, S*trategic workforce framework 2008-2012*, Queensland Government, Brisbane.

Department of Communities 2009, *Characteristics of parents involved in the Queensland child protection system - report 6: summary of key findings*, Queensland Government, viewed 12 October 2012, http://www.communities.qld.gov.au/resources/childsafety/about-us/performance/child-protection/report-6-key-findings.pdf

Department of Communities 2010a, *Practice guide: The assessment of harm and risk of harm,* Queensland Government, viewed 10 December 2012, http://www.communities.qld.gov.au/resources/childsafety/practice-manual/pg-assess-risk-of-harm.pdf

Department of Communities 2010b, *Referral for Active Intervention Initiative: A three-year evaluation report*, Queensland Government, Brisbane.

Department of Communities 2010, *Child Safety Grant funding information paper 2009-2010*, Queensland Government, Brisbane, viewed 5 February 2012, http://www.communities.qld.gov.au/resources/childsafety/partners/funding/documents/funding-information-paper-placement-services-2009-10.pdf

Department of Communities 2011a, *Helping Out Families: Final Implementation Evaluation Report*, Queensland Government, Brisbane.

Department of Communities 2011b, *Long-term guardianship – assessment factors*, Queensland Government, Brisbane.

Department of Communities 2011c, *Long-term guardianship to a suitable person: Information for carers*, Queensland Government, Brisbane.

Department of Communities 2011d, *Protecting our Most Vulnerable Children – The growth in demand and over representation*, PowerPoint slides, Queensland Government, Brisbane.

Department of Communities 2011e, *Structured decision making, Policy Statement, Policy No CPD407-4*, Queensland Government, Brisbane, viewed 27 September 2012, http://www.communities.qld.gov.au/resources/childsafety/child-protection/structured-decision-making-407.pdf

Department of Communities 2012, *Protecting Queensland's children: building on our foundations*, PowerPoint slides, Queensland Government, Brisbane.

Department of Communities n.d., 'Chapter 4: Roles, systems, practices and service responses', in *A blueprint for implementing the recommendations of the January 2004 Crime and Misconduct Commission report 'Protecting children: An inquiry into abuse of children in foster care*', Queensland Government, Brisbane, viewed 12 October 2012, http://www.communities.qld.gov.au/resources/childsafety/about-us/publications/documents/bluechp04.pdf

Department of Communities, Child Safety and Disability Services 2011a, *Child Safety Services Policy Statement CPD404-4 Professional Supervision*, Queensland Government.

Department of Communities, Child Safety and Disability Services 2011b, *Complaints and Management Poli*cy, Queensland Government, viewed 21 December 2012, http://www.communities.qld.gov.au/resources/corporate/complaints/complaints-management-policy.pdf

Department of Communities, Child Safety and Disability Services 2011c, *Complaints Management Procedure,* Queensland Government, viewed 21 December 2012, http://www.communities.qld.gov.au/resources/corporate/complaints/complaints-management-procedure.pdf

Department of Communities, Child Safety and Disability Services 2012a, *2010-11 Child protection partnerships report*, Queensland Government, viewed 3 October 2012, http://www.communities.qld.gov.au/resources/childsafety/about-us/publications/documents/performance-partnerships-report-2010-11.pdf

Department of Communities, Child Safety and Disability Services 2012b, *Child death case reviews*, Queensland Government, viewed 21 December 2012, http://www.communities.qld.gov.au/childsafety/about-us/our-performance/child-death-case-reviews

Department of Communities, Child Safety and Disability Services 2012c, *Child safety practice manual*, Queensland Government, viewed 6 November 2012, http://www.communities.qld.gov.au/childsafety/child-safety-practice-manual

Department of Communities, Child Safety and Disability Services 2012d, *Compliments and Complaints feedback*, Queensland Government, viewed 21 December 2012, http://www.communities.qld.gov.au/gateway/about-us/feedback-and-complaints/child-safety-complaints-unit

Department of Communities, Child Safety and Disability Services 2012e, *Developing national standards for out-of-home care*, Queensland Government, viewed 14 December 2012, http://www.communities.qld.gov.au/childsafety/protecting-children/about-child-protection/national-framework-for-protecting-australias-children/projects-update/developing-national-standards-for-out-of-home-care

Department of Communities, Child Safety and Disability Services 2012f, *Family Group Meeting Convenor Handbook*, Queensland Government, viewed 12 November 2012, http://www.communities.qld.gov.au/childsafety/child-protection/publications/convenor-handbook.page

Department of Communities, Child Safety and Disability Services 2012g, *Licensing of Care Services*, Queensland Government, viewed 21 December 2012, http://www.communities.qld.gov.au/childsafety/partners/quality-assurance/licensing-of-care-services

Department of Communities, Child Safety and Disability Services 2012h, *Our performance*, Queensland Government, viewed 21 December 2012, http://www.communities.qld.gov.au/childsafety/about-us/our-performance

Department of Communities, Child Safety and Disability Services 2012i, *Suspected Child Abuse and Neglect (SCAN) Team System*, Queensland Government, viewed 12 November 2012, http://www.communities.qld.gov.au/childsafety/partners/our-government-partners/suspected-child-abuse-and-neglect-scan-team-system

Department of Communities, Child Safety and Disability Services 2012j, *Table IA.1: Notifications requiring investigation, by investigation and assessment outcome, Queensland*, viewed 12 November 2012, http://www.communities.qld.gov.au/resources/childsafety/about-us/performance/child-protection/investigation-assessment-1.xls

Department of Communities, Child Safety and Disability Services 2012k, *Table I.1: Intake, by Intake type, Queensland*, viewed 12 November 2012, http://www.communities.qld.gov.au/resources/childsafety/about-us/performance/child-protection/intake-1.xls

Department of Communities, Child Safety and Disability Services 2012l, *Table N.3: Notifications, by most serious type of harm notified, Queensland*, viewed 12 November 2012, http://www.communities.qld.gov.au/resources/childsafety/about-us/performance/child-protection/notifications-3.xls

Department of Communities, Child Safety and Disability Services 2012m, *Table OI.1: Children subject to ongoing intervention, by ongoing intervention type and Indigenous status, Queensland*, viewed 12 October 2012, http://www.communities.qld.gov.au/resources/childsafety/about-us/performance/child-protection/ongoing-intervention-1.xls

Department of Communities, Child Safety and Disability Services 2012n, *Table OI.3: Children subject to ongoing intervention, by ongoing intervention type and region, Queensland*, viewed 6 November 2012, http://www.communities.qld.gov.au/resources/childsafety/about-us/performance/child-protection/ongoing-intervention-3.xls

Department of Communities, Child Safety and Disability Services 20120, *Table S.4: Substantiations, by most serious harm type and sex of person believed responsible, Queensland*, viewed 12 November 2012, http://www.communities.qld.gov.au/resources/childsafety/about-us/performance/child-protection/substantiations-4.xls

Department of Communities, Child Safety and Disability Services 2012p, *Table S.5: Substantiations and whether the child was in need of protection, Queensland*, viewed 12 November 2012, http://www.communities.qld.gov.au/resources/childsafety/about-us/performance/child-protection/substantiations-5.xls

Department of Communities, Child Safety and Disability Services 2012q, *Transition from Care*, Queensland Government, viewed 18 October 2012, http://www.communities.qld.gov.au/childsafety/about-us/our-performance/high-quality-services-and-improved-wellbeing/transition-from-care

Department of Communities, Child Safety and Disability Services 2012r, *Table OHC.1: Children in out-of-home care, by primary placement and Indigenous status, Queensland*, Queensland Government, Brisbane, viewed 5 February 2013, http://www.communities.qld.gov.au/resources/childsafety/about-us/performance/child-protection/out-home-care-1.xls

Department of Communities, Child Safety and Disability Services 2012s, *Youth Housing and Reintegration Service (YHARS) and After Care*, Queensland Government, Brisbane, viewed 14 February 2013, http://www.communities.qld.gov.au/communityservices/youth/support-services-for-young-people/youth-housing-and-reintegration-service-yhars-and-after-care

Department of Community Services 2007, *Annual Report 2006/07: Joint Investigation Response Teams*, NSW Department of Community Services, viewed 9 November 2012, http://www.community.nsw.gov.au/DOCSwr/_assets/annual_report07/keep_safe_jirt.htm

Department of Constitutional Affairs and Department for Education and Skills 2006, *Review of the child care proceedings system in England and Wales*, National Council of Voluntary Child Care Organisations, London.

Department of Education and Early Childhood Development & Department of Human Services 2010, *Protecting the safety and wellbeing of children and young people*, Department of Education and Early Childhood Development & Department of Human Services, Melbourne, viewed 27 November 2012, http://www.eduweb.vic.gov.au/edulibrary/public/stuman/wellbeing/protecting_children_protocol27_5_10.pdf

Department of Education, Training and Employment 2012, *Management of Young Children Program (MYCP)*, Queensland Government, viewed 15 November 2012, http://education.qld.gov.au/studentservices/behaviour/resources/mycp.html

Department of Families 2003, *Stopping the drift: Improving the lives of Queensland's children and young people in long-term care, Discussion Paper*, Queensland Government, Brisbane.

Department of Families, Housing, Community Services and Aboriginal and Torres Strait Islander Affairs 2010, *Implementation review of the Family Responsibilities Commission final report*, KPMG.

Department of Families, Housing, Community Services and Indigenous Affairs 2011, *Transitioning to independence from out of home care – Discussion paper*, Australian Government, viewed 24 October 2012, http://www.fahcsia.gov.au/our-responsibilities/families-and-children/publications-articles/transitioning-to-independence-from-out-of-home-care-discussion-paper?HTML

Department of Families, Housing, Community Services and Indigenous Affairs 2012a, *Closing the Gap*, Australian Government, Canberra, viewed 18 January 2013, http://www.fahcsia.gov.au/our-responsibilities/indigenous-australians/programs-services/closing-the-gap

Department of Families, Housing, Community Services and Indigenous Affairs 2012b, *Family Support Program Future Directions Discussion Paper*, Australian Government, Canberra.

Department of Families, Housing, Community Services and Indigenous Affairs 2012c, *National Partnership Agreement on Homelessness*, Australian Government, Canberra, viewed 14 February 2013, http://www.fahcsia.gov.au/our-responsibilities/housing-support/programs-services/homelessness/national-partnership-agreement-on-homelessness

Department of Family and Community Services 2011, *Child wellbeing and child protection: NSW interagency guidelines (Child protection investigation and assessment)*, NSW Government, viewed 9 November 2012, http://www.community.nsw.gov.au/kts/guidelines/documents/investigation_assessment_fact.pdf

Department of Family and Community Services 2012a, *Child Protection: Legislative Reform, Legislative proposals – Strengthening parental capacity, accountability and outcomes for children and young people in State care*, NSW Government, viewed 22 November 2012, http://www.community.nsw.gov.au/docswr/_assets/main/lib100047/cp_reforms_discussion_paper.pdf

Department of Family and Community Services 2012b, *Joint Investigation Response Teams*, NSW Government, viewed 9 November 2012, http://www.community.nsw.gov.au/docs_menu/for_agencies_that_work_with_us/child_protection_services/joint_investigation_response_teams.html

Department of Health and Human Services 2012, *Gateway and family support services: midterm review report*, Department of Health and Human Services, Hobart.

Department of Human Services 2011a, *Child protection workforce: the case for change*, Victorian Government Department of Human Services, Melbourne.

Department of Human Services 2011b, *Protecting Victoria's vulnerable children inquiry*, Victorian Government Department of Human Services, Melbourne.

Department of Human Services 2012a, *Families with multiple and complex needs*, Victorian Government Department of Human Services, Melbourne.

Department of Human Services 2012b, *Program requirements for the Aboriginal family decision making program*, Victorian Government Department of Human Services, Melbourne.

Department of Justice and Attorney-General 2012, *Duties*, Queensland Government, viewed 21 December 2012, http://www.deir.qld.gov.au/workplace/law/whslaws/topics/duties/index.htm

Department of Social and Health Services 2008, *Consideration of a differential response in Washington State's Child Protection System*, Washington, viewed 12 November 2012, http://www.dshs.wa.gov/pdf/main/legrep/Leg0308/Childprotectionsystem.pdf

Department of the Premier and Cabinet 2013, *January – June 2012 Six month action plan*, Queensland Government, Brisbane.

Dixon, J, Wade, J, Byford, S, Weatherly, H & Lee, J 2006 'Young people leaving care: A study of costs and outcomes' in Mendes, P, Johnson, G & Moslehuddin, B (eds.), *Effectively preparing young people to transition from out-of-home care: An examination of three recent Australian studies,* Australian Institute of Family Studies, viewed 23 October 2012, http://www.aifs.gov.au/institute/pubs/fm2011/fm89/fm89g.htm.

Dodson, M 1993, A*boriginal and Torres Strait Islander Social Justice Commissioner first report*, Commonwealth of Australia, Canberra.

Douglas, H, & Walsh, T 2012, 'Continuing the stolen generations: Child protection interventions and Indigenous people', *International Journal of Children's Rights*, vol. 20, pp. 1-29.

Encompass Family and Community 2010, *Review of Staffcare and staff support need,* Department of Communities.

Family Inclusion Network 2007, *Family Inclusion in Child Protection Practice*, Family Inclusion Network, Townsville.

Family Responsibilities Commission 2011a, *Annual report 2010–11*, Family Responsibilities Commission, Cairns.

Family Responsibilities Commission 2011b, 'Family Responsibilities Commission: child safety in the context of the Commission', paper presented at the Australasian Institute of Judicial Administration Conference on Child Protection in Australia and New Zealand, Brisbane, 5-7 May.

Firestone, G 2009, 'Empowering Parents in Child Protection Mediation: Challenges and Opportunities', *Family Court Review*, vol. 47, iss. 1, pp. 98-115.

First Nations Child and Family Caring Society of Canada 2012, *First nations child and family caring society of Canada*, viewed 5 October 2012, http://www.fncaringsociety.com

Forrester, D, Copello, A, Waissbeing, C & Pokhrel, S 2008, 'Evaluation of an intensive family preservation service for families affected by parental substance misuse', *Child abuse review*, vol. 17, no. 6, pp. 410-426.

Forster 2004, *A blueprint for implementing the recommendations of the January 2004 Crime and Misconduct Commission report 'Protecting children: An inquiry into abuse of children in foster care*', Queensland Government, Brisbane.

Freitag, R 2011, 'The SDM system and family engagement: Integrating practice model for better outcomes', *SDM news*, iss. 24, viewed 4 December 2012, http://www.nccdglobal.org/sites/default/files/publication_pdf/sdm_news_feb11.pdf

Gelles, RJ 1996, *The Book of David: How Preserving Families Can Cost Children's Lives,* Basic Books, New York.

Gelles, RJ 2005, 'Protecting Children Is More Important Than Preserving Families' in Loseke, DR, Gelles, RJ & Cavanaugh MM (eds.), *Current Controversies on Family Violence*, Sage Publications, Thousand Oaks, pp. 329–340.

Gibbons, S, Murphy, D & Joseph, S 2011, 'Countertransference and positive growth in social workers', *Journal of Social Work Practice: Psychotherapeutic Approaches in Health, Welfare and the Community*, vol. 25, pp. 17-30.

Gillingham, P & Humphreys, C 2010, 'Child Protection Practitioners and Decision-Making Tools: Observations and Reflections from the Front Line', *British Journal of Social Work*, vol. 40, no. 8, pp. 2598-2616.

Gillingham, P 2006, 'Risk Assessment in Child Protection: Problem Rather than Solution?', *Australian Social Work*, vol. 59, no. 1, pp. 86-98.

Goddard, C & Hunt, S 2011, 'The complexities of caring for child protection workers: the context of practice and supervision', *Journal of Social Work Practice*, vol. 25, no. 4, pp. 413-432.

Gray, D, Green, M, Saggers, S & Wilkes, E 2009, 'Review of the Aboriginal and Torres Strait Islander community-controlled alcohol and other drugs sector in Queensland', *Australian Indigenous Health Bulletin*, vol. 9, no. 3.

Hansen, P & Ainsworth, F 2006, 'Adoption in Australia: Review and reflection', *Children Australia*, vol. 31, no. 4, pp. 22–28.

Harris, N 2008, *Family group conferencing in Australia 15 years on*, Australian Institute of Family Studies, Melbourne.

Harrison, M 2007, *Finding a Better Way: A bold departure from the traditional common law approach to the conduct of legal proceedings*, Family Court of Australia, Canberra, viewed 21 January 2013, http://www.familycourt.gov.au/wps/wcm/resources/file/ebc70645b58cf92/Finding_Better_Way_April2007.pdf

Harwin, J, Ryan, M, Tunnard, J, Pokhrel, S, Alrouh, B, Matias, C & Momenian-Schneider, S 2011, *The family drug and alcohol court evaluation project final report,* Brunel University, London.

Hatton, H & Brooks, S 2011, *Enhancing child safety and building partnerships with families through Supported Decision Making casework: Evaluation of in class trainings for Signs of Safety*, viewed 4 December 2012, http://academy.extensiondlc.net/file.php/1/resources/EP-EvalsSofS1-13-11.pdf

Health and Community Workforce Council 2012, *The Industry Skills and Workforce Development Report*, Child Protection Sector.

Healy, K, Darlington, Y & Yellowlees, J 2012, 'Family participation in child protection practice: an observational study of family group meetings', *Child & Family Social Work*, vol. 17, iss. 1, pp. 1-12.

Healy, K & Oltedal, S 2010, 'An Institutional Comparison of Child Protection Systems in Australia and Norway'*, Journal of Social Policy*, vol. 39, no. 2, pp. 255-274.

Healy, K, Meagher, G & Cullin, J 2009, 'Retaining Novices to Become Expert Child Protection Practitioners: Creating Career Pathways in Direct Practice', *British Journal of Social Work*, vol. 39, no. 2, pp. 299-317.

Higgins J & Butler, N 2007, *Aboriginal and Torres Strait Islander responses to child protection issues: promising practices in out-of-home care for Aboriginal and Torres Strait Islander Carers, Children and Young People booklet 4,* Australian Institute of Family Studies*,* Melbourne.

Higgins, DJ 2007, *Cooperation and Coordination: An evaluation of the Family Court of Australia's Magellan case management model,* Australian Institute of Family Services, viewed 25 October 2012, http://www.aifs.gov.au/institute/pubs/magellan/magellan.pdf

Holzer, P, Higgins, JR, Bromfield, L, Richardson, N, & Higgins, D 2006, *The effectiveness of parent education and home visiting child maltreatment prevention*

programs, Child Abuse Prevention Issues report no. 24, Australian Institute of Family Studies.

Howieson, J & Coburn, C 2011, *Final report: Pilot of Signs of Safety lawyer-assisted conferences and meetings*, viewed 5 October 2012, http://sofs.s3.amazonaws.com/downloads/DCP_Prehearing_Eval.pdf

Hughes, RC & Rycus, JS 2007, 'Issues in Risk Assessment in Child Protective Services', *Journal of Public Child Welfare*, vol. 1, no. 1, pp. 85-116.

Human Rights and Equal Opportunities Commission 1997, *Bringing them home: Report of the national inquiry into the separation of Aboriginal and Torres Strait Islander children from their families*, Commonwealth of Australia, Canberra.

Humphreys, C 2012, '"Permanent" Care: Is the Story in the Data?', *Children Australia*, vol. 37, no. 1, pp. 4–9.

Humphreys, C, Harries, M, Healy, K, Lonne, B, Mendes, P, McHugh, P & Sheehan, R 2009, 'Shifting the child protection juggernaut to early intervention', *Children Australia,* vol. 34, no. 3, pp. 5-8.

Hunter, C 2011, *Defining the public health model for the child welfare services context*, National Child Protection Clearinghouse Resource Sheet, Australian Institute of Family Studies, Melbourne, viewed 3 October 2012, http://www.aifs.gov.au/nch/pubs/sheets/rs11/index.html

Hunter, R 2006, *Evaluation of the Children's Cases Pilot Program: A Report to the Family Court of Australia*.

Indian and Northern Affairs Canada 2007, *Evaluation of the first nations child and family services program*, Indian and Northern Affairs Canada, Quebec.

James, M 1994, *Domestic Violence as a Form of Child Abuse: Identification and Prevention*, Child Abuse Prevention Issues report no. 2, Australian Institute of Family Studies, viewed 28 November 2012, http://www.aifs.gov.au/nch/pubs/issues/issues2/issues2.html

Jervis-Tracey, P, Chenoweth, L, McAuliffe, D, O'Connor, B & Stehlick, D 2010, 'Managing tensions in professional statutory practice: living and working in rural and remote communities', Proceedings of the 26th SPERA National Rural Education Conference, SPERA, Sunshine Coast University.

Jessiman, P, Keogh, P & Brophy, J 2009, *An early process evaluation of the Public Law Outline in family courts,* Ministry of Justice Research Series no. 10, Ministry of Justice, viewed 12 October 2012, http://www.justice.gov.uk/downloads/protecting-the-vulnerable/care-proceeding-reform/public-law-family-courts-process-evaluation.pdf

Joint Select Committee 1999, *Adoption and Related Services 1950-1988*, Parliament of Tasmania.

Kadushin, A 1976, *Supervision in social work*, Columbia University Press, New York.

Kaplan, C & Merkel-Holguin, L 2008, 'Another look at the national study on differential response in child welfare', *Protecting Children*, vol. 23, no. 1 & 2, pp. 5-21, viewed 12 November 2012, http://www.americanhumane.org/assets/pdfs/children/differential-response/pc-23-1-2.pdf#page=7

Kerslake Hendricks, A & Stevens, K 2012, *Safety of subsequent children: international literature review*, Families Commission, viewed 12 October 2012, http://www.familiescommission.org.nz/sites/default/files/downloads/SoSC-international-literature-review.pdf

KPMG 2011, *Child FIRST and integrated services evaluation and summary report,* KPMG.

Lamont, A, Price-Robertson, R & Bromfield, L 2010, 'Intake, investigation and assessment: Background Paper (Appendix 7.2)' in Bamblett, M, Bath, H & Roseby, R (eds.), *Growing them Strong, Together: Promoting the safety and wellbeing of the Northern Territory's children, Report of the Board of Inquiry into the Child Protection System in the Northern Territory 2010*, Northern Territory Government, Darwin, pp. 663-705.

Legal Aid Queensland 2012, *Grants Handbook*, Legal Aid Queensland, viewed 12 November 2012, https://elo.legalaid.qld.gov.au/grantshandbook/default.asp

Levine, G 2012, *A Study of Family Drug Treatment Courts in the United States and the United Kingdom: Giving parents and children the best chance of reunification*, The Winston Churchill Memorial Trust of Australia, viewed 21 January 2013, http://www.childrenscourt.vic.gov.au/CA256902000FE154/Lookup/CP_Legal_Forum/$file/Churchill%20report%20Levine%20Final.pdf

Libesman, T 2004, *Child welfare approaches for Indigenous communities: international perspectives*, Australian Institute of Family Studies, Melbourne.

Libesman, T 2008, 'Indigenous children and contemporary child welfare', in Monahan, G & Young, L (eds.), *Child and the law in Australia*, LexisNexis, Chatswood.

Limerick, M 2011, *Review of the Palm Island community company: assessment of the Palm Island community company*, consultant report.

Linqage International 2003, *A.T.S.I Family decision making program evaluation*, Department of Human Services, Melbourne.

Littell, JH & Schuerman, JR 1995, *A synthesis of research on family preservation and family reunification programs*, US Department of Health and Human Services, viewed 12 October 2012, http://aspe.hhs.gov/hsp/cyp/fplitrev.htm

Loman, LA 2006, *Families frequently encountered by child protection services: A report on chronic child abuse and neglect*, Institute of Applied Research, St Louis, viewed 28 November 2012, http://www.iarstl.org/papers/FEfamiliesChronicCAN.pdf

Lonne, B & Thomson, J 2005, 'A critical review of Queensland's CMC inquiry into abuse of children in foster care: social work's contribution to reform', *Australian social work*, vol. 58, no. 1, pp. 86-99.

Lonne, B, Harries, M & Lantz, S 2012, 'Workforce Development: A Pathway to Reforming Child Protection Systems in Australia', *British Journal of Social Work*, pp. 1-19.

Lonne, B, Parton, N, Thomson, J & Harries, M 2009, *Reforming child protection*, Routledge, London.

Lonne, R & Cheers, B 1999, 'Recruitment, relocation and retention of rural social workers', *Rural Social Work,* vol. 5, pp. 13-23.

Lynch, L, Buckman, M & Krenske, L 2003, *Youth justice: criminal trajectories*, Trends and issues in crime and criminal justice report no. 265, Australian Institute of Criminology, Canberra.

Macdonald, G, Millen, S, McCann, M, Roscoe, H & Ewart-Boyle, S 2012, *Therapeutic approaches to social work in residential child care settings*, Children's and Families' Services report no. 58, Social Care Institute for Excellence, London, viewed 4 February 2013, http://www.scie.org.uk/publications/reports/report58/files/report58.pdf

Mackander, M 2012 'Adoptee to hear apology she's waited a lifetime for', *Sunshine Coast Daily*, 13 November 2012, p. 5.

MacMillan, HL, Wathen, N, Barlow, J, Fergusson, DM, Leventhal, JM & Taussig, HN 2008, *Interventions to prevent child maltreatment and associated impairment*, Departments of Psychiatry and Behavioural Neurosciences and of Pediatrics, and Offord Centre for Child Studies, McMaster University, viewed 12 October 2012, http://mhpss.net/wp-content/uploads/group-documents/112/1310472797-MacMillanetal.2008.pdf

Magistrates Court of Queensland 2011, *Annual Report 2010-2011*, Queensland Courts, Brisbane.

Magistrates Court of Queensland 2012, *Annual Report 2011-2012*, Queensland Courts, Brisbane.

Mansell, J 2006, 'The underlying instability in statutory child protection: Understanding the system dynamics driving risk assurance levels', *Social Policy Journal of New Zealand*, iss. 28, pp. 97-132, viewed 12 November 2012, http://www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/journals-and-magazines/social-policy-journal/spj28/28-pages-97-132.pdf

Mayer, B 2009, 'Reflections on the state of consensus-based decision making in child welfare', *Family Court Review*, vol. 47, no. 1, pp. 10-20.

McArthur, M & Thomson, L 2012, *National analysis of workforce trends in statutory child protection*, Institute of Child Protection Studies, Canberra.

McComsey, T 2010, 'In the best interests of the child: Intergenerational legacies of past Aboriginal child removal policies in Australia', in Thelen, T & Haukanes, H (eds.), *Parenting after the century of the child: Travelling ideals institutional negotiations and individual responses*, Ashgate Publishing Limited, England.

McDonald, C & Zetlin, D 2004, 'The more things change: Barriers to community service utilisation in Queensland', *Australian social work,* vol. 57, no. 2, pp. 115-126.

McDonald, M & Rosier, K 2011, *Interagency collaboration: AFRC briefing No. 2, 2011*, Australian Institute of Family Studies, viewed 12 October 2012, http://www.aifs.gov.au/afrc/pubs/briefing/b021/b021-ba.html

McDowall, J 2009, *CREATE report card 2009: Transitioning from care: tracking progress*, viewed 23 October 2012, http://www.create.org.au/files/file/ReportCard-2009.pdf.

McDowall, J 2011*, Transitioning from care in Australia: an evaluation of CREATE's What's the Plan? Campaign,* viewed 23 October 2012, http://www.create.org.au/files/file/CREATE_ReportCard2011webR211.pdf*.*

McGlade, H 2012, *Our Greatest Challenge: Aboriginal children and human rights*, Aboriginal Studies Press, Canberra.

McLean, S, Price-Robertson, R & Robinson, E 2011, *Therapeutic residential care in Australia: Taking stock and looking forward*, National Child Protection Clearinghouse Issues no. 35, Australian Institute of Family Studies, Melbourne, viewed 6 February 2013, http://www.aifs.gov.au/nch/pubs/issues/issues35/issues35.pdf?bcsi_scan_31154f8021efdec5=0&bcsi_scan_filename=issues35.pdf

Meitner, H 2012, *An introduction to safety mapping, harm and danger statements, and the Three Houses with Heather Meitner*, viewed 21 November 2012, http://www.youtube.com/watch?v=kzsr-DC8DDU

Mendes, P 2009, 'Young people transitioning from out of home care: a critical analysis of Australian and international policy and practice', *Australian Social Work*, vol. 62, no. 3, pp. 388-402.

Memmott, P, Stacy, R, Cambers, C, & Keys, C 2001, *Violence in Indigenous communities,* Commonwealth of Australia, Canberra.

Ministerial Advisory Group 2011, *Out-of-home care transition: Implementation framework*, Ministerial Advisory Group Transition Planning Unit, New South Wales.

Ministry of Justice 2011, *Family justice review: interim report*, New Zealand Government, viewed 22 October 2012, http://www.justice.gov.uk/downloads/publications/moj/2011/family-justice-review-interim-rep.pdf

Ministry of Social Development 2011, *Flow rates from Child, Youth and Family to corrections*, New Zealand Government, viewed 11 December 2012, https://www.msd.govt.nz/documents/about-msd-and-our-work/work-programmes/policy-development/green-paper-vulnerable-children/flow-rates-from-child-youth-and-family-to-corrections.doc

Monahan, G 2008, 'Current adoption law and practice in Australia: Part I – Local Adoption', *Current Family Law*, vol. 13, no. 4, pp. 202–219.

Morgan Disney & Associates Pty Ltd & Applied Economics Pty Ltd 2006, *Transition from Care – Avoidable costs of alternative pathways of young people exiting the formal child protection care system in Australia, Volume 1: Summary Report*, viewed 24 October 2012, http://www.fahcsia.gov.au/sites/default/files/documents/05_2012/vol1_transition_care.pdf

Morgan, A, Boxall, H, Terer, K & Harris, N 2012, *Evaluation of alternative dispute resolution initiatives in the care and protection jurisdiction of the NSW Children's Court*, Research and Public Policy Series no. 118, Australian Institute of Criminology, Canberra, viewed 11 January 2013, http://www.aic.gov.au/media_library/publications/rpp/118/rpp118.pdf

Mould, J 2009, 'The quest for the status of microscopic Queenslanders', *Queensland Law Society Journal*, vol. 29, no. 2, pp. 5-13.

Moynihan, M 2008, *Review of the civil and criminal justice system in Queensland final report*, Queensland Government.

Munro, E 2011, *The Munro Review of Child Protection: Final Report*, Department for Education, viewed 8 November 2012, http://www.education.gov.uk/munroreview/downloads/8875_DfE_Munro_Report_TAGGED.pdf

Murphy, K, Quartly, M & Cuthbert, D 2009, '"In the Best Interests of the Child": Mapping the (Re)Emergence of Pro-Adoption Politics in Contemporary Australia', *Australian Journal of Politics and History*, vol. 55, no. 2, pp. 201–218.

Murray, G 2007, *Evaluation Report - Family Group Meetings*, Legal Aid Queensland, Brisbane.

Murray, T 2011, *The Signs of Safety child protection practice framework*, PowerPoint slides, Government of Western Australia, viewed 3 December 2012, http://www.childrenandfamilies.nt.gov.au/library/scripts/objectifyMedia.aspx?file=pdf/71/98.pdf&siteID=5&str_title=Signspercent20of percent20Safety percent20Child percent20Protection percent20Practice percent20Framework.pdf

Myers, S 2005, 'A Signs of Safety approach to assessing children with sexually concerning or harmful behaviour', *Child Abuse Review*, vol. 14, iss. 2, pp. 97-112.

National Children's Advocacy Center 2012, *History*, National Children's Advocacy Center, Huntsville, viewed 9 November 2012, http://www.nationalcac.org/history/history.html

National Collaborating Centre for Aboriginal Health 2009, *Child welfare services in Canada: Aboriginal and mainstream*, National Collaborating Centre for Aboriginal Health, British Colombia.

Newman, BS, Dannenfelser, PL & Pendleton, D 2005, 'Child abuse investigations: Reasons for using child advocacy centres and suggestions for improvement', *Child and Adolescent Social Work Journal*, vol. 22, no. 2, pp. 165-181.

New South Wales Law Reform Commission 1997, *Review of the Adoption of Children Act 1965 (NSW)*, Law Reform Commission report no. 81, NSW Government.

New Zealand Government 2012, *The White Paper for Vulnerable Children*: *Volume II*, New Zealand Government, Wellington.

Nicholls, T (Treasurer and Minister for Trade) & Elmes, G (Minister for Aboriginal and Torres Strait Islander and Multicultural Affairs and Minister assisting the Premier) 2012, *Budget funding to extend Cape York trial*, media release, 11

September, Queensland Government, viewed 10 October 2012, http://budget.qld.gov.au/media-releases/2012-13/

NSW Department of Family & Community Services 2012, *Keep them safe annual report 2011-12*, New South Wales Government, Sydney.

NSW Ombudsman 2010, *Oversight of public administration*, NSW Ombudsman, Sydney, viewed 10 October 2012, http://www.ombo.nsw.gov.au/__data/assets/pdf_file/0019/3709/FS_PSA_15_Oversight_of_public_administration.pdf

O'Halloran, K 2006, *The politics of adoption: international perspectives on law, policy and practice*, Springer, Dordrecht.

O'Neill, C, Ban, P & Swain, P 2009, 'The changing context of adoption' in Swain, P & Rice, S (eds.), *In the Shadow of the Law*, 3rd edn, The Federation Press, Annandale, pp. 208–228.

Office of Economic and Statistical Research 2012, *Projected population by age (medium series), Queensland, 30 June 2011-2056*, Queensland Government, viewed 23 October 2012, http://www.oesr.qld.gov.au/products/tables/proj-pop-age-qld/index.php.

Office of the Information Commissioner 2012, *Community members*, Queensland Government, viewed 21 December 2012, http://www.oic.qld.gov.au/information-for/community-members

Olds D, Kitzman, H, Hanks, C, Anson, E, Sidora-Arcoleo, K & Luckey, D 2007, 'Special effects of nurse home visiting on maternal and child functioning: Age-9 follow-up of a randomised trial', *Journal of Pediatrics*, vol. 120, no. 4, pp. 832-845.

Osborn, A & Bromfield, L 2007, *Young people leaving care*, National Child Protection Clearing House, Australian Institute of Family Studies, viewed 24 October 2012, http://www.aifs.gov.au/nch/pubs/brief/rb7/rb7.pdf

Palm Island Community Company 2010, *Annual Report June 2010*, Palm Island Community Company, Townville.

Palm Island Community Company 2012, *Palm Island Community Company*, Palm Island Community Company, viewed 5 October 2012, http://www.picc.com.au

Park, K 2010, 'Assessing child safety through an integrated practice model: The Structured Decision Making system and Signs of Safety', *SDM News*, iss. 22, National Council on Crime and Delinquency: Children's Research Center, viewed 29 November 2012,

http://www.nccdglobal.org/sites/default/files/publication_pdf/sdm_news_apr10.pdf

PeakCare Queensland Inc. 2007, *Rethinking child protection: A new paradigm?,* PeakCare Queensland Inc.

Pearson, N 1999, 'Positive and negative welfare and Australia's Indigenous communities', *Family Matters*, no. 54, pp. 30–35.

PPC Worldwide 2012, *Services*, viewed 25 October 2012, http://www.ppcworldwide.com/services/view.php?id=1

Price-Robertson, R & Bromfield, L 2011, *Risk assessment in child protection*, National Child Protection Clearinghouse, Australian Institute of Family Studies, Melbourne, viewed 17 January 2013, http://www.aifs.gov.au/nch/pubs/sheets/rs24/rs24.pdf?bcsi_scan_1a3dfde8c5074f62=0&bcsi_scan_filename=rs24.pdf

Public Service Commission 2011, *Project 2800 Strategy,* Queensland Government, viewed 25 October 2012, http://www.psc.qld.gov.au

Public Service Commission 2012, *MOHRI Service Delivery Definitions,* Queensland Government, viewed 24 January 2012, http://www.psc.qld.gov.au/library/document/catalogue/workforce-statistics/mohri-service-delivery-definitions.pdf

Quartly, M & Swain, S 2012, 'The market in children: Analysing the language of adoption in Australia', *History Australia*, vol. 9, no. 2, pp. 69–89.

Queensland Aboriginal and Torres Strait Islander Child Protection Peak Ltd 2012, *Child Placement Principle*, viewed on 21 December 2012, http://www.qatsicpp.com.au/?page_id=365

Queensland Audit Office 2012, *Our business*, Queensland Government, viewed 21 December 2012, http://www.qao.qld.gov.au/our-business

Queensland Child Death Case Review Committee 2009, *Queensland Child Death Case Review Committee: annual report 2008–09*, Queensland Government, viewed 12 October 2012, http://www.cdcrc.qld.gov.au/pdf/reports/annual_report_2008-2009/CDCRC-2008-09.pdf

Queensland Child Death Case Review Committee 2010, *Queensland Child Death Case Review Committee: annual report 2009-10*, Queensland Government, viewed 12 October 2012, http://www.cdcrc.qld.gov.au/pdf/reports/annual_report_2009-2010/CDCRCAR09-10_no%20signatures_WEB_secured.pdf

Queensland Child Death Case Review Committee 2011, *Queensland Child Death Case Review Committee: annual report 2010-11*, Queensland Government, viewed 12 October 2012, http://www.cdcrc.qld.gov.au/pdf/reports/annual_report_2010-2011/CDCRC_Report_WEB.pdf

Queensland Child Death Case Review Committee 2012, *Annual Report 2011-12*, Queensland Government, viewed 12 November 2012, http://www.cdcrc.qld.gov.au/pdf/reports/annual_report_2011-2012/2011-12-CDCRC-annual-report.pdf

Queensland Child Death Case Review Committee n.d., *Members*, Queensland Government, viewed 14 December 2012, http://www.cdcrc.qld.gov.au/about/members.html

Queensland Child Protection Commission of Inquiry 2012, *Queensland Child Protection Commission of Inquiry: options for reform*, Queensland Child Protection Commission of Inquiry, viewed 5 December 2012, http://www.childprotectioninquiry.qld.gov.au/publications

Queensland Civil and Administrative Tribunal 2012a, *Compulsory conferences*, Queensland Government, viewed 31 October 2012, http://www.qcat.qld.gov.au/using-qcat/on-the-day/compulsory-conferences

Queensland Civil and Administrative Tribunal 2012b, *Queensland Civil and Administrative Tribunal*, Queensland Government, viewed 21 December 2012, http://www.qcat.qld.gov.au

Queensland Commission of Audit 2012, *Queensland Commission of Audit Interim Report,* Queensland Government, viewed 28 November 2012, http://www.commissionofaudit.qld.gov.au/reports/interim-report.pdf

Queensland Council of Social Service Inc. 2012, *Human Services Quality Framework*, viewed 21 December 2012, http://www.communitydoor.org.au/human-services-quality-framework

Queensland Courts 2012a, *Coroners*, Queensland Courts, viewed 21 December 2012, http://www.courts.qld.gov.au/courts/coroners-court/coroners

Queensland Courts 2012b, *Office of the State Coroner contacts*, Queensland Courts, viewed 21 January 2013, http://www.courts.qld.gov.au/contact-us/office-of-the-state-coroner

Queensland Government 2012, *Annual Highlights Report for Queensland's Discrete Indigenous Communities for the period July 2010 – June 2011,* Queensland Government, Brisbane.

Queensland Ombudsman 2008, *Who is your complaint about?,* viewed 21 December 2012 http://www.ombudsman.qld.gov.au/MakeaComplaint/Whatisyourcomplaintabout/tabid/429/Default.aspx

Queensland Ombudsman 2012*, Annual Report 2011-12*, Queensland Ombudsman, Brisbane.

Queensland Parliament 2012, *Online tabled papers*, Queensland Government, Brisbane, viewed 14 December 2012, http://www.parliament.qld.gov.au/work-of-assembly/tabled-papers/online-tabled-papers

Raman, S, Inder, B & Forbes, C 2005, *Investing for success: The economics of supporting young people leaving care,* Centre for Excellence in Child and Family Welfare, Melbourne, viewed 24 October 2012, http://www.cfecfw.asn.au/sites/www.cfecfw.asn.au/files/Monograph%205%20Investing%20for%20Success%20Web.pdf

Remote Area Aboriginal & Torres Strait Islander Child Care 2012, *Cape York/Gulf Remote Area Aboriginal and Torres Strait Islander Child Care (RAATSICC) Advisory Association Inc*, viewed 5 October 2012, http://www.raatsicc.org.au.

Referral for Active Intervention Initiative 2010, *A three year evaluation report: October 2010*, Department of Communities, Brisbane.

Robertson, B 2000, *The Aboriginal and Torres Strait Islander Women's Task Force on Violence Report*, Department of Aboriginal and Torres Strait Islander Policy and Development, Brisbane.

Roesch-Marsh, A 2012, 'Out of Control: Making sense of the behaviour of young people referred to secure accommodation', *British Journal of Social Work*, pp. 1-17.

Royal Commission into Aboriginal Deaths in Custody 1991, *Report of the Royal Commission into Aboriginal Deaths in Custody (5 Vols.),* Australian Government Publishing Service, Canberra.

Rubin, D, O'Reilly, A, Luan, X & Localio, R 2007, 'The impact of placement instability on behavioral well-being for children in foster care', *Pediatrics*, vol. 119, no. 2, pp. 336-344.

Rudd, K 2008, *Apology to Australia's Indigenous Peoples*, Parliamentary Debates, Commonwealth House of Representatives, 13 February, p. 167.

Rushton, A n.d., *Adoption as a Placement Choice: Arguments and Evidence*, Maudsley Discussion Paper No. 9.

Russ, E, Lonne, B & Darlington, Y 2009, 'Using resilience to reconceptualise child protection workforce capacity', *Australian Social Work,* vol. 62, no. 3, pp. 324-338.

Ryan, R 2009, *To investigate training models for professional staff in statutory child protection*, Winston Churchill Memorial Trust of Australia, Canberra, viewed 9 November 2012, http://www.churchilltrust.com.au/site_media/fellows/2009_Ryan_Robert.pdf

Sammut, J 2011, *Do not damage and disturb: On child protection failures and the pressure on out-of-home care in Australia,* Centre for Independent Studies, viewed 11 October 2012, http://www.cis.org.au/images/stories/policy-monographs/pm-122.pdf

Sawyer, R & Lohrbach, S 2005, 'Differential response in child protection: Selecting a pathway', *Protecting Children*, vol. 20, no. 2 & 3, pp. 44-54.

Scott, D 2006, 'Sowing the seeds of innovation in child protection', keynote address to the 10th Australasian Conference on Child Abuse and Neglect, Wellington, 14–16 February, viewed 27 November 2012, http://www.cfecfw.asn.au/sites/www.cfecfw.asn.au/files/Monograph%206%20Sowing%20the%20Seeds%20of%20Innovation%20in%20Child%20Protection%20Web.pdf

Scott, D 2009, *Think child, think family*, Family Matters report no. 81, Australian Institute of Family Studies, Melbourne.

Secretariat of National Aboriginal and Torres Strait Islander Child Care 2008, *SNAICC response to discussion paper: Australia's children*, Secretariat of National Aboriginal and Torres Strait Islander Child Care, North Fitzroy.

Segal, J & Dalziel, K 2011, 'Investing to protect our children: using economics to drive evidence-based strategy', *Child Abuse Review*, vol. 20, p. 274.

Signs of Safety 2009, *Copenhagen Implementation of Signs of Safety*, viewed 4 December 2012, http://signsofsafety-stuff.s3.amazonaws.com/CPH_eval_data.pdf

Signs of Safety n.d., *The signs of safety approach to child protection casework*, viewed 29 November 2012, http://www.signsofsafety.net/signsofsafety

Silburn, S, Zubrick, S, De Maio, J, Shepherd, C, Griffin, J & Mitrou, F 2006, *The Western Australian Aboriginal Child Health Survey: Strengthening the Capacity of Aboriginal Children, Families and Communities*, Curtin University of Technology and Telethon Institute for Child Health Research, Perth.

Skrypek, M, Otteson, C & Owen, G 2010, *Signs of Safety in Minnesota: Early indicators of successful implementation in child protection agencies*, Wilder Research.

Smith, G 2011, *Care Circles to keep Lismore Aboriginal children safe*, media release, 8 December, Attorney General and Minister for Justice, viewed 9 October 2012, http://www.lawlink.nsw.gov.au/Lawlink/Corporate

Smyth, C & Eardley, T 2008, *Out of home care for children in Australia, final report*, Social Policy and Research Centre UNSW, Sydney, viewed 23 October 2012, http://www.sprc.unsw.edu.au/media/File/Report3_08_Out_of_home_care.pdf

Social Work Policy Institute 2010, *High caseloads: How do they impact delivery of health and human services?*, Research to Practice Brief, The National Association of Social Workers Foundation, Washington.

Special Commission of Inquiry into Child Protection Services in NSW 2008, *Executive summary and recommendations of the special commission of inquiry into child protection services in NSW*, NSW Government, Sydney.

Stallman, HM, Walmsley, KE, Collerson, E, Cupit Swenson, C & McDermott, B 2010, 'New directions in the treatment of child physical abuse and neglect in Australia: MST-CAN, a case study', *Advances in mental health*, vol. 9, no. 2, pp. 148-161.

Standing Committee on Family and Human Services 2005, *Overseas Adoption in Australia: Report on the inquiry into adoption of children from overseas*, Parliament of Australia House of Representatives Committees, Canberra.

Standing Committee on Law and Justice 2009, *Adoption by same-sex couples*, Parliament of New South Wales Legislative Council, Sydney.

Standing Committee on Social Issues 2000, *Releasing the Past Adoption Practices 1950-1998 Final Report*, Legislative Council, Sydney.

Steering Committee for the Review of Government Service Provision 2012, *Report on Government Services 2012*, viewed 24 December 2012, http://www.pc.gov.au/gsp/rogs/2012

Steering Committee for the Review of Government Service Provision 2013, *Report on Government Services 2013*, viewed 15 February 2013, http://www.pc.gov.au/gsp/rogs/2013

Stein, M 2005, *Resilience and young people leaving care: Overcoming the odds*, Joseph Rowntree Foundation, viewed 22 January 2013, http://www.scottishsocialnetworks.orgwww.scottishsocialnetworks.org/app/

webroot/userfiles/general/research%20paper%20Resilience%20and%20young%20people%20leaving%20care%20Mike%20Stein.pdf?bcsi_scan_a1c99feec31f2dec=0&bcsi_scan_filename=research%20paper%20Resilience%20and%20young%20people%20leaving%20care%20Mike%20Stein.pdf

Stewart, A n.d., *Transitions and turning points: examining the links between child maltreatment and juvenile offending*, viewed 11 December 2012, http://www.ocsar.sa.gov.au/docs/other_publications/papers/AS.pdf

Stewart, A & Thompson, C 2004, *Comparative Evaluation of Child Protection Assessment Tools*, Griffith University, Brisbane.

Swenson, C, Schaeffer, CM, Hontoria Tuerk, E, Henggler, SW, Tuten, M, Panzarella, P, Lau, C, Remmele, L, Foley, T, Cannata, E & Guillorn, A 2009, 'Adapting multisystemic therapy for co-occurring child maltreatment and parental substance abuse: the building stronger families project', *Emotional and behavioural disorders in youth*, vol. 9, no. 1, pp. 3-8, viewed 11 December 2012, http://www.mstcan.com/BSF%20Feasibility%20Study.pdf

Testro, P 2010, *Report on the Aboriginal and Torres Strait Islander Kinship Reconnection Project*, Placements for Aboriginal and Torres Strait Islander Working Group Child Protection Partnership Forum, Brisbane.

Tilbury, C & Mazerolle, P (in press), 'The Childrens Court in Queensland: where to from here?', in Sheehan, R & Borowski, A (eds.), *Australia's Children's Courts Today and Tomorrow*, Springer Publishing Company, New York.

Tilbury, C & Osmond, J 2006, 'Permanency Planning in Foster Care: A Research Review and Guidelines for Practitioners', *Australian Social Work*, vol. 59, no. 3, pp. 265–280.

Tilbury, C 2005, 'Child protection services in Queensland post-Forde Inquiry', *Children Australia*, vol. 30, no. 3, pp. 10-16.

Tilbury, C 2009, 'The over-representation of indigenous children in the Australian child welfare system', *International Journal of Social Welfare*, vol. 18, pp. 57-64.

Tilbury, C 2010, 'Educational status of children and young people in care', *Children Australia*, vol. 35, no. 4, pp. 7-13.

Tilbury, C, Creed, P, Buys, N & Crawford, M 2011, 'The school to work transition for young people in state care: perspectives from young people, carers and professionals', *Child and Family Social Work*, vol. 16, no. 3, pp. 345-352.

Tilbury, C, Osmond, J, Wilson, S & Clark, J 2007, *Good Practice in Child Protection*, Pearson Education Australia, Frenchs Forest.

Tomison, AM & Stanley, J 2001a, 'Social welfare framework: Current trends in child protection (Brief No. 1)' in *Strategic Directions in Child Protection: Informing policy and practice*, unpublished report for the South Australian Department of Human Services, viewed 12 November 2012, http://www.aifs.gov.au/nch/pubs/reports/SAbrief/SAbrief1.pdf

Tomison, AM & Stanley, J 2001b, 'Social welfare framework: System design and service system requirements for a holistic child protection system (Brief No. 2)' in *Strategic directions in child protection: Informing policy and practice,* unpublished report for the South Australian Department of Human Services, viewed 12 October 2012, http://www.aifs.gov.au/nch/pubs/reports/SAbrief/SAbrief2.rtf

Tomison, AM & Tucci, J 1997, *Emotional Abuse: the hidden form of maltreatment*, Child Abuse Prevention Issues report no. 8, Australian Institute of Family Studies, viewed 12 November 2012, http://www.aifs.gov.au/nch/pubs/issues/issues8/issues8.html#red

Tomison, AM 1995, *Spotlight on Neglect*, Child Abuse Prevention Issues report no. 4, Australian Institute of Family Studies, viewed 30 November 2012, http://www.aifs.gov.au/nch/pubs/issues/issues4/issues4.html

Tregeagle, S, Cox, E, Voigt, L & Moggach, L 2012, 'Are we adequately considering children's rights to a family? The importance of open adoption to young people in long-term care', *Developing Practice*, iss. 31, pp. 64-69.

Turnell, A & Edwards, S 1997, 'Aspiring to partnership: The Signs of Safety approach to child protection', *Child Abuse Review*, vol. 6, pp. 179-190.

Turnell, A & Hopwood, L 1994, 'Solution-focused brief therapy: A first session outline', *Case studies in brief and gamily therapy*, vol. 8, no. 2, pp. 39-51, viewed 18 January 2013, http://signsofsafety-stuff.s3.amazonaws.com/TurnellHopwoodSFBT1.pdf

Tweddle, A 2005, *Youth leaving care – How do they fare?*, Briefing paper for the Modernizing Income Security for Working Age Adults Project, viewed 4 December 2012, http://www.laidlawfdn.org/sites/default/files/resources/Youth_Leaving_Care_report.pdf

United Nations Department of Economic and Social Affairs — Population Division 2009, *Child Adoption: Trends and Policies*, United Nations, New York.

Victorian Aboriginal Child Care Agency 2007, *Strategic plan 2007-2012*, Victorian Aboriginal Child Care Agency, Melbourne.

Victorian Aboriginal Child Care Agency 2010, *Victorian Aboriginal child care agency*, viewed 4 October 2012, http://www.vacca.org

Victorian Government 2012, *Victoria's vulnerable children: our shared responsibility*, Victorian Government, Melbourne.

Victorian Law Reform Commission 2007, *Assisted Reproductive Technology and Adoption: Final Report*, Victoria Law Reform Commission, Melbourne.

Wagner, D & Scharenbroch, C 2011a, *Identifying children at risk: A Child Safety Services response to families with multiple notifications*, National Council on Crime and Delinquency: Children's Research Center, Madison.

Wagner, D & Scharenbroch, C 2011b, *Special topic report on identifying children at risk: Profiles of families where domestic and family violence is indentified during investigation and assessment*, National Council on Crime and Delinquency: Children's Research Center, Madison.

Waldfogel, J 1998, *The future of child protection: how to solve the cycle of abuse and neglect*, Harvard University Press, Cambridge.

Walsh, T and Douglas, H 2011, 'Lawyers, Advocacy and Child Protection', *Melbourne University Law Review*, vol. 35, no. 2, pp. 621-650.

Walsh, T and Douglas, H 2012, *Lawyers views of decision making in child protection matters: the tension between adversarialism and collaborative approaches*, Monash Law Review.

Wexler, R 2005, 'Family Preservation Is the Safest Way to Protect Most Children' in Loseke, DR, Gelles, RJ & Cavanaugh MM (eds.), *Current Controversies on Family Violence*, Sage Publications, Thousand Oaks, pp. 311–327.

Wisconsin Children's Research Center 2008, *Preliminary examination and calibration of Queensland Department of Child Safety's Family Risk Evaluation for Abuse/Neglect*, National Council on Crime and Delinquency, Madison.

Wisconsin Children's Research Center 2009, *Structured Decision Making in child protective services: Policy and procedures manual (version 3.1)*, National Council on Crime and Delinquency, Madison.

Wisconsin Children's Research Center 2012, *Family Risk Evaluation validation: A prospective study*, National Council on Crime and Delinquency, Madison.

Wise, S, Bromfield, L & Higgins, D 2006, *Improving permanency for children in care – Queensland Department of Child Safety: discussion paper consultation feedback*, Australian Institute of Family Studies, Melbourne, viewed 10

December 2012,
http://www.aifs.gov.au/nch/pubs/submissions/qld/qldpermanency.pdf

World Health Organisation 2010, *Child maltreatment*, fact sheet 150, viewed 15 January 2013, http://www.who.int/mediacentre/factsheets/fs150/en/index.html