

**Department of Communities, Child Safety and Disability Services
Submission to the Queensland Child Protection Commission of Inquiry**

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Summary of proposed future directions for the child protection system in Queensland	
Reforms to ensure Queensland's child protection system achieves the best possible outcomes to protect children and support families	
A balanced child protection system	
Rationale	Proposal
1.0 Future directions for Queensland: A balanced child protection system	
<p>The wellbeing of children cannot be the responsibility of a single agency and a whole-of-government approach is required to address the causes of poor outcomes for children. Queensland has previously committed to a whole of government approach to protecting children. Now a whole-of-government commitment to supporting families is required. A commitment to a coordinated multi-agency approach to support families and meet the needs of children is required. Greater balance is required across the system broadly to enable all professionals in contact with families to support them to meet the needs of their children and to help to reduce the demands on the lead agency for child protection services.</p>	1.1 Implementing a whole-of-government commitment to improving the wellbeing of children and supporting families.
	1.2 The development of a whole-of-government strategy requiring all agencies that provide services to children, young people and their families to prioritise improving wellbeing outcomes for children and reducing the incidence and impact of child abuse and neglect in the development and implementation of individual agency and whole-of-government reforms and service delivery.
	1.3 Agencies across government committing to enable and encourage staff to support families to care safely for their children either directly or by referring them to relevant community based services or to Child Safety Services when it is appropriate to do so.
	1.4 Maintaining the delivery of statutory child protection services within a broader agency that also has responsibility for supporting vulnerable children and families in the community and has lead responsibility for the whole-of-government response to supporting families to reduce the incidence and impact of child abuse and neglect.
2.0 Future directions for Queensland: Improving reporting and referral practices	
<p>A common approach to reporting concerns to Child Safety Services would help to make sure the right families are reported at the right time. This would also help to clarify when a family could safely be reported to a family support service to reduce unnecessary reporting to Child Safety Services.</p>	2.1 Amending the <i>Child Protection Act 1999</i> to include a new provision that makes it clear that a report to Child Safety Services can be made when a person has reasonable grounds to suspect that a child may have suffered significant harm, be suffering significant harm or be at an unacceptable risk of suffering significant harm.
	2.2 Consolidating mandatory reporting requirements currently contained in the <i>Public Health Act 1992</i> , and the <i>Commission for Children and Young People and Child Guardian Act 2000</i> into the <i>Child Protection Act 1999</i> .
	2.3 Amending the <i>Child Protection Act 1999</i> to change the current term 'harm to a child' to 'significant harm to a child' to more accurately align with the role of Child Safety Services in the statutory child protection system and include in the current definition clarification that whether or not a detrimental effect is of a significant nature to a particular child will depend upon the particular characteristics of the child and the individual circumstances of the case.
	2.4 Amending the <i>Child Protection Act 1999</i> to include in the current definition of 'child in need of protection' the matters that may be taken into consideration when determining whether a child has a parent who is able and willing to protect a child from the harm.
	2.5 The Department of Communities, Child Safety and Disability

	<p>Services should lead a whole-of-government review of current policies across government for the reporting of concerns to Child Safety Services to ensure that policy and practice align with the provisions of the <i>Child Protection Act 1999</i>.</p> <p>2.6 Implementing the Child Protection Guide across Queensland and mandating its use within the Department of Education Training and Employment, Queensland Health, and the Queensland Police Service and requiring a commitment be made within these agencies for ongoing information, training and support to be provided to relevant staff to support the use of the Guide and to improve the efficacy and efficiency of reporting policies and practices to reduce duplication.</p>
3.0 Future directions for Queensland: Supporting families to keep their children safely at home	
<p>For families to be able to access timely family support without the involvement of Child Safety Services, an alternative option should be provided for professionals in key government agencies responsible for health, education and police to enable them to respond to concerns about the wellbeing and safety of a child.</p>	<p>3.1 Including in the <i>Child Protection Act 1999</i> a provision to make it clear that a person who has a concern about the wellbeing of a child or an unborn child can refer the matter to a community-based child and family service (including a local service alliance as outlined in proposal 6.3). The provision and the proposal in 2.1 above, could be modelled on sections 31 and 32 of the <i>Children, Youth and Families Act 2005</i> (Vic) that support the Child FIRST approach in Victoria and were the original intention of the Helping Out Families model in Queensland.</p>
	<p>3.2 Including in the <i>Child Protection Act 1999</i> a provision to make it clear that referring a matter to a community-based child and family service meets all policy and legislative obligations to report a matter to Child Safety Services.</p>
	<p>3.3 Expanding the scope and capacity of family support services across Queensland by increasing investment, as resources become available, and improving efficiencies (through strategies such as local service alliances as outlined in proposal 6.3 which would support a community based intake process as outlined above in proposal 3.1) to provide early intervention and intensive support services to vulnerable families whose children may become in need of protection if support and assistance is not provided to them.</p>
	<p>3.4 Maintaining investment in the statutory child protection system while family support services are expanded, in the first instance, until the service system is able to better meet demands to support families to care safely for their children at home and reduce demand on the statutory child protection system.</p>
	<p>3.5 Continue to identify options to contain expenditure at the statutory end of the system to re-direct to secondary services to obtain a more balanced expenditure across the system.</p>
4.0 Future directions for Queensland: Referring families directly to the services they need when they need them	
<p>The preferred way for agencies in contact with children and their families to support those families and to share relevant information about them when they are concerned about the child's safety and wellbeing is with the agreement of the family. Information sharing provisions should be expanded to enable key government agencies to share information with service providers to enable them to offer to provide a service in</p>	<p>4.1 Including in the <i>Child Protection Act 1999</i> relevant provisions to make it clear that the preferred way of referring a child or their family to a service is with their consent.</p>
	<p>4.2 Expanding section 159M(4) of the Act to enable the key prescribed entities responsible for education, health and police to share information with a service provider for the purposes that sub-section currently enables Child Safety to share information. This would enable schools, health and police to share</p>

<p>circumstances where consent to share the information is not able to be obtained. Once information has been shared for this purpose with a service provider they should engage with the family with their knowledge and agreement.</p>	<p>information with a service provider about a child who may become a child in need of protection if preventative support is not given to the child or the child's family and their family to a service provider. The information that should be able to be shared under these new provisions should be limited to information that the prescribed entity reasonably believes would enable the service provider to assess or respond to the health, education care needs or wellbeing of the child or otherwise make plans or decisions relating to or provide services to the child or the child's family.</p>
	<p>4.3 Amending the <i>Child Protection Act 1999</i> to make it clear that defined prescribed entities that share information in good faith as outlined in 4.2 above are protected from all liability and from breach of professional code of conduct, ethics or standard of professional conduct.</p>
	<p>4.4 The department provide up to date relevant information about family support services funded by the department to prescribed entities referred to in 3.2 above to enable relevant information to be shared with the right services so that they can make contact with the family and offer to provide a service.</p>

Stronger families

Rationale	Proposal
5.0 Future directions for Queensland: Addressing parental risk factors	
<p>Mainstream adult services support people who are parents. These services support individuals to address issues such as mental health, drug and alcohol, and domestic violence issues. These services could be further integrated with family support services to further enable them to have a family focus to their work with individuals. A joined up or integrated service system is required to meet the needs of families where multiple and complex parental risk factors are present</p>	<p>5.1 Implementing a whole-of-government framework that makes it clear that mainstream adult and children's services play an important role in supporting families to keep children safe.</p>
	<p>5.2 Developing family focused practice support guidelines to practically enable universal and mainstream services to incorporate a family focus to their practice.</p>
	<p>5.3 Prioritising access for high-risk individuals with families in adult services to address parental risk factors.</p>
6.0 Future directions for Queensland: Addressing parental risk factors	
<p>A planned and integrated family support service system across State and Commonwealth funded services will more effectively meet the needs of children and families in each local area. Government and non-government organisations that provide services to vulnerable families should work together in partnership with common goals (including to keep children safe), and clearly understand each other's roles and responsibilities. Service providers should clearly understand their role within the service continuum and local services should work together to flexibly meet the needs of the local community.</p>	<p>6.1 The development and implementation of a place-based planning and investment process for child and family support services to align and integrate services funded by various agencies within the State and Commonwealth Government.</p>
	<p>6.2 The department review and re-purpose its suite of secondary and tertiary family support programs into one overarching Child and Family Support Program to encompass working with families with children who are not in need of protection and working with families with children who are subject to statutory child protection intervention.</p>
	<p>6.3 Taking a place-based approach to establishing and maintaining local alliances between family support services to support better working relationships to meet local service needs.</p>
7.0 Future directions for Queensland: Building the capacity of non-government organisations	
<p>Non-government organisations that provide family support services need a skilled and professional workforce to meet the needs of the complex families they provide services to.</p>	<p>7.1 Implementation of staged plan for mandatory minimum qualifications, determined on the basis of service role, for non-government family support and children's services and the development of a staged plan to achieve this goal.</p>

	<p>7.2 The department in conjunction with relevant stakeholders developing and implementing a framework for supporting quality practice across the government and non-government service system.</p> <p>7.3 The department make available online training and information resources for community services - recognising the geographically dispersed nature of Queensland.</p>
Contact with the child protection system	
Rationale	Proposal
8.0 Future directions for Queensland: Opportunities for a differential response in Queensland	
<p>As part of a cultural shift to strengthen the role of child safety officers to support families, differential responses could be introduced to the intake, investigation and assessment phases of the child protection continuum.</p>	8.1 Child Safety Services implementing an internal shift in focus to ensure a 'supporting families' focus underpins all statutory child protection work.
	8.2 The department introducing a practice framework, such as the Signs of Safety approach adopted in Western Australia, to support this shift in practice and undertake relevant education, information, and professional development to implement this change in approach.
	8.3 Child Safety Services building upon the experience gained through the Helping Out Families initiative to implement policy and practice reforms so relevant matters recorded as a child concern report can be referred directly to appropriate local services.
	8.4 Child Safety Services trialling a 'differential response' when there is reasonable suspicion that a child is in need of protection (notification) to provide additional options to support families rather than undertaking an investigation and assessment for each notification.
	<p>8.5 The differential response approach in 7.4 above may include:</p> <ul style="list-style-type: none"> • Child Safety supported direct referrals to local support services in appropriate cases; • The use of an assessment and support response with local services in appropriate cases which may include a Support Service Case; • The ongoing use of investigation and assessment in appropriate cases.
	8.6 The preferred approach should be for Child Safety to work with families voluntarily, with their consent to help them to care safely for their child including through a Support Service Case. The department will recognise the value of this important work by reflecting it in caseload calculations.
9.0 Future directions for Queensland: Improving case planning as part of ongoing statutory child protection intervention	
<p>Case planning processes are an essential mechanism to enable a coordinated response to meeting a child's protection and care needs. The requirement for there to be a written case plan for a child the subject of ongoing help under the <i>Child Protection Act 1999</i> provides clear information to children and families about why the child is in need of protection, what the child's needs are, and how they can be met. The process for developing a case plan for a child could be improved to help to enable all children</p>	9.1 Amending the <i>Child Protection Act 1999</i> to provide greater guidance about when consideration may be given to engaging a private convenor to convene a family group meeting. The appointment of a private convenor should be considered when: a family group meeting is convened during the assessment phase of a Support Service Case; where there is protracted conflict or disagreement between the child's family and department about an issue to be discussed at a family group meeting or when the meeting is to develop an initial case plan.
	9.2 Amending section 51(2) to make it clear that private and internal family group meeting convenors should be appropriately

the subject of ongoing help to have a current case plan.	qualified and including in the Act a power to make a regulation about what may be taken into consideration in determining whether a person is appropriately qualified. 9.3 Amending section 51S in Part 3A or Chapter 2 of the <i>Child Protection Act 1999</i> to make it clear that the provision applies in circumstances where the department has taken all reasonable steps to hold a case planning meeting have been made. In these circumstances Child Safety should be responsible for the development and endorsement of the case plan for the child in accordance with section 51S.
10.0 Future directions for Queensland: Improving intervention with parental agreement	
Family Intervention Services have demonstrated success in addressing child protection concerns and supporting parents to safely care for their children at home and reduce the need for further statutory intervention. However, increased flexibility in how these services are purchased and provided could result in some children being able to remain safely at home.	10.1 Using existing resources more flexibly to purchase additional intensive family support or specialist services to keep a child safely at home rather than being placed in out-of-home care in appropriate cases.
	10.2 This Increased flexibility could be utilised in Support Services Cases (7.5 above) and cases where an intervention with parental agreement is provided.
11.0 Future directions for Queensland: Improving court processes	
Child protection court proceedings are resource intensive and often lengthy with matters being adjourned on several occasions. An increased focus on supporting families will help to ensure that applications for court orders are made only as a last resort when other appropriate opportunities to divert the child and their family from this type of intrusive intervention have been exhausted. Strategies that enable the timely resolution of court proceedings and aim to reduce conflict between the parties, whilst ensuring natural justice and procedural fairness are maintained may assist in the more efficient use of court and departmental resources.	11.1 Amending the <i>Child Protection Act 1999</i> to provide that the child's parents' attendance at a family group meeting and agreement to a case plan for a child is not an admission to any issues in evidence in proceedings on an application for a child protection order for the child.
	11.2 Amending section 59(1)(b) of the <i>Child Protection Act 1999</i> to limit this provision to a requirement that the Court be satisfied that there is a case plan for the child that has been developed or revised under Part 3A and removing the requirement for the Court to be satisfied that the case plan is appropriate for meeting the child's protection and care needs. This would maintain the requirement for an up to date case plan to be provided to the Court and the parties before the making of an order, but limits the Courts role to determining the substantive matters rather than reviewing the case plan that has been developed appropriate in accordance with the Act.
	11.3 Amending the <i>Child Protection Act 1999</i> to insert a new requirement in section 59 that before a child protection order can be made for a child, the Court must be satisfied that all reasonable steps have been taken to provide services to the child and their family in the best interests of the child.
	11.4 The department work with the Department of Justice and Attorney-General to review the current legislative, policy and practice approach to support Court Ordered Conferences to ensure they align with best practice to enable proceedings to be settled as early as possible.
	11.5 Amending section 66(3) of the <i>Child Protection Act 1999</i> to make it clear that a court should not adjourn a proceeding on an application for a child protection order if it is not in the best interests of the child to do so; and section 66(4) of the Act to make it clear that the Court may direct parties to do things in relation to the timely resolution of the proceedings on an adjournment of an application for a child protection order.
12.0 Future directions for Queensland: Specialisation in child protection legal practice	
Specialist training and accreditation processes	12.1 The department working with the Department of Justice

should be established for lawyers practicing in child protection matters in Queensland to enable the provision of high quality legal information, advice and representation services to children and parents involved in child protection proceedings.	and Attorney-General, Legal Aid Queensland and the Queensland Law Society to explore options for the establishment of a child protection practitioner accreditation process.
	12.2 The development and implementation of training and information materials to support an accreditation process.
13.0 Future directions for Queensland: Understanding the interface between family law and child protection	
The interface between the Commonwealth family law jurisdiction and the State child protection system is complex. It is important that each system has an understanding of the role and responsibilities of the other and that Child Safety Services maintains an ongoing, effective relationship with Commonwealth family law courts.	13.1 As part of a focus on supporting families, Child Safety Services reinforce quality statutory child protection practice to enable both parents to participate in each stage of statutory child protection intervention when a child's parents have separated.
	13.2 Child Safety Services continuing to play an active role in maintaining an effective collaborative working relationship with Commonwealth family courts including continuing to participate in the Magellan case management model, ongoing implementation and review of the existing protocol between the department and the courts, and exploring opportunities for joint training and information for staff.
Keeping children safe and well in care	
Rationale	Proposed future directions
14.0 Future directions for Queensland: Reframing time limited out-of-home care as a mechanism for supporting families	
As part of a cultural shift within Child Safety Services to focus on supporting families, the use of time limited interventions including out-of-home care should be reframed as a way to support families to meet their child's protection and care needs.	14.1 Implementing a family support practice framework such as the Signs of Safety framework implemented in Western Australia that provides for good practice in supporting families to keep their children safely at home and may include the use of time limited out-of-home care to support families to care safely for their children at home.
	14.2 Increasing the use of intervention with parental agreement and care agreements as a mechanism to support families to keep their children safely at home in appropriate cases.
15.0 Future directions for Queensland: Meeting the needs of individual children and young people	
Continuing to build and maintain an out-of-home care service system that includes a diverse range and mix of placement options and integrated services, with flexibility and capacity to meet the demand and the individual needs of individual children will help to deliver better outcomes for children in the statutory child protection system.	15.1 Further developing the current range and mix of out-of-home care placement options for children who are the subject of statutory child protection intervention.
	15.2 Improving outcomes for children in out-of-home care by continuing to integrate placement and support services to flexibly meet the needs of individual children and their families and provide a continuum of therapeutic care.
16.0 Future directions for Queensland: Improving the use of kinship care	
The placement of a child in out-of-home care with kin is preferred. Kinship is likely to provide greater security and stability for children in out of home care and may assist them to maintain connections to their family. The use of kinship care should be increased so it becomes the primary out-of-home care placement option in Queensland.	16.1 Policy and practice improvement within Child Safety Services to support the early identification and involvement of kin in statutory child protection intervention.
	16.2 Child Safety Services amending operational policies and practice to require the proper consideration of appropriately placing the child with kin before other out-of-home care options can be accessed.
	16.3 Amending the <i>Child Protection Act 1999</i> to enable the placement of a child, when a safety plan is in place for the child, with an unapproved kinship carer for a maximum period of seven days if the unapproved kinship carer intends to make an

	<p>application for approval. This will enable the placement of a child with a kinship carer while the carer compiles the required information and completes an application for a certificate of approval.</p> <p>16.4 Amending the <i>Child Protection Act 1999</i> to remove specific timeframes for when a child can be placed in the care of a provisionally approved kinship carer to enable the placement of a child with a provisionally approved kinship carer from when their application of approval is made up until when a decision is made on the application for approval. This approach will enable a child in the care of a provisionally approved carer can remain in their care until the application for their approval is decided.</p> <p>16.5 The department and the Commission for Children and Young People and Child Guardian continuing to provide information to the community, including specifically to Aboriginal and Torres Strait Islander communities about the process of applying for a Blue Card to encourage people to consider being a kinship or foster carer.</p>
17.0 Future directions for Queensland: Improving the carer approval process	
Efficiencies could be achieved for carers, non-government agencies and Child Safety Services if re-approval periods for approved carers (other than an initial 12 month period) were extended from the current two year period to a four year period.	<p>17.1 Amending section 135(8) of the <i>Child Protection Act 1999</i> to extend the re-approval period of a certificate of approval for foster and kinship carers from two years to four years.</p> <p>17.2 Amending the <i>Child Protection Act 1999</i> to enable the review of an approved carer's ongoing suitability during the period of a certificate of approval. It should also be made clear that if following a review a carer is determined to no longer be suitable, their approval as a carer may be suspended or cancelled.</p>
18.0 Future directions for Queensland: Exploring options for professional care	
To meet demand for family based out-of-home care for children in the statutory child protection system, and to broaden the range of placement models for children and young people with complex and extreme needs, and in response to the changing demographics in the community, Queensland should continue to develop and implement models of professional care.	<p>18.1 Queensland participating in national work and continuing to advocate nationally for taxation and industrial barriers to be removed to enable carers to work safely and be adequately remunerated for providing professional care services for children and young people with complex or extreme support needs.</p> <p>18.2 Child Safety Services continuing to encourage the use of specific response care in appropriate cases.</p> <p>18.3 Queensland continuing to develop other models and options to enable and encourage more Queensland households to participate as approved carers for children in out-of-home care.</p>
19.0 Future directions for Queensland: Building capacity in the out-of-home care system to meet individual children's needs	
A range and mix of placement options are required to best match the needs of a child to the type of placement and carer. The out-of-home care service system should aim to provide a continuum of therapeutic care, encompassing all elements of placement and support services and focusing on the critical interconnections between services rather than stand alone services. A responsive out-of-home care system requires flexibility in the use of resources to enable a child's needs to continue to be met by their placement.	<p>19.1 Child Safety Services continuing to develop the out-of-home care service system enabling an integrated response to be provided to children in out-of-home irrespective of the type of placement they are in.</p> <p>19.2 Increased flexibility for local child safety service centres to utilise resources to enable innovative responses to appropriately meet the needs of particular children and young people when other placement options have been exhausted or are not appropriate.</p> <p>19.3 Child Safety Services further developing quality practice to support the appropriate placement of children and young people</p>

	<p>in residential care facilities.</p> <p>19.4 The staged introduction of a requirement for minimum qualifications for all carers working within residential care facilities and a plan for how this requirement can be met over future years</p> <p>19.5 Working with non-government organisations towards expanding the use of therapeutic care approaches within residential and family based care services to provide greater coverage across Queensland.</p>
20.0 Future directions for Queensland: Improving stability and security for children and young people in out-of-home care	
Children and young people who have been harmed and removed from their family's care achieve better outcomes if they are cared for in a way that provides them with stability, security and a continuity of care with a caring adult. A planned approach is required to meet children's long term stability and security.	<p>20.1 Child Safety Services providing ongoing practice support to enable case planning for children to take into consideration a child's need for stability and security from early in a child's involvement with the statutory child protection system. This should include the early identification of long term options for the child, irrespective of whether the goal of a case plan for a child is to provide ongoing support to the child's family to enable them to care for the child safely in the future.</p> <p>20.2 Child Safety Services actively supporting kinship carers to encourage them to consider being a long term guardian for the child when it is appropriate to do so.</p>
21.0 Future directions for Queensland: Improving the wellbeing of children and young people in out-of-home care	
Child Safety Services has primary responsibility for meeting the protection and care needs of children in out-of-home care. Children in out-of-home care are the responsibility of the State as a whole. Improved wellbeing for children in out-of-home care could be achieved through a whole-of-government approach which prioritises the delivery of government services to children in out-of-home care.	<p>21.1 Undertaking a coordinated and holistic review of all services accessed by children and young people across government to improve how those services can meet the needs of children and young people in out-of-home care.</p> <p>21.2 Implementing a coordinated whole-of-government response model to meet the care, development and wellbeing needs of children in out-of-home care and those transitioning home or to independence including priority access to services, similar to the Rapid Response model in South Australia.</p>
22.0 Future directions for Queensland: Improving support for young people to transition to Independence	
In Queensland, although progress has been made over recent years in supporting young people to transition from out-of-home care to independence, more can be done to support young people to become independent.	<p>22.1 Child Safety Services developing within its workforce further specific expertise and dedicated resources to support young people during this critical phase including transition from care planning and direct post care support and coordination through Support Service Cases when required.</p> <p>22.2 Amending section 75 of the <i>Child Protection Act 1999</i> to make it clear that the obligation to help a young person to transition to independence may extend until the young person reaches 21 years of age and may include ongoing direct support or assisting a young person to access or referring a young person to other support services. This help should include enabling the ongoing payment of child related costs for a child until they reach 21 years of age and the continued payment of a carer allowance to a young person's foster or kinship carer.</p> <p>22.3 Child Safety Services supporting quality practice by supporting frontline staff by providing information and support about when a Support Service Case should be opened for a young person transitioning from care and enabling these cases to be included in caseload calculations for front line services.</p>

	22.4 Child Safety Services developing a post care support program to coordinate and extend non-government support services for young people exiting care including in regional and remote areas of Queensland.
	22.5 The coordinated whole-of-government response model outlined in 20.1 above, extend to young people up to the age of 21 who were in out-of-home care and include initiatives such as the waiving of TAFE and university fees for young people who have exited out-of-home care.

Workforce Issues

Rationale	Proposal
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23.0 Future directions for Queensland: Building a sustainable and skilled workforce

A professional and resilient workforce with high level skills is the key to delivering the best services possible to Queensland children and families.	23.1 Child Safety Services maintaining a commitment to the core qualifications of social work, behavioural and social sciences, and human services, being the preferred qualifications for front line child protection workers.
	23.2 Child Safety Services continuing to provide pathways for workers to gain tertiary qualifications and to build diversity in the workforce.
	23.3 Child Safety Services reviewing the current organisational structure within frontline service areas to identify opportunities to enable more senior child safety officer positions to provide career pathways and retain more experienced staff. These positions should be specifically targeted towards areas of practice requiring a depth of practice experience such as the first contact with complex families, and engagement with complex young people with complex and extreme support needs.
	23.4 Child Safety Services review the ongoing role of specialist positions within the statutory child protection workforce to ensure they continue to efficiently support frontline service delivery.
	23.5 Formalising operational policies and procedures to enable family support and transition from care Support Service Cases to enable them to be included in case load calculations.
	23.6 Continuing to annually align regional organisational structures and staffing numbers in line with workload pressures.

Strategies to reduce the over representation of Aboriginal and Torres Strait Islander children at all stages of the child protection system, particularly out-of-home care

Rationale	Proposal
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24.0 Future directions for Queensland: Supporting Aboriginal and Torres Strait Islander families and communities to keep their children safely at home

Specific strategies are required to reduce the over representation of Aboriginal and Torres Strait Islander children and their families in the statutory child protection system in addition to the proposals included in this submission. To keep children safe at home and to reduce the need for statutory child protection intervention communities need to take responsibility for supporting families and for caring for children who require out-of-home care. A long term plan to work towards community ownership and	24.1 The department reviewing the current range and mix of family support services that support Indigenous children and their families including specific Aboriginal and Torres Strait Islander community owned and controlled services and mainstream services to establish a comprehensive and integrated Indigenous family support program and to enable families to choose a service that can help them to care safely for their children at home. This could include exploring opportunities for innovative partnerships between Aboriginal and Torres Strait Islander community controlled organisations and mainstream family support service providers and encouraging mainstream
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responsibility is required.	services to also provide culturally specific services.
	24.2 The department working collaboratively with relevant peak non-government agencies to review the effectiveness of Aboriginal and Torres Strait Islander Family Support Services to support families to provide better outcomes for children. This work should specifically address the capacity of services to work intensively with families with complex issues to address risk factors and the skills and expertise workers within services need to deliver effective outcomes for families.
	24.3 The department implementation of other mechanisms to obtain cultural advice to inform decision making about Aboriginal and Torres Strait Islander children and families in contact with Child Safety Services to enable resources to be focused towards Indigenous specific family support services.
	24.4 The department supporting the establishment of a network of volunteer community leaders to drive community ownership of children wellbeing and protection in local communities. This could be based on the Community Justice Group model supported by the Department of Justice and Attorney-General.
	24.5 The department developing a comprehensive 10 year plan to enhance the capacity and capability of Aboriginal and Torres Strait Islander controlled organisations to: take responsibility for and provide services to Indigenous children and their families to keep children safely at home; and to take responsibility for case management, placement and service delivery for children and young people the subject of statutory child protection intervention. The 10 year plan should be based on evaluated components of models implemented in other jurisdictions that are effectively reducing the over representation of Indigenous children and their families in the child protection system and delivering better outcomes for children and young people and their families. The ten year plan should include: <ul style="list-style-type: none"> - developing skills and expertise within communities - developing a sustainable funding model to support the establishment of an alternative pathway for children in out-of-home care - identifying and supporting Aboriginal and Torres Strait Islander community controlled organisations to put in place sustainable, accountable and effective governance and business arrangements - implementing relevant legislative reforms to support the model - providing incentives for Aboriginal and Torres Strait Islander community controlled organisations to develop innovative partnership arrangements with mainstream service providers delivering out-of-home care services.
	24.6 The department reporting regularly on the implementation of key milestones to deliver on the 10 year plan.
Legislative reforms	
Rationale	Proposal
25.0 Future directions for Queensland: A comprehensive review of the <i>Child Protection Act 1999</i>	
It is contemporary good practice to review major legislative instruments within 10 years of the commencement. The <i>Child Protection Act 1999</i> has been in operation since 2000 and has been	25.1 A comprehensive review of the <i>Child Protection Act 1999</i> including a process of targeted consultation with key stakeholders and peak non-government and broad public consultation to consult on recommended or proposed reforms to

significantly amended during that time. A comprehensive review of the Act would provide a legislative framework for the child protection system in Queensland that is based on current evidence about what works in child protection policy and practice and is clear and logically drafted.	the Act within 2 years.
Any reforms to improve the current oversight, monitoring and complaints mechanisms of the child protection system	
Rationale	Proposed future directions
26.0 Future directions for Queensland: Improving efficiency in the child death review process	
While each child death inquiry identifies factors significant in each case, the review function ensures that collective learning across cases is used to inform continuous system improvements. This process provides critical information to inform ongoing system and practice improvement. Efficiencies could be achieved to enable greater balance of resources across the child protection system as a whole by limiting the scope of cases requiring a child death review to be undertaken.	26.1 Amending section 246A(1)(b) to reduce the scope of Chapter 7A of the Act to children who within 12 months before the child's death Child Safety Services became aware of alleged harm or risk of harm to the child or took action under the Act or the child was born and before the child was born Child Safety Services reasonably suspected the child may be in need of protection after the child was born.
27.0 Future directions for Queensland: Improving efficiency in the Community Visitor Program	
The Community Visitor program provides an important mechanism for accountability and advocacy for children and young people in out-of-home care. There may be opportunities for improved efficiencies by targeting the Community Visitor Program and reducing reporting requirements.	27.1 Targeting the Community Visitor Program by introducing a risk management framework to assist the Commissioner to determine the regularity and frequency of visits required to particular children in out-of-home care that provides for more regular visits to children with higher support needs or who are placed in particular types of out-of-home care placements.
	27.2 Limiting the discretion of the Commissioner to provide a report to the department about a visit to a visitable site or home to a child in out-of-home care under the <i>Child Protection Act 1999</i> to circumstances where the Commissioner considers the report raises a significant concern about the standard of care provided to a child or children in the placement or collated information that may assist to identify trends and issues for support quality practice.
28.0 Future directions for Queensland: Improving efficiency in the child-related employment screening process	
The child related employment screening scheme plays an important role in raising community awareness about keeping children safe and protecting children and young people by ensuring that people who work with them in certain roles do not have a history that may place a child at risk. However, efficiencies could be achieved within the Blue Card scheme.	28.1 Extending the period that a Blue Card or an exemption notice remains valid from three years to five years.

Introduction

The Department of Communities, Child Safety and Disability Services (the department) welcomes the opportunity to provide a submission for consideration by the Queensland Child Protection Commission of Inquiry.

In developing this submission, the department has considered the Terms of Reference for the Inquiry and notes that the Commissioner will make recommendations for the future of the Queensland child protection system according to four key areas:

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

This submission has been developed according to these four key areas of future reform.

Context of the child protection system in Queensland

The Commission of Inquiry has already noted a number of pressing issues for the Queensland child protection system including:

1. mandatory reporting
2. over-representation of Aboriginal and Torres Strait Islander children and families
3. investment in secondary services
4. responding to children and families with complex needs
5. growth in demand for out-of-home care
6. workforce and workload issues.¹

The *National Framework for Protecting Australia's Children* notes that protecting children is more than the delivery of statutory child protection services. A robust child protection system includes universal services delivered to all children and families; secondary services for families who require additional (including intensive) assistance; and statutory services when less intrusive interventions are not sufficient to ensure a child's safety.²

This approach, based on a public health model, recognises that supporting all families to care for their children by providing an appropriate environment for the development and wellbeing through an effective universal service system assists to build resilience and provide a foundation for families to care for their children. This approach has been recognised nationally as a way of describing the components of the child protection system³.

Universal supports include those available to all families such as health services (such as pre-natal and ante natal services) and the education system (including early childhood education and care services, and schools). The approach also recognises that a secondary service system that targets families that require additional, specific or more intensive support can enable early intervention to reduce the likelihood of issues escalating and further interventions being required. These services include domestic and family, mental health, housing and homeless, and drug and alcohol services.

¹ Queensland Child Protection Commission of Inquiry: emerging issues, September 2012.

² Council of Australian Governments (2009) *Protecting Children is Everyone's Business: National Framework for Protecting Australia's Children 2009-12*. The Second Action Plan 2012-2015 to implement the National Framework was endorsed by Ministers at the Standing Council on Communities, Children and Disability Services in August 2012.

³ Australian Research Alliance for Children and Youth, *Inverting the Pyramid: enhancing systems for the protection of children*, (2009) www.aracy.org.au

An effective system also includes a high quality statutory child protection system that provides alternative out of home care, continues to support families to ultimately care for or maintain a relationship with their children and enables children who have been the subject of harm to overcome their trauma and reach their full potential.

A broad range of government and non-government agencies have a role to play in supporting Queensland families across this continuum. A whole of government approach and commitment is required to keep children safely at home with their families.

Queensland's statutory child protection system is underpinned by the *Child Protection Act 1999*. The Act provides the legislative framework for the statutory or tertiary component of the system but it does not regulate all of the services and supports across the system. Such as response would be cumbersome and would not provide the kind of flexibility required in relation to the provision of human services to respond to service demands and trends that may change over time or as knowledge and understanding about what works develops. For example, to assist in the interpretation and administration of the Act it provides for the 'chief executive's functions'⁴. These are broadly defined to assist in the legislative interpretation of the Act rather than being binding statutory obligations. The scope of the role and functions of the department are a matter for government.

The delivery of services in Queensland is particularly challenging. Queensland has a large geographical area and a dispersed and regionalised population. Relatively high numbers of people live outside south east Queensland in regional, rural and remote communities. The unique characteristics and demographics of our State pose particular challenges for the delivery of services.

Queensland has the second largest number of Aboriginal and Torres Strait Islander children in Australia and this number is growing faster than in other States and Territories. By 2012 Queensland is projected to have the largest population of Aboriginal and Torres Strait Islander young people in Australia. By June 2016, Queensland is projected to have the largest Aboriginal and Torres Strait Islander total population in Australia and is likely to soon have the highest population of young Aboriginal and Torres Strait Islander children and young people.

The Queensland child protection system has recently been shaped by two major inquiries including the 1999 Commission of Inquiry into Abuse of Children in Queensland Institutions (the Forde Inquiry) and the 2004 Crime and Misconduct Inquiry into the Abuse of Children in Foster Care (the CMC Inquiry).

Each of these inquiries saw significant investment in and reform of the Queensland child protection system. As a result, over time, departmental intervention has become more reflective of a forensic, investigative approach to child protection rather than a family support approach.

Each of the previous inquiries in Queensland have resulted in significant improvements to the system. The Forde Inquiry informed an improved understanding of institutional care, the impact of past practices in response to children exhibiting the effects of abuse and neglect, and improved accountability and safeguards for the exercise of administrative powers. The CMC Inquiry resulted in a collaborative effort across government to implement the recommendations of the inquiry and emphasised the need for the statutory system to be responsive to the needs of children and young people who require intervention to keep them safe and protected from harm.

However, public inquiries into failures within child protection systems in other jurisdictions and in Queensland tend to increase awareness of and sensitivity to child protection issues and have tended to lead to risk adverse organisational cultures, driven by compliance. While these

⁴ Section 7, *Child Protection Act 1999*

processes are well intentioned and aimed at improvement within the system, some inquiries have resulted in unintended consequences. The challenge for any inquiry process is to lead and drive reform whilst maintaining balance across the system as a whole.

A balanced child protection system comprising of investment across the continuum of universal, secondary and statutory services in response to the specific community in which it is established will ultimately deliver better outcomes for children and their families. Balance within the components of the system should also seek to be achieved. For example, since the CMC Inquiry in Queensland, significant improvements have been made in record keeping and case management processes. However, as the Queensland Child Protection Commission of Inquiry has heard in evidence, the emphasis on procedures and recording may lead to workers spending less time building effective relationships with the children and families they are working with⁵. This is not unique to Queensland and is consistent with the outcomes of inquiries in other jurisdictions⁶.

Queensland's statutory child protection system is characterised by an investigative forensic approach as is common in many Western jurisdictions. The focus is on identifying children at risk of harm, collecting information, investigating allegations, managing risk, and intervening by removing children from their families. In contrast other jurisdictions, such as Norway, have an approach focused on supporting families with an emphasis on minimising the requirement for statutory intervention (including out-of-home care) but still utilising it when required as part of a holistic suite of interventions.

Other Australian jurisdictions have recognised the limitations of an investigative approach to child protection and have implemented strategies to balance forensic child protection with family support. Governments in Australia and overseas are increasingly investing in early intervention and prevention services which aim to stop families from having contact with statutory child protection services. Examples include the Signs of Safety approach in Western Australia and Child FIRST in Victoria.

The most effective and efficient way to protect children from harm is by supporting families to care safely for their children at home. The challenge is develop a model of family support that responds to the needs of families in a specific location and is adequately resourced to meet the service delivery demands of the community whilst improving and maintaining a high quality statutory system that can intervene when necessary to deliver better outcomes for children in need of protection.

The needs of vulnerable families are complex. Qualitative information and quantitative data help to paint the picture of the demands on and within the system. However, point in time and output data may not adequately demonstrate the ebb and flow of families within the system or the changing issues within a family or a child's life. Nor does it highlight the number of families who come to the attention of Child Safety Services repeatedly over time.

Undertaking the work of supporting vulnerable families and keeping children safe is highly complex and challenging. A highly skilled and well supported workforce of professional people is required across the government and non-government sectors.

The Queensland Child Protection Commission of Inquiry presents the opportunity for Queensland to further reform the child protection system across the continuum by defining the goals for the system of the future and describing the process for how they can be achieved.

⁵ Mayfield, B (2012) *Building Knowledge for Policy and Practice in Out-of-home Care: Exploring the Boundaries of Systematic Mapping*, Unpublished thesis, University of Queensland.

⁶ Hill, Malcolm (1990) *The Manifest and Latent Lessons of Child Abuse Inquiries*, The British Journal of Social Work, Volume 20, Issue 3, page 197; Parton, Nigel (2004) *From Maria Colwell to Victoria Climbié: reflections on public inquiries into child abuse a generation apart*, Child Abuse Review, 13(2), March/April 2004, pp.80-94.

; Munro, Prof. Eileen (2011) *The Munro Review of Child Protection: Final Report - A child-centred system*, Department of Education, United Kingdom, 2011.

Current pressures and challenges in the system

The key challenges within the child protection system include:

Increasing numbers of reports made each year to Child Safety Services: Most children in Queensland live safely at home with their families. However, increasing numbers of children are being reported to Child Safety Services because of a concern that they might have been harmed or be at risk of harm. The number of reports to Child Safety Services (or 'intakes') increased by almost 60 per cent over the last five years (from 71,885 in 2007-08 to 114,503 in 2011-12).

Approximately 80 per cent of the reports made to Child Safety Services in 2011-12 did not require a child protection investigation because the information provided did not suggest the child is in need of protection (nearly 4 out of every 5 reports). Of the 114,503 intakes recorded last financial year, 24,823 required an investigation (these are recorded as a 'notification'). As a rate per 1,000 of the Queensland population aged 0-17 years, 20.5 per 1,000 children were subject to a notification in 2011-12.

The system in Queensland has not been developed to provide the necessary supports to these families, rather the system has been developed to investigate the most complex cases and other reports have been simply recorded on the Integrated Client Management System data base.

Of the children investigated, many do not require a child protection intervention: A large number of the children investigated by Child Safety Services do not require ongoing child protection intervention. Of the 24,823 notifications requiring investigation in 2011-12, less than 20 per cent resulted in an assessment that the child was in need of protection. Compared to other states and territories, Queensland investigates the second highest number of reports in Australia (behind New South Wales) and Queensland is the only State that investigates all notifications.

Most of the reports to Child Safety Services come from health, school or police sources (approximately 60 per cent of all intakes). Reports from these sources are increasing. The majority of reports from each of these sources do not require a child protection investigation or intervention. Referrals from police have increased by 111.4 per cent in the last five years while referrals from health sources and school personnel have increased by 70.9 per cent and 52.0 per cent respectively in the last five years. The majority of reports from each of these sources do not require a child protection investigation or intervention. In 2011-12, 81.2 per cent of referrals from police, 75.2 per cent from school personnel and 71.4 per cent from health sources did not meet the threshold for further child protection investigation and intervention.

The majority of cases of substantiated harm relate to reports to child protection are increasingly relating to family and parental capacity to meet their children's needs in times of stress rather than intentional harm. In 2011-12 emotional harm and neglect comprised 77.5 per cent of substantiated harm types compared to physical harm (17.9 per cent) and sexual harm (4.6 per cent).

Protracted and resource intensive court processes: According to data reported by all States and Territories in the Child protection Australia report⁷, Queensland has the highest number of care and protection orders issued in Australia. In Queensland there were 7,190 admissions to orders in 2011-12. These orders include court assessment orders, interim orders made each time a court proceeding is adjourned and short and long term child protection orders. Almost half of these orders were interim orders (3,484) which are orders that are made when a court adjourns the proceedings to another court date.

⁷ AIHW, Child protection Australia 2010-2011, pages 22-39

Over-representation of Aboriginal and Torres Strait Islander children: Aboriginal and Torres Strait Islander children are more likely to be reported to Child Safety Services. In 2011-12, one in every 2.2 Indigenous children were known to Child Safety Services, and based on the most recent population estimates, this is anticipated to increase to every second Indigenous child by 2012-13. Nearly 40 per cent of all children in out of home care in Queensland are Indigenous while less than 7 per cent of Queensland's children and young people are Indigenous.

Aboriginal and Torres Strait Islander children are progressively more over represented in the child protection system. As a rate per 1,000 of the Queensland population aged 0-17 years, 82.0 per 1,000 Indigenous children were subject to a notification in 2011-12 compared to 16.1 per 1,000 for non-Indigenous children. Since 2007-08 the number of Indigenous children subject to a notification increased by 35.5 per cent while the number of non-Indigenous children subject to a notification decreased over this period by 10.8 per cent.

Demand for, and cost of, out of home care placements: The growth in the number of children in out of home care as a result of child protection intervention has meant that more placements are needed. The number of children in out-of-home care has increased by nearly 20 per cent in the last five years (from 6,670 as at 30 June 2008 to 7,999 as at 30 June 2012). This growth has primarily been driven by an increase in the number of Aboriginal and Torres Strait Islander children in out of home care. The number of Indigenous children requiring a placement increased by 46 per cent since 30 June 2008 while the supply of Indigenous carers grew by only 23 per cent over the same period. High quality care is essential to obtain good outcomes for children who have been harmed and are removed from their families.

Issues for families are multiple and complex: When a child is assessed as being a child in need of protection, families are likely to have multiple and complex issues that impact on their capacity to care safely for their children. Research conducted by the department has identified risk factors for harm to children reported to Child Safety Services. This research found that in substantiated households where the child was assessed as being in need of protection, two-thirds (65 per cent) had one or both parents with a drug and/or alcohol problem, over one third (39 per cent) had two or more incidents of domestic violence within the past year, almost half (41 per cent) of primary parents were abused or neglected as a child, around one-third of primary parents have a criminal history (34 per cent) and around the same amount have or have had a mental illness (30 per cent). However, not all families require intensive support. For some families a full intensive case management approach may not be required.

Capacity of the secondary service system to support families earlier: Many of the families reported to Child Safety Services do not require a statutory child protection response but many would benefit from support. Despite some increased investment in intensive family support services such as Referral for Active Intervention, Helping Out Families, and Aboriginal and Torres Strait Islander Family Support Services, many families are not provided with the support they need to care for their children.

The investment in the secondary system falls short of that required to meet the needs of the number of families reported to Child Safety Services.

Maintaining a skilled workforce: The Department of Communities, Child Safety and Disability Services relies on professional and skilled workers across government and non-government sectors to deliver a wide range of support services to vulnerable children and their families. The department values qualifications of social work, human services, social sciences and psychology. Professionals with these qualifications form a major component of the workforce. The challenge is to build and maintain a sustainable workforce across the government and non-government service system that is made up of professionals with the right skills, qualifications and experience and is the right size to meet the level of demand.

Supporting quality practice: The Crime and Misconduct Commission Inquiry report noted the need for effective and appropriate case management and record keeping mechanisms to support quality practice. The Integrated Client Management System (ICMS) aims to support quality case management and enable consistent record keeping so that essential information about children and their families who are the subject of child protection intervention is accessible and appropriately recorded. However, large information management systems such as ICMS need to be maintained and are often criticised as adding time consuming administrative burdens. The requirement to record on the system details of all families reported to Child Safety Services means that ICMS now stores the details of nearly every fifth child in Queensland.

Supporting consistent high quality practice across a large workforce, especially in light of the challenges to maintain a depth of experience across the State, remains a challenge. Tools such as Structured Decision Making and the Child Safety Practice Manual that are regularly reviewed and updated and aim to support professional judgement have been implemented. However, these are often criticised as being too directive and not enabling independent professional decision making.

Future directions for the child protection system in Queensland

This submission includes a number of proposals that could be implemented at various stages to chart a new road map for child protection in Queensland over the next decade. Specific legislative amendments referred to throughout the submission are matters that could be progressed relatively quickly while a longer term holistic review of the *Child Protection Act 1999* is undertaken. Other systemic proposals could be staged so the ground work to underpin systemic reforms is undertaken in the first instance with further implementation progressed in latter years to build upon early foundations and as resources become available.

The proposals in this submission are aimed at:

- improving balance across the system and within the system
- recognising the complexity of the system and of the lives of children and families involved within it
- shifting the focus of the system from a forensic, investigative risk adverse culture to one focused on supporting families and
- improving the effectiveness and efficiency of the system to deliver better outcomes for children and families.

In addition, Queensland will continue to participate in national reforms aimed at delivering a substantial and sustained reduction in the levels of child abuse and neglect over time. This will include participating in the ongoing implementation of the National Framework to Protect Australia's Children 2009-2020 where actions align with Queensland priorities and will deliver better outcomes for Queensland children and families.

Reforms to ensure Queensland's child protection system achieves the best possible outcomes to protect children and support families

A balanced child protection system

The child protection system

A diverse range of factors impact on the wellbeing of children. The causes of poor outcomes for children are also diverse and range from poverty, inadequate access to health and education, inequality and social exclusion. The CMC Inquiry report noted that the wellbeing of children cannot be the responsibility of a single agency and that a whole-of-government approach is also required to address the causes of poor outcomes for children⁸.

The CMC Inquiry report also noted that a stronger focus on supporting parents was required, especially those who are socially or economically disadvantaged. In the 9 years since the report, this still remains the case. To improve wellbeing and outcomes for children, services that are available to all of the community that are delivered by agencies such as health, education and police need to continue to meet the specific needs of children and their families. If the wellbeing of all children is improved, including those who are particularly vulnerable, the demands on the lead agency for child protection can be reduced.

The CMC Inquiry report included a description and diagram that had been developed to inform consideration of the child protection system as a whole⁹, each of its component parts, and how they interface and interact with each other to provide better outcomes for children and young people. In the years since the CMC Inquiry, academics, service providers and government agencies, and inquiries in other jurisdictions have developed various versions of this type of diagram and various mechanisms to describe the system as a whole. Whichever representation is preferred, it seems the core elements of the system include: supports and services that are available to all families that should also be able to meet the needs of vulnerable and disadvantaged families (universal services); early intervention services that provide more targeted support services of increasing intensity to provide additional supports to families who need them from time to time (secondary or targeted support services); and tertiary or statutory child protection interventions.

Following the CMC Inquiry report, the implementation of the recommendations drove collaboration across government and improved the understanding of roles and responsibilities of government and the non-government sector partners to support children and families. However, over time, competing priorities within individual agencies and across government have contributed to a risk adverse approach where demand is pushed further along the continuum as a mechanism perceived as managing risk. This approach is more likely to simply 'shift risk' and increase demand to an unmanageable and unsustainable point.

The responses available to be utilised by Child Safety Services as the statutory child protection agency are currently relatively limited. The response is often to report concerns about a child to Child Safety Services, whether or not a professional refers the child and family to other support services or continues to provide additional support themselves. It is unlikely to be the intention of all professionals who refer families in need to Child Safety for the child to be removed from their family's care. It is likely that concerns about many of these families come to attention of professionals because the family does need some support. If families do not have access to the

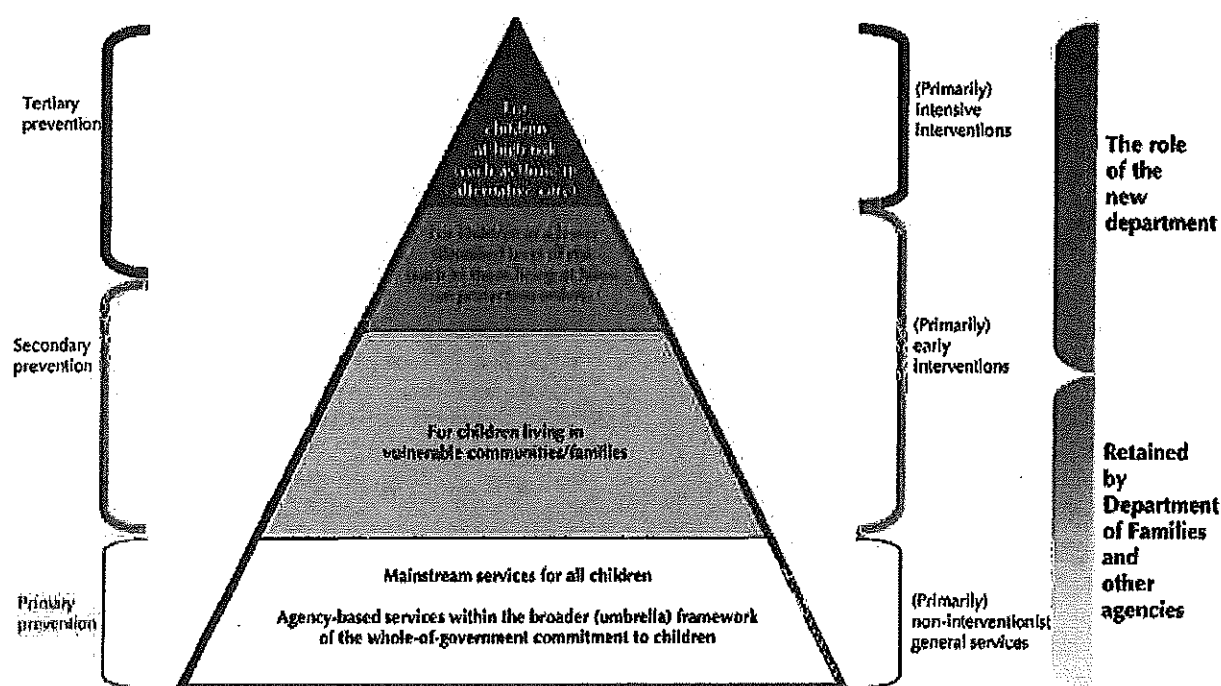
⁸ Crime and Misconduct Commission, *Protecting Children: an inquiry into the abuse of children in foster care*, 2004, page 134

⁹ Crime and Misconduct Commission, *Protecting Children: an inquiry into the abuse of children in foster care*, 2004, page 135

support they need when they need it, outcomes across multiple government agencies are likely to be impacted. A re-invigorated commitment to a coordinated multi-agency approach to supporting families and meeting the needs of children is required.

Individual professionals within relevant agencies who have contact with children, young people and their families need to have a family support focus. The challenge is for the broader service system 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. The alternative is a broadening social divide between 'good' or deserving parents and 'bad' parents who should not have the care of their children.

The core recommendations in the CMC Inquiry report included the establishment of the Department of Child Safety to focus exclusively upon core child protection functions and to be the lead agency in a whole-of-government response to child protection matters¹⁰. The role of the new department was represented in the report by the following diagram.¹¹



Crime and Misconduct Commission Inquiry report Figure 4.2 (2004)

The Department of Child Safety was established in 2004 and lead significant whole-of-government and statutory child protection reforms that contributed to improvements across each aspect of the child protection system in Queensland. However, the focus on 'core' child protection functions has contributed to the current emphasis on a forensic approach that has in turn contributed to the increasing demand on statutory child protection services. This submission includes a number of proposals that highlight the opportunities for improving outcomes for children and families and improving efficiency within the system based on the delivery of statutory child protection services continuing to form part of a broader agency that also has responsibility for support vulnerable children and families in the community that has lead responsibility for the whole-of-government response to supporting families to reduce the incidence and impact of child abuse and neglect.

¹⁰ Crime and Misconduct Commission, *Protecting Children: an inquiry into the abuse of children in foster care*, 2004, recommendation 4.1, page 137

¹¹ Crime and Misconduct Commission, *Protecting Children: an inquiry into the abuse of children in foster care*, 2004, page 137

On the CMC diagram above, this would include responsibility for tertiary and secondary prevention within the one agency.

1.0 Future directions for Queensland: A balanced child protection system

The wellbeing of children cannot be the responsibility of a single agency and a whole-of-government approach is required to address the causes of poor outcomes for children. Queensland has previously committed to a whole of government approach to protecting children. Now a whole-of-government commitment to supporting families is required. A commitment to a coordinated multi-agency approach to supporting families and meeting the needs of children is required. Greater balance is required across the system broadly to enable all professionals in contact with families to support them to meet the needs of their children and to help to reduce the demands on the lead agency for child protection services.

This could be achieved by:

- 1.1 A whole-of-government commitment to improving the wellbeing of children and supporting families.
- 1.2 The development of a whole-of-government strategy requiring all agencies that provide services to children, young people and their families to prioritise improving wellbeing outcomes for children and reducing the incidence and impact of child abuse and neglect in the development and implementation of individual agency and whole-of-government reforms and service delivery.
- 1.3 Agencies across government committing to enable and encourage staff to support families to care safely for their children either directly or by referring them to relevant community based services or to Child Safety Services when it is appropriate to do so.
- 1.4 Maintaining the delivery of statutory child protection services within a broader agency that also has responsibility for support vulnerable children and families in the community and has lead responsibility for the whole-of-government response to supporting families to reduce the incidence and impact of child abuse and neglect.

Statutory child protection intervention as a last resort

A child's family have the primary responsibility for their upbringing, development and wellbeing. Children achieve better outcomes if they are cared for safely by their family at home.

As professionals and community members have become more aware of family issues that impact on the wellbeing of children the number of reports (or 'intakes') received by Child Safety Services has increased. The number of reports made to Child Safety Services has also increased in response to increased risk adversity in the community driven by a concern that if a report is not made to Child Safety something serious may happen to an individual child in the future; and concerns that the media or community response may be that something should have been done to prevent it. Making a report to Child Safety Services may be considered as the only option available.

Since 2004 there has been a 114 per cent growth in intakes reported to Child Safety (from 53,503 reports in 2004-05 to 114,503 in 2011-12). The number of intakes reported to Child Safety is projected to be around 125,000 by 2014-15. In 2011-12 reports from school, health and police sources together made up approximately 60 per cent of all reports to Child Safety Services. In 2011-12 approximately 80 per cent of all reports did not then require further investigation by Child Safety Services because the child was not reasonably suspected to be in need of protection. Information relating to all children and families reported to Child Safety Services is entered into the child protection database (ICMS) and the amount of personal information collected and stored compounds each year.

Case Study 1: Case requiring a report to Child Safety Services

Jennifer presents to her local doctor. She discloses that she is feeling depressed and is not coping with the care of her three children, all aged under 6 years. Her partner and the father of their children is working away in the mining industry and returns to the family home intermittently. Jennifer feels isolated and her extended family are interstate. She has a history of depression and describes feeling highly anxious. During the consultation, Jennifer reveals that she has had thoughts of killing herself and the children. She also discloses that the child's father has been verbally and physically violent to her in the past and that this increases when she is not feeling well. She discloses that the last time he was home he pushed one of the children out of the room while he was yelling at her.

A report should be made to Child Safety Services for further assessment of this case due to identified risk factors: expressed thoughts of harming children and herself; a history of depression; children may not be in regular contact with protective people in the community (child care, school); mother is isolated with a lack of supports; and the young age of the children increases their vulnerability; and the risk that there may be a pattern of escalating domestic and family violence towards her and the children.

Case Study 2: Case that may be directly referred to a community based family support service for support

Debra presents at the local school. She tells the teacher that she is not coping with the behaviour of her son, Terry. Terry has been diagnosed with autism and his behaviour has become increasingly challenging for Debra to manage since she separated from Terry's father. Debra is also feeling stressed because she is struggling to meet her rent and other household expenses and she thinks she may soon be evicted.

In the current system both of the above case study examples would be referred to Child Safety Services for consideration. The Queensland Child Protection Guide would provide assistance to a professional to more appropriately refer children, young people and their families to agencies or service providers who would best meet their identified needs. A referral may be made to a secondary service, or, where a statutory child protection response is required due to identified harms or risk of harm, to Child Safety Services. Factors such as the age of the child, the ability and capacity of one or both parents to protect, and a family's natural support mechanisms such as extended family and kin, will inform a health or education professional's decision to refer to a service or report to Child Safety Services.

This family could be directly referred to a community based family support service as the family is experiencing a high level of need and lower level of risk. Identified needs are – support and assistance for a child with special needs, behaviour management, financial stress and possible homelessness.

Child Safety's response to increased reports has been to implement mechanisms to assist in the timely identification of cases that need an urgent response, so that valuable resources can be prioritised to families that require an investigation. Child Safety's role is to intervene in a family's care for their child. This invasive intervention is intended as a last resort and the options for intervention are limited to working with the child's family in the short term or seeking a court order to supervise a family's care of their child or to remove the child from their family's care.

Not all of the reports made to Child Safety are of a serious enough nature to warrant investigation and intervention. It would also not be effective or efficient to investigate all of the concerns reported

to Child Safety Services. At present, approximately 78 per cent of the reports that come to Child Safety's attention do not require investigation. Considerable resources are required in the effort of identifying which families require further action and which reports do not. Finding the child that requires a timely statutory intervention to keep them safe can be like finding a needle in a haystack. Personal information collected about children and families, even those that may never require a statutory child protection intervention is stored, requiring expensive databases to be built and maintained. If the number of intakes received by Child Safety Service continues to increase and the number requiring further action continues at the current rate, resources will continue to need to be diverted to 'front end' child protection processes.

Even though the kind of intensive interventions that can be utilised by Child Safety may not be required, some families reported to Child Safety may need support. Evidence demonstrates that if families are supported in the right way early, before issues escalate, the need for more invasive child protection intervention can be reduced¹². Reporting a family to a child protection authority who does not require a statutory child protection intervention to a child protection agency may have an adverse impact on them.

Families who have the capacity to continue to care for their child safely at home but who need some support may be more effectively and efficiently responded to if they are referred directly to a support service and not to Child Safety Services. They may also be more likely to engage with a service if a report has not been made to Child Safety Services. The number of children requiring statutory intervention by Child Safety Services could also be reduced if Child Safety more actively supported families to address issues impacting on a child's safety and wellbeing. The challenge is to build upon the existing knowledge in the community about risks to children by assisting professionals in relevant positions to identify which families should be referred to Child Safety Services and which ones can be referred to support services. More effectively targeting referrals will mean that cases that do require a statutory child protection response are more likely to be identified quickly and children at significant or immediate risk can be kept safe.

Professionals and community members need confidence about what, where and when to report or refer a family when they have concerns about a child's safety and wellbeing. Child Safety Services also needs to be able to engage with families to better assess the safety and wellbeing of a child and better assist families to appropriately care for their children.

Families can be supported to keep their children safely at home by:

- re-investing in the expansion of family support services to address the key parental risk factors that result in children being at risk of harm
- enabling professional referrers to report directly to support services
- clarifying when reports should be made to Child Safety Services and
- encouraging Child Safety Services to more actively refer families to support services and work with families to assist them to keep their children safely at home.

Improving reporting and referral practices

Clarifying when concerns about a child should be reported to Child Safety Services

In Queensland, anyone can report concerns about a child to Child Safety Services at any time. The *Child Protection Act 1999* provides confidentiality for those concerns to Child Safety Services and protection from legal liability and breaches of code of conduct or professional duty for honestly providing information to Child Safety Services.

¹² Department of Communities, *Referral for Active Intervention Initiative: A three-year evaluation report*, October 2010; Department of Communities, *Helping Out Families: Final Implementation Evaluation Report*, November 2011.

The *Child Protection Act 1999* currently broadly defines key concepts such as 'harm to a child'¹³ and sets the threshold for statutory child protection intervention as being when a 'child is in need of protection'¹⁴. These provisions set the threshold for when State intervention in a family's care for their child is justified.

These concepts and definitions indirectly inform professionals and community members about when a concern should be reported to Child Safety Services. However, the *Child Protection Act 1999* does not provide specifically for when a concern can be reported to Child Safety.

This has resulted in agencies across government and non-government organisations developing their own policies about when to report a concern to Child Safety over time and within the context of other issues impact on a particular agency. Instead of a single consistent reporting policy across government there are multiple policies with slight differences resulting in very different practices. For example, the current Department of Education, Training and Employment policy covers the reporting of concerns about a child to Child Safety and reporting matters to police. This may result in school staff reporting the same concern to both police and Child Safety irrespective of whether the issue for the child is one requiring child protection intervention or criminal investigation by police. For example, a school may report concerns about a child possibly being the victim of a criminal offence to both police and Child Safety Services, even though the child's parents are acting protectively and are not involved in the possible criminal offence against the child.

In some Australian jurisdictions legislation governing the statutory child protection system includes provisions clarifying when a report can be made to a child protection authority¹⁵. These provisions provide guidance to community members and professionals that align with the threshold for statutory child protection intervention. These provisions are broad enabling provisions that inform professionals and community members and consistently underpin the development of operational policies for government and non-government agencies.

The term 'harm' to a child is defined broadly to enable a variety of circumstances in individual cases to be considered on the particular circumstances of each case. The definition also intentionally focuses on the impacts of harm for the child or young person rather than the behaviour or actions of a child's parents and family. This recognises child protection as a protective jurisdiction, and is aligned with the intent of the Act to protect children from harm, rather than the focus being on proving or finding that a particular act or omission was committed that directly caused harm to the child. However, the nature of the definition may result in a variety of interpretations based on the individual disciplinary background and perspective of potential reporters. It is clear that for the purposes of the *Child Protection Act 1999* 'harm' is a detrimental effect of a significant nature, however, other jurisdictions use the key term 'significant harm' to highlight that the role of a statutory child protection agency is triggered when there is a significant impact for a child and does not include inconsequential or trivial parental oversight. The intent of the definition of 'harm' in the *Child Protection Act 1999* is to capture non-trivial significant detrimental impacts on children. A minor amendment to clarify that the role of the State to intervene in a parent's care for their children is a last resort limited to circumstances where there has been significant harm to a child or is a unacceptable risk of significant harm may inform reporting practices and may reduce the number of reports made to Child Safety Services that do not require a statutory child protection response.

What might amount to a significant impact for one child may not for another, for example, an older child may not be as vulnerable to physical or emotional harm as a younger child who is not able to physically remove themselves from harmful circumstances or to protect themselves. The Act could

¹³ Section 9, *Child Protection Act 1999*

¹⁴ Section 10, *Child Protection Act 1999*

¹⁵ Section 24, *Child and Young Persons (Care and Protection) Act 1998* (NSW); Section 28, *Children, Youth and Families Act 2005* (Vic); Section 124B in relation to mandatory reports, *Children and Community Services Act 2004* (WA); Section 11, *Child Protection Act 1993* (SA); Section 354, *Children and Young People Act 2008* (ACT).

also be amended to include the types of matters that are taken into consideration when assessing whether or not harm to a child is significant. This could include whether the harm is likely to have a long term or severe impact for the child, and the characteristics of the individual child and their individual vulnerabilities, including their age, level of maturity, or any disability.

Similarly, the definition of 'child in need of protection' is broad and aims to enable Child Safety Services to assess the individual circumstances of each case. The definition focuses on the particular ability and willingness of each of a child's parents to meet their individual child's protection and care needs. However, further clarification, such as including the types of considerations made to assess whether there is a parent who is able and willing to protect the child may assist in informing professional reporters and the community about the role of Child Safety Services. This could include clarifying that the threshold is not satisfied when there is one parent who is able to meet the child's protective needs and that consideration should be given to whether a parent may be able to safely meet the child's protection and care needs with some support and without further action under the Act.

Mandatory reporting requirements

In other Australian States and Territories legislative provisions about the professionals in the State or Territory that are mandated to report harm to child protection authorities and what they must do to discharge their reporting obligations are contained in child protection legislation. This can help to make clear who is required to report a concern about a child and when this requirement comes into effect.

Queensland is the only jurisdiction where mandated reporting responsibilities of various professionals are identified in a number of Acts rather than consolidated into one piece of child protection legislation.

In Queensland, five groups of professionals are mandatorily required to report concerns about significant harm to a child to Child Safety Services. These include;

- employees of Child Safety Services and departmental care services or licensed care services¹⁶;
- doctors and registered nurses¹⁷;
- the Commissioner for Children and Young People¹⁸; and
- family court personnel and counsellors¹⁹.

Other agencies across government have developed individual internal operational policies about when a concern about a child should be reported to Child Safety Services and employers and businesses covered by the child related employment screening provisions in the *Commission for Children and Young People and Child Guardian Act 2000* are required as part of their risk management strategy to have in place a process for reporting concerns to Child Safety. These policies often go beyond describing how a report can be made to Child Safety and include requirements for reports to be made in certain circumstances. For example, the Queensland Police Service has a operational policy that requires domestic and family violence matters be reported to Child Safety where there is a child who resides with the parties involved in the incident.

The current approach in Queensland of having various pieces of legislation provide for mandatory reporting requirements and multiple individual agency policies providing for the reporting of

¹⁶ Section 148, *Child Protection Act 1999*. These provisions were included in response to recommendation 16 of the Forde Inquiry that 'legislation be enacted to make mandatory reporting of all abusive situations that come to the attention of departmental employees and persons employed in residential care facilities and juvenile detention centres'.

¹⁷ Section 191, *Public Health Act 2005*, included in response to recommendations 6.13 and 6.15 of the CMC Inquiry report.

¹⁸ Section 25(2)(a), *Commission for Children and Young People and Child Guardian Act 2000*.

¹⁹ Section 67ZA, *Family Law Act 1975 (Cth)*

concerns about a child to Child Safety Services has resulted in an inconsistent approach. This may contribute to unnecessary reports being made to Child Safety and inefficient duplication across government as multiple reports about the same child are made to police and child protection authorities. There is a lack of clarity about when a report should be made to Child Safety. When a report is made to Child Safety Services, information may be provided from the perspective of the professional person making the report which may not align with Child Safety's role or not be provided in a way that communicates the concerns about significant harm to the child that may result in them being a child in need of protection.

In Queensland, the current multiple requirements may result in some inconsistencies. There is some confusion caused by responsibilities requiring an 'immediate notice' when a professional 'becomes aware, or reasonably suspects'²⁰ that a child has been, is being, or is likely to be, harmed. It is not clear whether these requirements enable the person to consider the information they have, make some enquiries and assess whether there is sufficient information for a 'reasonable suspicion' to be formed, or whether they require a report to be made immediately upon the person becoming aware of any information that could lead to a reasonable suspicion being formed. It is unclear what state of mind is required to trigger the mandatory requirement.

As far as possible, reporting requirements for the general community and mandatory reporters should align with the role of the agency they are being reported to and the threshold for that agency to take action. In the case of reports made to Child Safety Services, it is relevant to report concerns about a child when those concerns relate to harm to the child or the risk of harm to the child that is significant and is within the context of the child's family. For example, it is not an efficient use of Child Safety resources for reports about minor issues to be reported to Child Safety (for example that a child has head lice) or about an alleged criminal offence against a child committed by a person outside of the child's family if the child's parents are acting protectively to protect the child from any future offending (including if the child's parents reported the offence to police).

It would also be beneficial for mandatory reporting responsibilities to be included in a single provision in the *Child Protection Act 1999*. This would enable greater clarity about when responsibilities are triggered, how they are expected to be exercised, and when they are satisfied to be included. This would also enable reporting provisions to be contained in the legislation dealing with the issue the reporting practice relates to and enable reporting provisions to align directly with the threshold for intervention.

Other legislative reporting requirements

The *Education (General Provisions) Act 2006* requires state and non-state schooling staff to make a report to police when they 'becomes aware, or reasonably suspects, in the course of their employment at the school' that a student under 18 years attending the school; a pre-preparatory age child registered in a pre-preparatory learning program at the school; a person with a disability who is being provided with special education at the school; and is not enrolled in the preparatory year at the school has been sexually abused.

Although these provisions require a report to be made to police, in practice it is difficult for school staff to distinguish between matters that should be reported to police for a criminal investigation and matters that should be reported to Child Safety for child protection investigation. Some matters will require response from both agencies, however, many will not. Matters where the alleged sexual abuse of a child occurred outside of the family home or where the child's family are actively protecting the child from harm may not require a report to Child Safety. Circumstances such as this may result in duplication across government and personal information about families being recorded in the State's child protection database (ICMS) unnecessarily.

²⁰ Section 191, *Public Health Act 1992*.

The distinction between reporting suspected criminal offences to police and reporting child protection concerns to Child Safety Services, may also be an issue for churches and non-state schools. To enable the efficient use of government resources staff should be supported to refer families directly to the agency best placed to respond to the issues for the family. If there is a concern that a child has been sexually abused outside of the family home it may be more appropriate for these reports to be directed straight to police for criminal investigation.

The *Education (Accreditation of Non-State Schools) Regulation 2001* is interpreted by some non-state schools to require the reporting of all 'harm' to a child to Child Safety Services and police. One interpretation of the Regulation may be that it requires non-state schools to merely have a clear policy and procedure in place about the *process* of making a report to Child Safety Services and police, however, there is some uncertainty about whether the wording in effect requires a process to be in place to report *all* harm to a child²¹.

In response to the increasing number of reports from the Queensland Police Service, Queensland Health and the Department of Education, Training and Employment to Child Safety Services, Queensland Government agencies in collaboration with peak organisations and the non-state schooling sector developed the *Queensland Child Protection Guide*, an online decision tool that has been designed specifically for police, health and education professionals who may hold concerns about children and their families. The aim of the Queensland Child Protection Guide is to assist professionals to report their concerns to the appropriate agency or to assist in the referral of families to the service provider best placed to meet their needs.

The Child Protection Guide was modelled on the Mandatory Reporter Guide which is part of the Keep Them Safe strategy in New South Wales²². The Northern Territory is also currently considering the development of a similar tool. The online guide provides professionals with a step-by-step framework to assist in decision making and to provide information about the kinds of matters they should consider if they become concerned about a child. The guide is currently being trialled by Queensland Health professionals on the Gold Coast and schools who have nominated to participate in the trial of the guide in South East Queensland. The Queensland Police Service declined to participate in the trial of the tool.

The Child Protection Guide is aimed at supporting decision making to:

- ensure that children and families requiring statutory child protection services are consistently and promptly reported to Child Safety Services
- increase the ability of Child Safety Services to investigate and assess serious child protection concerns by improving the information provided when a report is made and reducing unnecessary reports
- provide alternative options for professionals who come into contact with children and young people and their families to assist children, young people and families whose needs may be best met outside of the statutory child protection system and
- over time, improve the knowledge and expertise of those professionals using the tool in identifying child protection concerns and understanding how best to support families.

Use of the Queensland Child Protection Guide within the trial agencies of Queensland Health and the Department of Education Training and Employment is currently not mandatory. The intent is for

²¹ Clause 3 and 10(5)(b)(iii), Education (Accreditation of Non-State Schools) Regulation 2001

²² http://www.keepthemsafe.nsw.gov.au/v1/reporting_children_at_risk/mandatory_reporter_guide

In 2010-11, reports received from mandatory reporters in NSW decreased by 15.9 per cent, reflecting the new higher risk threshold for reporters of significant harm reporting and the use of the Mandatory Reporting Guide. Where the risk falls below this threshold, government and NGOs are supported through the use of the Mandatory Reporting Guide to arrange referrals to appropriate support services. (p. 94 *NSW Department of Family and Community Services 2010-11 Annual Report*).

the Guide to form part of a decision making process and to assist in the development of knowledge and understanding. The decision to report a child or family to Child Safety Services is ultimately the responsibility of the professional person and their reliance on the Guide as their knowledge and experience grows may be diminished.

Further work would be required to implement the Guide across the State. It has been calibrated to align with the current internal operational policies within Queensland Health and the Department of Education, Training and Employment and if other agencies or organisations were to use the Guide their operational policies would need to be taken into consideration. Technical enhancements may be required to enable the tool to be accessed by staff within other agencies in a practical way, for example, by including it on their internal intranet site, enabling it to be made publicly available online or linking it to existing data or case management systems. Work would also be required to enable the Guide to provide up to date and relevant information about local support services that a person with a particular concern about a child may refer the child and their family to for support.

The Queensland Police Service is currently trialling the use of SupportLink in some areas, an electronic referral tool that assists in referring matters to non-government agencies. This tool provides assistance to link vulnerable people with non-government agencies but does not provide guidance about when and in what circumstances particular referrals should be made or whether a report to Child Safety Services should be made.

Early feedback from within the current trial agencies is that it is useful in improving knowledge about the role of Child Safety Services and the kind of matters that should be reported to Child Safety Services. The Guide also helps to provide a clear rationale about why a matter should be referred to a local community support service or alternatively to Child Safety Services. Feedback has also been provided that if the use of the Guide is to be expanded to other areas across the State and used within other agencies, ongoing information and education for staff using the Guide should also be made available.

Enabling a more consistent approach about when and what to report to Child Safety Services will improve the quality of information received by Child Safety Services and enable Child Safety to focus limited resources on reviewing a reduced pool of 'intakes' to identify high risk families who require support or children and young people requiring a child protection investigation.

Strategies such as the trial of the Child Protection Guide in South East Queensland which provides guidance to help schools, health staff, and police to make decisions about when a report is required and to whom it should be made aim to provide information and assistance to enable the right response to be made to concerns about a child and their family in each individual case.

2.0 Future directions for Queensland: Improving reporting and referral practices

A common approach to reporting concerns to Child Safety Services would help to make sure the right families are reported at the right time. This would also help to clarify when a family could safely be reported to a family support service to reduce unnecessary reporting to Child Safety Services.

This could be achieved by:

- 2.1 Amending the *Child Protection Act 1999* to include a new provision that makes it clear that a report to Child Safety can be made when a person has reasonable grounds to suspect that a child may have suffered significant harm, be suffering significant harm or be at an unacceptable risk of suffering significant harm.

- 2.2 Consolidating mandatory reporting requirements currently contained in the *Public Health Act 1992*, and the *Commission for Children and Young People and Child Guardian Act 2000* into the *Child Protection Act 1999*.
- 2.3 Amending the *Child Protection Act 1999* to change the current term 'harm to a child' to 'significant harm to a child' to more accurately align with the role of Child Safety Services in the statutory child protection system and include in the current definition clarification that whether or not a detrimental effect is of a significant nature to a particular child will depend upon the particular characteristics of the child and the individual circumstances of the case.
- 2.4 Amending to the *Child Protection Act 1999* to include in the current definition of 'child in need of protection' the matters that may be taken into consideration when determining whether a child has a parent who is able and willing to protect a child from the harm.
- 2.5 The Department of Communities, Child Safety and Disability Services should lead a whole of government review of current policies across government for the reporting of concerns to Child Safety Services to ensure that policy and practice align with the provisions of the *Child Protection Act 1999*.
- 2.6 Implementing the Child Protection Guide across Queensland and mandating its use within the Department of Education Training and Employment, Queensland Health, and the Queensland Police Service and requiring a commitment be made within these agencies for ongoing information, training and support to be provided to relevant staff to support the use of the Guide and to improve the efficacy and efficiency of reporting policies and practices to reduce duplication.

Supporting families to keep their children safely at home

To intervene early and prevent issues for families escalating to a point where intrusive intervention is required to keep a child safe families need to be able to access the right type and mix of support at the right time. Up to 80 per cent of families reported to Child Safety Services do not require a statutory child protection intervention but may benefit from support. Currently, concerns about a child that are reported to Child Safety Services where no further statutory investigation or intervention is required, are entered into the department's child protection database (ICMS). Outside of the Helping Out Families trial sites, these families may never know that a concern about their child has been reported to Child Safety Services and they may not be offered any support or assistance to help them to address any issues that may have led to the concerns.

The characteristics of families accessing these services include:

- the presence of parental risk factors such as domestic and family violence, substance and alcohol abuse, mental health conditions and histories of poor parenting
- generational systemic disadvantage such as social isolation, unstable accommodation, low educational attainment, unemployment and poverty.

Research and practice experience demonstrates 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 support service being provided through a report to a statutory child protection agency. Families are also more likely to access help when it is suggested by someone they know and trust, such as a non-government service provider, teacher, doctor or peers. However, in recent years in Queensland concerns about children who require a statutory child protection intervention being missed and a risk adverse, forensic investigative approach has resulted in families primarily being reported to Child Safety Services rather than being referred to a support service.

The critical issues are: how access to relevant support services can be expanded to cover more geographical sites across Queensland; how service capacity can be improved to enable support to be provided to more families that require it; and how agencies and services who come into contact with children and families can be better supported to directly link families to the services they require.

In recent years the department has established pathways to enable government agencies to refer children and families directly to intensive support services including Referral for Active Intervention Services, Helping Out Families and Aboriginal and Torres Strait Islander Family Support Services.

Over the past nine years, the department has closely monitored and evaluated its investment in secondary support services. Evaluations of these programs by the department²³ have identified a range of outcomes for children including:

- a reduction of re-reporting of children to child protection authorities
- better housing, reduced domestic and family violence issues and an improvement in how parents manage substance abuse
- better parenting
- less social isolation from friends and family.

Whilst it is still early days, the preliminary information about the Helping Out Families initiative in South East Queensland is also encouraging. Since the initiative commenced in October 2010, notifications in the trial region have decreased from 3,814 to 3,712 whilst substantiations decreased from 1,523 to 1,440. In contrast, over the same period, the rest of Queensland recorded an increase in the number of notifications and substantiations, by 17 and 16 per cent respectively. Notifications increased from 18,071 to 21,111 whilst substantiations increased from 5,399 to 6,241. The percentage change for children subject to a notification between pre-HOF and post-HOF periods in the HOF region was a decrease of 3 per cent, while for the rest of the State there was a 15 per cent increase.

The rate of children notified per 1,000 has decreased for the South-East Queensland region (15.3 to 14.7) post-HOF whilst the rest of Queensland has increased (19.5 to 22.1). The projected trends for children subject to a substantiation in South East Queensland region are that substantiations will decrease over the next five years whilst for the rest of the State it is projected that the number of children subject to a substantiation will continue to increase. Also, over the next five years admissions to out-of-home care in South East Queensland region is projected to decrease by 7 per cent while the rest of Queensland is expected to increase by 18 per cent.

Due to the complexity of issues and parental risk factors for the families who participate in the services that form part of the trial, it is anticipated that it may be some time before more profound changes in the system will be observed. However, it is not expected that as the number of notifications and substantiations in the region decreases so will the number of admissions to out-of-home care.

However, despite measures over recent years these services do not currently have the resources and expertise to provide a service to all families identified by agencies as requiring support. Services to support families to address parental risk factors are not available in all locations across Queensland.

Queensland Health, Queensland Police Service and the Department of Education, Training and Employment have also adopted tools or directories of services to assist professionals to refer families directly to support services in the non government sector such as SupportLink²⁴ and QFinder²⁵. Currently there isn't a consistent linked up approach available to professionals across government agencies.

²³ Department of Communities, *Referral for Active Intervention: a three year evaluation report, 2010*
<http://www.communities.qld.gov.au/.../rai-final-evaluation-report.rtf>

²⁴ SupportLink is an electronic referral service that connects police, schools and Government and non Government agencies to work together for the benefit people requiring assistance in all regions of Queensland. Police and principals in schools identify persons or families who present with support issues and refer them via a single referral gateway. Support issues may include, homelessness, drug and alcohol support, parenting and youth support, road trauma support, family violence, mediation, victims assistance, couple relationship counseling, mental health and aged care support.

²⁵ QFinder is the Queensland Health online directory of community and health services.

Another strategy to improve the coordination and capacity of the secondary service system is the establishment of local alliances of services. These alliances bring a range of services together to respond to issues across the service system within a particular location to enable innovative ways for services to better work together to meet the needs of the local community and to respond flexibly to trends or issues as they arise. They may also enable services to better work together to meet the needs of an individual family as services work together to identify which service takes on a case management function.

Case Study 3: Report to Child Safety Services recorded as an intake enquiry

A primary school teacher has contacted Child Safety Regional Intake Service following a meeting requested by Brett and Rachel, parents of Joanna, aged ten years. Brett and Rachel requested the meeting to let the teacher know that, on the previous weekend, Joanna had a sleepover with a new friend from her softball team. Joanna has told her parents that, as the girls were preparing to go to bed, Joanna was changing into her pyjamas in the bathroom when the friend's stepfather came in. Joanna said the bathroom door was closed and he didn't knock before entering. Joanna asked him to leave and she tried to 'cover up' but he stood in the doorway for 'a minute' before he left. Joanna didn't feel comfortable about staying there and rang her parents on her mobile. Her parents came over and picked her up straight away.

The parents wanted the teacher to know what had occurred in case Joanna wanted to talk to the teacher about it. They also had contacted the QPS Child Protection Investigation Unit as they thought the stepfather's behaviour was inappropriate. The teacher is happy to support Joanna if she talks about what happened. The teacher has no concerns about Joanna's parents acting protectively as they responded immediately to her needs and also advised the police.

Child Safety Regional Intake Service (RIS) recorded this matter as an Intake Enquiry as: no harm was identified to Joanna; the parents had immediately taken protective actions and responded to Joanna's request to leave the sleepover, there was evidence they were willing and able to protect by contacting the police and in notifying the school in case Joanna was upset. The RIS contacted the police who also confirmed that they had been advised of the situation by the parents the morning following the sleepover.

Case Study 4: Report to Child Safety Services recorded as a child concern report

A Child Safety Regional Intake Service received information from a non-state high school in relation to Michelle, a young woman aged 16 years and 7 months. It is unclear from the information recorded what the current concerns are for this young person. There was no previous child protection history in relation to the young woman or her parents.

The school employee who reported the information was aware that Michelle had expressed a fleeting thought of suicide. Michelle had disclosed this was due to bullying at school and a previous relationship breakdown and had been talking with the school guidance officer about this issue. Michelle had a minor history of self harming behaviour, having previously cut the inside of her arms for a period of a couple of weeks. She had no current plans or intent to suicide and no recent thoughts or plans to re-engage in self harm. Michelle has a positive orientation in class, a small but supportive peer group and her appetite and sleep patterns were good.

Michelle's mother, Narelle, was contacted by school staff and presented at the school. Narelle was aware of her daughter's circumstances, and previous actions, and intended to access counselling for her daughter. Michelle was provided with the contact details for Kids Helpline. Michelle has a good support network at home and Narelle has responded appropriately.

The school employee who reported the information had earlier been advised that the school guidance officer would continue to provide support for Michelle.

The outcome of this report was recorded by the department as a child concern report with the following rationale:

The information was recorded as a child concern report because of the risk of harm for Michele if she is not supported to address her mental health issues. Although the information relates to child mental health issues, Michelle's mother has acknowledged the risks for her daughter, has taken supportive actions previously, and is agreeing to seek additional support for her. There was no contextual information to suggest Michelle's mental health concerns are directly related to parental behaviour or attitude, with Narelle responding appropriately and acting protectively for Michelle. The school guidance officer is also continuing to support Michelle.

This intake took approximately one hour to complete because of the need to create profiles for Michelle and her parents in ICMS.

Alternative referral pathways

Other Australian jurisdictions have grappled with increasing reports to statutory child protection services and the challenges of building a system that assists families to access the right type and level of support that they need. Victoria, Tasmania and New South Wales have introduced alternative mechanisms for responding to concerns about a child or their family.

In Victoria and Tasmania, concerns about a child's safety can be reported to statutory child protection services if they are concerns about significant harm to a child. Alternatively, concerns about a child's wellbeing can be referred to a community organisation. These community organisations (Child FIRST in Victoria or Gateway in Tasmania) undertake a community-based intake function where they receive concerns about the wellbeing of children, assess the needs of the child and family and engage the appropriate service (through their family support alliances) to provide support.

A child protection officer is located in each Child FIRST or Gateway service to provide assistance in situations where a concern referred to these services should be reported to statutory child protection services. These agencies are required to report any matters to child protection authorities if they consider a child may be in need of protection. The child protection officer also supports Child FIRST and Gateway staff to work with complex families.

In Victoria, mandatory reporters are required to report a reasonable belief that a child may be in need of protection on the grounds that the child has suffered or is likely to suffer significant harm as a result of physical injury or sexual abuse and the child's parents have not protected or are unlikely to protect the child from harm of that type to the statutory child protection agency²⁶. Obligations to report concern about harm of another type can be met by a report being made to a community-based child and family service.

Reviews of Gateway and Family Support Services in Tasmania has found that the model (established in 2009) 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 subject to child protection intervention. Outcomes to date include:

- children have been diverted from the statutory system, with an overall downward trend in the net admissions of children in out-of-home care since implementation of the reform

²⁶ Section 184, *Children, Youth and Families Act 2005 (Vic)*

- of 247 children referred for family support from the Child Protection Services in a six month period, in the subsequent six months, only 34 (13.8 per cent) had a subsequent substantiation, with only 17 (6.9 per cent) being admitted to out-of-home care.²⁷

In response to the recommendations of the Special Commission of Inquiry into Child Protection Services, New South Wales has implemented a range of strategies to reduce the numbers of reports to statutory child protection services and assist families to access secondary support more directly. This included legislative amendments to include clarity about when reports can be made to the child protection authority, the implementation of the Mandatory Reporters Guide, and the establishment of Child Wellbeing Units within key agencies to assist in decision making and referral processes.

Research demonstrates that a range of factors affect whether a family engages with an early intervention program. Individual factors include the parent's beliefs and attitudes; their experiences of services in the past; and the experiences of their families and friends with services. Engagement with services is particularly challenging for families who have daily stress, chaotic routines and it appears those unwilling to engage are likely to be those with the highest need.²⁸

Strategies which successfully engage families include promoting interventions through a less stigmatised (for example, universal services) gateway; locating services where parents are and transport is not required (through neighbourhood or home visits); taking time to build relationships and recruiting experienced and skilled staff. Families, particularly those who can be hard-to-reach, are also more likely to engage when services target transition points in a family's life (in particular, pre-birth) and where there is a single point of contact for a family.²⁹

The Helping Out Families (HOF) initiative being trialled in South East Queensland is intended to provide an alternative referral pathway for families who would benefit from support from a community based service where a child is not in need of protection. Child Safety Services refers matters where a child is not in need of protection to a Family Support Alliance service that assesses the information and the family's needs, engages with the family to seek their consent, and refers them to relevant support services including Intensive Family Support services. Government agencies including police, health and education can also refer directly to the Intensive Family Support Service. The Family Support Alliance function within the model is based on the Child FIRST model implemented in Victoria and the Western Australian Signs of Safety approach. Preliminary outcomes of the trial of the HOF initiative are showing that families who engage with services and complete their case plan are less likely to be re-reported to Child Safety Services.

While an increased focus on supporting families aims to reduce the number of families that require a statutory child protection intervention in the longer term, in the first instance, it is likely to result in a reduction in the rate of increase. As the shift in the focus of the department's practice to supporting families aims to achieve a more balanced expenditure across the system as a whole, the ongoing delivery of statutory child protection services must remain a priority. As resources become available, the scope and capacity of secondary family support services should be expanded. The department can continue to identify opportunities to contain expenditure in statutory child protection services; investment in this end of the system should be maintained.

²⁷ Department of Health and Human Services, *Gateway and Family Support Services: Midterm Review Report*, Tasmanian Government.

²⁸ Cortis, N., Katz, I. & Patulny, R. (2009) *Occasional Paper No. 26: Engaging hard-to-reach families and children*, Commonwealth of Australia.

²⁹ Cortis, N., Katz, I. & Patulny, R. (2009) *Occasional Paper No. 26: Engaging hard-to-reach families and children*, Commonwealth of Australia.

3.0 Future directions for Queensland: Supporting families to keep their children safely at home

For families to be able to access timely family support without the involvement of Child Safety Services, an alternative option should be provided for professionals in key government agencies responsible for health, education and police to enable them to respond to concerns about the wellbeing and safety of a child.

This could be achieved by:

- 3.1 Including in the *Child Protection Act 1999* a provision to make it clear that a person who has a concern about the wellbeing of a child or an unborn child can refer the matter to a community-based child and family service (including a local service alliance as outlined in proposal 6.3). The provision and the proposal in 2.1 above, could be modelled on sections 31 and 32 of the *Children, Youth and Families Act 2005 (Vic)* that support the Child FIRST approach in Victoria and were the original intention of the Helping Out Families model in Queensland.
- 3.2 Including in the *Child Protection Act 1999* a provision to make it clear that referring a matter to a community-based child and family service meets all policy and legislative obligations to report a matter to Child Safety Services.
- 3.3 Expanding the scope and capacity of family support services across Queensland by increasing investment, as resources become available, and improving efficiencies (through strategies such as local service alliances as outlined in proposal 6.3 which would support a community based intake process as outlined above in proposal 3.1) to provide early intervention and intensive support services to vulnerable families whose children may become in need of protection if support and assistance is not provided to them.
- 3.4 Maintaining investment in the statutory child protection system while family support services are expanded, in the first instance, until the service system is able to better meet demands to support families to care safely for their children at home and reduce demand on the statutory child protection system.
- 3.5 Continue to identify options to contain expenditure at the statutory end of the system to re-direct to secondary services to obtain a more balanced expenditure across the system.

Referring families directly to the services they need when they need them

Families may be more likely to engage with a support service to actually address issues that impact on their child's wellbeing if they are given information, choice, and are involved actively in the process of deciding to seek support. Where a child is not a child in need of protection, families should be given the opportunity and be encouraged to seek help for themselves. This may involve an agency in contact with the family explaining their concerns about the child's wellbeing, providing information about relevant local services and encouraging the family to seek assistance from a service. A family may need to be encouraged and supported on a number of occasions before they eventually seek help. Agencies in contact with the family may monitor them more closely than other families in the context of the agency's core role and responsibilities. Schools, health professionals, and police may be well placed to provide this kind of support. This kind of approach is consistent with the approach that schools and health professionals take with families generally.

However, there are some circumstances when agencies who have contact with a child and their family have concerns about the wellbeing of the child but do not have the capacity to provide information and encouragement to the family or it may not be appropriate for this to be done at the time the agency has contact with the family. For example, police called to a domestic violence incident may be focused on defusing the situation and securing the immediate safety of the people at the premises. The family may not be in an ideal situation to accept information about services at

a time of crisis. However, there may be concerns about a child's ongoing wellbeing in these circumstances even if the child is not in need of statutory child protection intervention. There may also be circumstances for example where families are not receptive to being told someone they are in contact with is concerned about their child and not be interested in information about services, however, concerns about the child's wellbeing are ongoing. Some professionals may lack the skills or confidence to discuss these issues directly with a family or face increased service delivery demands and a lack of resources in their core roles.

In some jurisdictions these issues have been resolved by enabling certain professionals in contact with the family to provide information about their concerns about the child's wellbeing directly to a service provider without the knowledge and consent of the family. The service provider is then able to assess the information and make contact with the family to try and encourage them to engage with the service. If a family does engage with the service, then the service works with the family with their ongoing agreement and consent in the usual way. Information sharing provisions such as these are an important component of the alternative referral pathways and community based intake systems in Victoria, New South Wales and Tasmania that further efforts are being made to work with the family to assist them to address concerns about the wellbeing of their child.

The sharing of personal information without consent is a contentious issue. Concerns about maintaining individual privacy and accountability need to be weighed with protecting the interests of vulnerable people. All Queensland government departments are subject to the Information Privacy Principles set out in the *Information Privacy Act 2000* which generally provides that sensitive personal information must only be collected, used and disclosed if the person who the information relates to consents or the use or disclosure is required by law. The principles also require information obtained for a particular purpose must, generally, not be used for another purpose.

Chapter 5A of the *Child Protection Act 1999* provides a legislative framework that enables the sharing of certain personal information by defined organisations for specific purposes without the consent of the person about whom the information relates. These provisions work in conjunction with Part 6 of Chapter 6 of the Act to maintain the confidentiality of this information. The sharing of information under Chapter 5A is justified on the basis that it is necessary to enable State responsibilities to intervene to keep children in need of protection safe to be undertaken. The information sharing provisions in this part of the Act are limited to the sharing of information for specific purposes that relate to enabling decisions about whether to report a concern to Child Safety Services, assisting Child Safety Services to investigate a concern or to intervene, or to enable the coordination of services to a child who is in need of protection.

In 2010 Chapter 5A was amended to broaden the scope of the type of information that could be shared by Child Safety Services. These amendments enable Child Safety Service to share information with a service provider about a child who may become a child in need of protection if preventative support is not given to the child or their family. In these circumstances Child Safety can share information that is reasonably believed will help the service provider to assess or respond to the health, education or care needs of the child, or to otherwise make plans or decisions relating to the child and their family or to provide a service to the child and their family³⁰.

These provisions enable the Helping Out Families initiative to operate and also allow Child Safety Services to provide information about a child and their family to other service providers (such as Referral for Active Intervention services and Aboriginal and Torres Strait Islander Family Support Services) to enable them to offer to provide a service to the family. This may include intakes recorded in ICMS as a Child Concern Report or as a notification. These information sharing provisions only enable Child Safety Services to share information without the knowledge and consent of the family in these circumstances so a report to Child Safety Services must first be made.

³⁰ Section 159M(4), *Child Protection Act 1999*

Extending these provisions to key prescribed entities who have direct contact with children and their families (health, education and police) would mean that, although the preferred way of engaging with a family is to obtain their consent and for them to participate in the referral process, in circumstances where a child may become in need of protection if preventative support is not provided to them, limited information about them could be shared directly with a service provider to enable the service provider to offer to provide a service, without the need for a report to first be made to Child Safety Services.

4.0 Future directions for Queensland: Referring families directly to the services they need when they need them

The preferred way for agencies in contact with children and their families to support those families and to share relevant information about them when they are concerned about the child's safety and wellbeing is with the agreement of the family. Information sharing provisions should be expanded to enable key government agencies to share information with service providers to enable them to offer to provide a service in circumstances where consent to share the information is not able to be obtained. Once information has been shared for this purpose with a service provider they should engage with the family with their knowledge and agreement.

This could be achieved by:

- 4.1 Including in the *Child Protection Act 1999* relevant provisions to make it clear that the preferred way of referring a child or their family to a service is with their consent.
- 4.2 Section 159M(4) of the Act should be expanded to enable the key prescribed entities responsible for education, health and police to share information with a service provider for the purposes that sub-section currently enables Child Safety to share information. This would enable schools, health and police to share information with a service provider about a child who may become a child in need of protection if preventative support is not given to the child or the child's family and their family to a service provider. The information that should be able to be shared under these new provisions should be limited to information that the prescribed entity reasonably believes would enable the service provider to assess or respond to the health, education care needs or wellbeing of the child or otherwise make plans or decisions relating to or provide services to the child or the child's family.
- 4.3 Amending the *Child Protection Act 1999* to make it clear that defined prescribed entities that share information in good faith as outlined in 4.2 above are protected from all liability and from breach of professional code of conduct, ethics or standards of professional conduct.
- 4.4 The department provide up to date relevant information about family support services funded by the department to prescribed entities referred to in 3.2 above to enable relevant information to be shared with the right services so that they can make contact with the family and offer to provide a service.

Strengthening the secondary support system

The best way for children to be cared for and supported to reach their full potential is for them to be cared for appropriately and safely by their family. Families should have the primary responsibility for a child's upbringing protection and development. The most effective and efficient way of ensuring a child's safety and wellbeing is to support the child's family to meet their needs.

A continuum of services offering a mix of support at varying levels and intensity with effective mechanisms for families to access more or less support as they require it from time to time to meet their level of need should form the basis of the system. The universal component of the service system plays an important role in building resilience and improving wellbeing of all children. A robust and effective universal support system will prevent most families from ever needing more

targeted services. Universal services can also assist in the early identification of issues and provide families with a seamless non-stigmatised transition to more targeted services.

A well developed and effective secondary service system would effectively support families early to address issues when they first arise and help to stop them from escalating to a point where more intrusive and expensive intervention is required. Not all families in need will require an intensive case managed family support service response.

The secondary service system should include scaled and accessible non-stigmatising services including targeted services such as those funded through the Department of Education, Training and Employment including Child and Family Centres and Early Years Centres. The Commonwealth Government also funds various services including Communities for Children services that provide a valuable link between universal and more targeted secondary support services. The department funds more intensive family support services whose primary goal is to support complex families to prevent them from requiring statutory child protection intervention.

Families with multiple and complex needs may also be supported to de-escalate issues to enable them to provide an appropriate environment for the upbringing of their children. Families who may have been involved in some statutory child protection intervention may be supported to care once again for their children.

The challenge is to build a robust, integrated, flexible and responsive system that can enable the support provided to a family to be 'stepped up' or 'stepped down' as a family's needs change over time, irrespective of where they live in the State.

Case Study 5: Family referred to an Intensive Family Support Service

The Intensive Family Support Service received a referral in relation to Joy and Patrick and their four children - Emily (3), Anne (8), Jordan (13), and Sarah-Jane (14). The referral was received from the guidance officers of a local state school and identified child wellbeing and limited household resources as current concerns.

An assessment with the family indicated a number of areas where support could be provided; including parenting skills, parental mental health, learning difficulties, financial, unemployment, and limited community connections.

The family were motivated to receive support from the Intensive Family Support Service (IFS) and were engaged with the service from May 2011 until September 2012. At this time it was identified that Joy's mental health was having a significant impact on her ability to parent and in particular to engage positively with Anne. Joy was not medicated at this time and had suicidal thoughts. Patrick was identified as a protective factor within the family, however, he was unemployed at this time and the family were experiencing financial hardship. Joy discussed her relationship with Anne, indicating disrupted attachment and trauma experiences.

Initially the work focused on safety, this included supporting Joy to attend her local doctor where medication was prescribed. Joy was also supported to re-engage with her psychologist and a suicide plan was put in place.

Joy and Patrick attended financial counselling where a sustainable financial plan was developed and implemented.

Workers supported Joy and Patrick to address their parenting skills, the parents both attended a program aimed to assist attachment based parenting course. In-home support was provided by the

workers, including behaviour management techniques, reward charts and attachment focused interactions between parents and all the children.

Joy and Patrick attended school meetings with the support of the workers where a plan was put in place to ensure continuity of behaviour management techniques and supports between the Anne's home environment and school environment.

Anne attended play therapy to help her to process her emotional feelings and to build strategies to help her regulate her behaviour and increase her social competence. Intensive family support also supported Anne to attend a paediatrician who provided a diagnoses, diet change and medication.

Outcome: The family engaged well with the service stating that they felt that the family were in a 'good place now'. Joy is been supported and is managing her mental health well. She is currently studying with the aim of securing employment in the future. Patrick is working full time which has reduced the financial strain on the family. Both parents have implemented new parenting techniques and have a deeper understanding of the importance of attachment which has improved the relationship between Joy and Anne. Anne is supported by the paediatrician and the school reported that the incidents of disruptive behaviour have reduced.

Addressing parental risk factors

Analysis of information and data about families who have required a statutory child protection intervention to keep their children safe informs us about the kinds of issues that have resulted in the intervention being required. Many of the families in contact with the statutory child protection system in Queensland experience one or more parental risk factor such as: drug and/or alcohol issues, domestic and family violence, mental illness; or have had contact with the criminal justice system³¹. These are the types of issues that need to be addressed before a child removed from their family can be reunited and they are also the kind of issues that need to be addressed to prevent children from being removed.

Services and agencies that provide drug and alcohol, domestic violence and mental health services are often focused on providing a specialised (and highly skilled) intervention to an individual. Practice in specialist fields is developed based on the evidence about what works to address the particular and important issue services have been established to address. An adult individual with a mental illness may also be a parent with primary care for their children. People with drug and alcohol abuse issues may also be victims of domestic and family violence or be homeless with children in their care. Government funding programs designed to deliver a particular outcome for a specific group of people in the community perhaps with strict reporting and performance contingent funding may contribute to these issues. A range and mix of service types is required as well as a range of service delivery models. For example, integrated support provided in a family's home can help to provide practical assistance that along with other supports and services may help to help change complex behaviours.

When a family with multiple and complex parental risk factors accesses a support service, the service needs to have the skills and capacity to work intensely with the family to address hard issues and to work with other specialist services that may be required. If the real issues that are impacting on a child's wellbeing and safety are not addressed the family may not be able to care safely for the child and the family may be reported or re-reported to Child Safety Services and statutory child protection intervention be required.

³¹ Department of Child Safety (2008) *Characteristics of parents involved in the Queensland child protection system: Report 2: Parental risk factors for abuse and neglect*, Queensland Government.

Case Study 6: Family referred to Intensive Family Support Services

A family, consisting of mother, Amy, and her three children, Eric (10), Mary (15), and Tanya (17) were referred to family support services by the local state school because of concerns relating to health issues, family relationships, child wellbeing, homelessness and limited household resources.

The family previously lived in New Zealand and identify as being of Maori and Samoan descent. They moved to Queensland due to significant domestic violence perpetrated by the children's father, who no longer has contact with them.

Eric has complex needs due to an accident where he was hit by a bus and suffered significant brain injuries. Tanya witnessed this accident and has since been diagnosed with Post-Traumatic Stress Disorder. She will not attend school or other group activities and Mary is also presently refusing to go to school. The impacts of the accident have led to all the children displaying increasingly complex behaviours and needs. Eric requires a number of regular medical appointments due to frontal lobe damage, affecting his behaviour. The attention he requires is also a source of strain within the family as Amy's time is spent 'retraining' Eric in speech, walking, writing, spelling and social skills. She also needs to supervise him carefully due to his memory lapses and inability to keep himself safe.

Amy's health has significantly deteriorated over the past two years, since Eric's accident. Amy is taking many different medications to manage numerous health problems, resulting in undesirable side effects such as insomnia and headaches. At times, Tanya has needed to assume the role of carer for both Amy and Eric.

Due to the health needs of the family, Amy has had to take unpaid leave. They are ineligible for financial benefits from Centrelink aside from the Family Tax benefit. The family were to be evicted as they could not afford rent and are unable to access public housing.

Case planning and Interventions

Following the referral by the school to the Intensive Family Support Service the following interventions were undertaken by the Service, linking with other agencies where necessary: To address Eric's ongoing physical impairments the family was referred to therapeutic interventions provided by a clinic at the local hospital. Information and assistance was provided to Amy to help her access support and pharmaceutical benefits to address her medical needs and she was also linked in to a counselling service to address her mental health needs.

Support for the family's material wellbeing was initially in relation to emergency relief support via community agencies and centres. A referral to a financial counsellor was made to assist in managing the limited finances the family has access to, with the Intensive family support service helping to follow through on the financial counsellor's recommendations. The risk of homelessness was addressed by referring the family to a tenancy advice service.

The children's wellbeing in response to the trauma they have experienced was addressed by linking them to youth workers and support people under the Young Carer's project. Liaison with schools was also undertaken to re-engage both Tanya and Mary into school and tutors were sourced to assist them. A specialist tutor was sourced for Eric to assist him in developing his comprehension and speech due to his acquired brain injury.

In home parenting support was provided, focusing on increasing Amy's capacity and ability to care for her children with the changes and disruption the family had experienced. Amy attended a teenage parenting course with other parents receiving support services. In home support for Amy promoted positive parenting strategies and established routines.

Outcomes

- Amy and her children were in safe, affordable and secure housing
- Amy's health issues were resolved, resulting in a reduction in medication and increased ability to maintain her parenting role
- Family were financially secure and Amy was able to return to work part time
- The children's education resumed, providing increased opportunities and long term benefits
- Family conflict decreased

Eric had an increased and appropriate support network around him, addressing his significant health and emotional needs.

Secondary family support services work directly and intensively with families and can also support families to access other expert and specialised services when required. These services aim to engage with a family for a time limited period. Parents with individual support needs may engage with expert specialist services for a longer period and in some cases for the rest of their lives. For example, a parent with an intellectual impairment may continue to receive disability supports throughout their life time.

Expert, specialist services (such as adult disability support services, mental health services, drug and alcohol, and domestic and family violence services) while supporting individual adults should also be part of the holistic response to the family which their patient or client is a member of. To do this, specialist services need to be family focused by understanding how the adult's issues impact their children and the implications of their practice on the family. This kind of an approach is sometimes referred to as a 'joined up' or integrated response.

For example, disability support services for a child with a disability could be provided early to support the child and to enable their family to meet their disability support needs. These services, if provided early and at the right level of intensity, could assist to prevent the child's family from not being able to care safely at home and reduce the likelihood that statutory child protection intervention will be required to provide an out-of-home care placement for the child.

Services that support families need the capacity to work with families with complex needs. These families often require support from more than one type of family support or other specialist service. Innovative strategies such as outreach and assisted referrals may be required to link families between services. Families requiring supports and services from multiple organisations require services to be delivered in a collaborative and coordinated manner. Vulnerable families should be able to continue to engage and work with a service as their needs change and despite statutory intervention occurring from time to time.

Integrated responses require diverse services that may be providing a service to a family or individual at the same time or simultaneously to be able to work together, to share an understanding of each other's roles and responsibilities, and in some circumstances to share a common practice framework. This approach may cut across multiple government and non-government service providers.

In recent years investment has expanded in secondary and tertiary family support services delivered by non-government organisations funded by the department. These include initiatives such as Referral for Active Intervention, Helping Out Families, and Aboriginal and Torres Strait Islander Family Support Services that provide intensive support to families whose child protection concerns fall just below the threshold for statutory child protection intervention. Family Intervention Services provide intensive support to children and families the subject of statutory child protection intervention. Specialist Counselling Services, Targeted Family Support Services and Safe Havens are services that offer 'step down' family support. The same organisation may receive funding and provide services across more than one of these service types. Recent machinery of government

changes present the opportunity for these programs to be better aligned under one Child Protection Family Support Program to encourage services to respond earlier, participate in local service alliances or networks; and enable services to be 'stepped up or down' in intensity as a family's needs change.

5.0 Future directions for Queensland: Addressing parental risk factors

Mainstream adult and children's services support people who are parents. These services support individuals to address issues such as mental health, drug and alcohol, and domestic violence issues. These services could be further integrated with family support services to further enable them to have a family focus to their work with individuals. A joined up or integrated service system is required to meet the needs of families where multiple and complex parental risk factors are present.

A more connected service system could be achieved by:

- 5.1 Implementing a whole of government framework that makes it clear that mainstream adult and children's services play an important role in supporting families to keep children safe.
- 5.2 Developing family focused practice support guidelines to practically enable universal and mainstream services to incorporate a family focus to their practice.
- 5.3 Prioritising access for high-risk individuals with families in adult services to address parental risk factors.

6.0 Future directions for Queensland: Addressing parental risk factors

A planned and integrated family support service system across State and Commonwealth funded services will more effectively meet the needs of children and families in each local area. Government and non-government organisations that provide services to vulnerable families should work together in partnership with common goals (including the keep children safe), and clearly understand each other's roles and responsibilities. Service providers should clearly understand their role within the service continuum and local services should work together to flexibly meet the needs of the local community.

This could be achieved by:

- 6.1 The development and implementation of a place-based planning and investment process for child and family support services to align and integrate services funded by various agencies within the State and Commonwealth Government.
- 6.2 The department review and re-purpose its suite of secondary and tertiary family support programs into one over-arching Child and Family Support Program to encompass working with families with children who are not in need of protection and working with families with children who are subject to statutory child protection intervention.
- 6.2 Taking a place-based approach to establishing and maintaining local alliances between family support services to support better working relationships to meet local service needs.

Building the capacity of non-government organisations in Queensland

Intensive family support services in Queensland have been funded at full cost to enable them to recruit and retain the appropriate mix of professional and para-professional staff to deliver services. The grant funding provided allows them to use a portion of their operating budgets for training and development.

The department has invested to assist specific services to build the skills required to engage with their specific clients. For example, additional funds were provided to Aboriginal and Torres Strait

Islander Family Support Services to train their staff in Triple P Parenting and in responding to domestic and family violence issues. The Queensland Aboriginal and Torres Strait Islander Child Protection Peak body obtained separate funding to train its members in drug and alcohol abuse management.

The department has sponsored workshops with intensive family support providers to focus on the particular challenges of 'cold calling'. Cold calling is when a service provider receives information from Child Safety Services about a family who may not be aware that a report about their child has been made to Child Safety Services and offers to provide a service to the family. Service providers are developing skills in this aspect of practice.

In addition to specific training and information, workers in non-government family support services need formal qualifications. The long-term goal is to require mandatory minimum qualifications in the non-government sector. This approach could be similar to the requirement within the child care sector of working towards minimum qualifications for all child care workers. For example, as a first step, the department funded the Community Services Skilling Plan to enable the Sunshine Coast TAFE to offer a certificate course relevant to family support workers at a subsidised cost. The introduction of minimum qualifications for non-government sector workers will require implementation over time and a staged plan is required for future years to achieve and maintain this goal.

In order to develop the capacity of non-government service system and to strengthen the capacity of organisations (and their professional staff) to meet the needs of complex families, the following areas of reform are required:

- *Working relationships* - Strong and successful partnerships are based on agreed understanding of what is expected from each other. Non-government organisations cannot deliver services in isolation – being effective is likely to require the maintenance of effective working relationships between services, a range of government departments and potentially for-profit organisations.
- *Quality practice* - Successful service outcomes require a skilled workforce with access to the tools it needs to do the job. Supporting a culture in the non-government sector that promotes excellence in workforce development, particularly by embracing opportunities for skills development offered by vocational education and training and higher education systems, would help the non-government sector to enhance its existing skill set, close any skill gaps and retain and grow the workforce as it moves into the future.
- *Client relationships* - Working with involuntary clients, such as within the statutory child protection system, can present different challenges. Vulnerable children, young people and families may be more receptive to intervention where they have sought assistance or have experienced or witnessed the benefits of receiving a service. Engagement is also easier where the decision to participate has been made by the family.

7.0 Future directions for Queensland: Building the capacity of non-government organisations

Non-government organisations that provide family support services need a skilled and professional workforce to meet the needs of the complex families they provide services to.

This could be achieved by:

- 7.1 Implementation of staged plan for mandatory minimum qualifications, determined on the basis of service role, for non-government family support and children's services and the development of a staged plan to achieve this goal.

- 7.2 The department in conjunction with relevant stakeholders developing and implementing a framework for supporting quality practice across the government and non-government service system,
- 7.3 The department make available online training and information resources for community services – recognising the geographically dispersed nature of Queensland.

Improving outcomes for children and families in contact with the statutory child protection system

Shifting the focus to supporting families

Where a child becomes known to Child Safety Services, there are three primary phases in the child protection continuum including intake; investigation and assessment; and ongoing intervention.

The implementation of the recommendations of the CMC Inquiry resulted in the establishment of a stand-alone Department of Child Safety. The intent was to enable the department to focus on improving and delivering statutory child protection responses while the Department of Communities was tasked with continuing to develop early intervention and prevention services for vulnerable families who did not require a statutory response. This approach enabled some significant reforms in statutory child protection system. However, it may have contributed to an increased emphasis on a forensic and investigative approach to families by Child Safety Services.

In 2009, machinery-of-government changes amalgamated the two departments into the former Department of Communities. Since that time there has been further development of non-government family support services and the focus of Child Safety Services has remained on assessing and investigating allegations of harm to a child to assess whether statutory intervention should be taken and providing ongoing intervention when children are assessed to be in need of protection.

In 2012, further machinery-of-government changes established the Department of Communities, Child Safety and Disability Services. There are opportunities created by the functions of intervention and prevention and statutory child protection and disability services remaining integrated in the one department.

Child Safety Services will continue to build upon its function remaining within an agency that has responsibility for supporting vulnerable families to shift its approach to working directly with, and supporting, children and families who are in contact with the statutory child protection system. This change in focus requires a practice and cultural shift from managing and investigating risk to supporting families across the child protection continuum. A strengthened focus on supporting vulnerable children and their families would underpin all phases of the statutory child protection continuum including intake; investigation and assessment; and ongoing intervention³².

Unborn children

The CMC Inquiry report found that some pregnant women may require support before the birth of a child to reduce the likelihood that their child may be in need of protection after it is born. The CMC Inquiry report recommended that the *Child Protection Act 1999* be amended to enable the

³² Waldegrave, S and Coy, F (2005), *A Differential Response Model for Child Protection in New Zealand: Supporting More Timely and Effective Responses to Notifications*, Social Policy Journal of New Zealand, 25:32-48

department to intervene where it is suspected that an unborn child may be at risk of harm after birth³³. The CMC noted "the principle is that of supportive intervention rather than interference with the rights of pregnant women".

The Act places a statutory obligation on Child Safety Services when there is a reasonable suspicion that a child may be in need of protection after they are born to investigate and assess the likelihood that a child may be in need of protection after they are born or to offer help and support to a pregnant woman³⁴. The provision recognises that role of Child Safety Services to intervene under the Act is in relation to circumstances when there is reasonably considered to be a child in need of protection. Legally there is no 'child' until after the child is born.

The intention of this provision was to enable Child Safety Services to undertake an investigation and assess the circumstances *before* the child is born to determine whether a child may be in need of protection *after* he or she is born and to require preventative help and assistance to be offered to a pregnant woman. The time soon after the birth of a child is critical to enable bonding between the child and their mother to underpin the child attachment to their family. The provision was intended to enable support to be provided prior to a child being born to try and enable them to remain safely with their parents after their birth.

However, in practice this provision is often interpreted as requiring an investigation and assessment to be carried out after the child is born. The current focus on forensic investigation to identify the available evidence to support statutory child protection intervention upon a child's birth, may contribute to preventative help and assistance not being provided to a pregnant woman before the birth of her child. A strengthened focus on supporting families would encourage Child Safety Services to more actively offer support and assistance at this critical stage to reduce the likelihood of intervention after a child is born.

Differential responses

In order to manage rising demand on statutory child protection services and increase direct support to vulnerable children and families, jurisdictions are trying to divert families that come to the attention of child protection agencies to voluntary secondary support services. This approach is often referred to as a "differential response".

Differential response models include two or more response paths after an initial intake and assessment:

'For some children, a brief assessment is all that is required prior to offering services and for others the assessment needs to be more in-depth, broader in scope and take longer... A decision about the depth and breadth of an assessment should be made at a local level... the rationale for undertaking these assessments is getting help to children and families quickly and proportionally.'³⁵

A differential response means that a child protection agency has more than one way of ensuring children are safe and well. In addition to the traditional approaches of intervention involving investigations of allegations and the State assuming some or all of the parental responsibilities for a child, other options are provided so a statutory child protection agency can engage directly with families and oversee the provision of intensive family support services in appropriate cases to try and keep the child safely at home. Child safety officers are supported to exercise professional judgement and determine which assessment activities will best respond to the circumstances of

³³ Crime and Misconduct Commission, *Protecting Children: an inquiry into the abuse of children in foster care*, 2004, page 244

³⁴ Section 21A, *Child Protection Act 1999*

³⁵ Munro, E. 2011, *The Munro Review of Child Protection: Final Report A child centered system*, London, Department for Education. p.41

the case. Differential responses are more likely to engage children and families and use available resources efficiently and effectively.

A literature review of various differential response models across numerous jurisdictions in the United States found that the models do not result in increased harm to children (as they are used in lower risk cases), has modest benefit to safety (fewer re-reports); resulted in more favourable attitude of parents; and resulted in greater work satisfaction for child protection workers³⁶.

Research on the New Zealand differential response model noted a key feature of differential response models is the capacity to mitigate risk by the child protection agency being able to "self-correct" to a different pathway if new information emerges or circumstances change. It was also noted that child protection workers needs to be strongly supported by management even when clients appear to have been diverted into the wrong service stream³⁷.

A recent review of the Tasmanian differential response model indicated that for the twelve months since the model was implemented there had been a reduction in the number of children notified to the child protection authority in that state and a reduction in the net admission of children into care³⁸.

Differential responses in other jurisdictions

Jurisdictions including South Australia, Western Australia, New South Wales and New Zealand have all established differential responses at the point of a report being received by the child protection agency.

Across jurisdictions, there are also a range of differential response models that have been implemented when a child and family requires some assessment and ongoing help from a statutory child protection authorities.

In Victoria, professionals and community members can report a concern about a child to either the child protection agency or to a family support service. If a child and family has been reported to the statutory child protection agency, they can be referred to a community-based referral and support team (that is, Child FIRST) at various stages of the child protection process including intake. Depending on the complexity of the concerns, an open child protection report can be closed by the department when a child and family is referred to Child FIRST or when Child FIRST accept and allocate the referral.

In Western Australia, the 'Signs of Safety' practice framework allows the child protection agency to undertake a 'safety and wellbeing' assessment for a child rather than investigate a family in some circumstances. This is a strengths based approach which looks at existing strengths and safety factors present in the family and draws on the collaborative efforts of family members and professionals to complete a risk assessment and develop a safety and wellbeing plan. This 'solutions-based' safety plan details the actions and circumstances that the department, family members and other professionals agree would ensure the child's safety.

Signs of Safety was initially developed in the 1990s by Andrew Turnell and Steve Edwards in collaboration with over 150 child protection practitioners in Western Australia. It is currently being

³⁶ *Differential Response in Child Protection Services: A Literature Review* (2009), US Department of Health and Human Services, National Quality Improvement Center.

³⁷ Waldegrave, S and Coy, F (2005), *A Differential Response Model for Child Protection in New Zealand: Supporting More Timely and Effective Responses to Notifications*, Social Policy Journal of New Zealand, 25:32-48

³⁸ *Gateway and Family support Services Midterm Review Report* (2012), Department of Health and Human Services, Tasmania.

utilised in jurisdictions in the U.S.A., Canada, U.K., Sweden, Finland, Holland, New Zealand and Japan.

The Department for Child Protection, in Western Australia, fully adopted the Signs of Safety as its child protection framework across all departmental child protection services in mid 2008.

Signs of Safety takes a partnership and collaborative approach to child protection practice which is strengths-based and focused on the safety of children. There are a number of practice tools and processes that have been designed to actively involve the family, in particular children, together with informal and formal support networks in safety planning, at all stages of the child protection continuum.

The Signs of Safety includes an assessment and planning protocol that utilises a comprehensive approach to risk. The risk assessment process is simultaneously forensic in exploring harm and danger while at the same time exploring the family's strengths and safety (The Signs of Safety Child Protection Practice Framework, 2011, p.13). It is designed to assist professionals to engage and fully involve all stakeholders, including the child. The practice framework fundamentally contains three key areas of inquiry:

- What are you worried about? (past harm, future danger and complicating factors)
- Whats working well? (existing strengths and safety)
- What needs to happen? (future safety).

In 2006 and 2007, the rate of increase in Western Australia of children admitted to out-of-home care was 13.5 per cent which was above the national average. Attributed to the implementation of Signs of Safety, the rate has been reduced to an average of 5 per cent from 2009 to 2011.

In addition, the percentage of child protection assessments that have been referred to intensive family support has increased from 2.5 per cent to 13 per cent and the percentage of order applications has been reduced by 24 per cent. Since recidivism rates have remained stable at 6.9 per cent since 2008, it is suggested that this collaborative approach to families has not increased the risk to vulnerable children. The stable recidivism rate is significant as Western Australia implemented mandatory reporting three years ago, which has led to an increase in notifications.

This system change data is consistent with trends in other jurisdictions. For example, Olmsted County Child and Family Services, Minnesota, USA, which implemented Signs of Safety in 2000, has tripled the number of children the agency works with, halved the proportion of children entering out-of-home care and halved the number of families taken before the courts, with a recidivism rate of less than 2 per cent.

Families report feeling 'heard', not judged by workers and clear about the changes they need to make to ensure their children's safety and well-being. Based on a survey of child protection staff in Western Australia following a two year implementation period of the Signs of Safety practice framework, 64 per cent of staff reported that applying Signs of Safety to their work had caused their job satisfaction to increase greatly or somewhat. When elaborating on the reasons for this, the most common responses were that families had an improved understanding of the issues and what was expected of them; the framework provided clarity and focus to child protection work; it provided useful tools, encouraged more collaborative practice, improved decision making, and was open, transparent and honest. The rate of turnover of frontline staff has remained stable at around 12 per cent since the introduction of Signs of Safety in 2008³⁹. (The Signs of Safety Child Protection Practice Framework, 2011, p.7-8).

³⁹ Department of Child Protection, Western Australia, *The Signs of Safety Child Protection Practice Framework*, 2011, p.7-8, www.signsofsafety.net

The Signs of Safety approach is a rigorous yet simple model that is implemented across all levels of the agency to foster an environment of mutual trust and respect allowing the child protection officer to build a positive relationship with the family and resolve issues early. A significant shift in paradigm in Queensland is required and to do this a practice framework similar to the Signs of Safety approach is required to be implemented.

Opportunities for a differential response in Queensland

The vast majority of cases reported to Child Safety Services do not result in statutory child protection intervention (an intervention with parental agreement, assessment order, or a child protection order) being taken to keep the child safe.

Incorporating a differential response model into Child Safety policies and procedures would increase the opportunities for Child Safety Services to work directly with families and to support them to engage with secondary services. This approach could be incorporated within the current phases of intake and investigation and assessment.

Intake

Intake is the first phase of statutory child protection services in Queensland. It is the process undertaken by Child Safety Services when information from a professional or member of the public about a child and family is first received. Every day, Child Safety Services receives a large number of calls and reports from a variety of sources including police and school personnel, health sources, parents, neighbours, friends and relatives, all raising concerns about a child's wellbeing or safety.

Some calls to Child Safety Services are from families, community members or professionals asking for general information. These are recorded as a "general enquiry" and do not proceed through to the intake process.

If Child Safety Services reasonably suspects, after considering the information they have at that time that the child may be in need of protection, the Act currently requires Child Safety Services to immediately investigate the allegation and assess the child's need for protection, or take other action considered appropriate⁴⁰. The intake process involves the consideration of whether there is sufficient information for there to be a *reasonable suspicion* that the child *may* be in need of protection. This process may include gathering information about the child and family, assessing the information, deciding the response and recording the outcome of decision making. Based on the assessment of available information about a child, consultation with a recognised entity where relevant, use of professional judgement and completion of the SDM screening criteria, the outcome will be recorded as a child concern report or a notification.

Cases where there is no basis for a reasonable suspicion are recorded as a "child concern report". Where there is a reasonable suspicion formed, the matter is recorded as a "notification". Currently it is Child Safety practice to investigate the allegations and assess a child's need for protection in all cases where there is a reasonable suspicion that the child may be in need of protection.

Excluding general enquiries, Child Safety Services received 114,503 intakes in 2011-12, an increase of 63.3 per cent, from 70,126 in 2006-07. Most intakes were received from police (36.9 per cent) followed by health sources (12.7 per cent), and school personnel (11.8 per cent). As previously discussed, approximately 80 per cent of intakes are recorded as a child concern report.

Currently there are three possible responses to a 'child concern report' including the provision of information and advice to the family or notifier, referring the family to another agency or service

⁴⁰ Section 14(1), *Child Protection Act 1999*

provider (with their consent), or in some cases sharing information about the child or their family with a service provider directly (without their consent) to enable them to offer a service to the family⁴¹. There are a vast range of issues that contribute to families being reported to Child Safety Services and a child concern report being reported. In practice, there is limited follow up by Child Safety Services to child concern report matters due to available resources or capacity.

Some child concern reports are about low level concerns that might be within the normal range of childhood experience, or some may be more serious issues but a child's parents may be clearly acting protectively and appropriately. These types of matters may be sufficiently responded to with the provision of information or advice to the person providing the information to Child Safety Services. Multiple low level concerns of this nature may not ultimately result in a reasonable suspicion that the child may be in need of protection being formed. For example, multiple attendances at a hospital emergency for a series of illnesses may not mean a child's parents are not appropriately caring for them.

Some child concern reports may be about parental capacity to care appropriately for their children. Although not serious enough to require statutory child protection intervention, some of these families may need support. The preferred approach would be for these families to be referred directly to a service without a report being made to Child Safety Services in the first instance.

However, if a report is made to Child Safety Services and it is considered to be a child concern report, Child Safety Services can refer a family subject to a child concern report directly to an intensive family support service such as a Referral for Active Intervention Service, Helping Out Families, an Aboriginal and Torres Strait Islander Family Support Service or another secondary support service if they exist locally. It is most effective and good practice for a referral to another service to first be discussed with the family. In low level cases such as those that are considered to be child concern reports, it may be appropriate for families to be supported to seek help for themselves and for the referral process to involve providing them with information to enable them to access the service directly.

However, if this cannot occur, Child Safety can make a referral to a secondary service directly where there has been no contact with the family and their consent has not been obtained⁴². When a matter is recorded as a child concern report, the assessment is that they do not meet the threshold for statutory child protection intervention and if a direct referral is made to a service no further involvement by Child Safety Services would be required. If additional or new information about concerns for the safety of the child emerges, the service could make a report to Child Safety Services in the future.

The Helping Out Families initiative in three trial sites in South East Queensland specifically aims to identify child concern reports where a family may benefit from support and intervention to prevent issues escalating and provides a mechanism, through a referral to the Family Support Alliance, for Child Safety Services to more actively respond to these matters. Preliminary findings include that families are more likely to engage with an intensive family support service when they are referred to the service directly by a school, health professional or other agency that they are in contact with.

However, irrespective of what efforts are made to encourage other agencies to more directly refer families to local community based family support services, there will continue to be some families who are reported to Child Safety Services and are assessed as not meeting a threshold for statutory child protection intervention. In these cases Child Safety Services could build upon the experience gained through the implementation of the Helping Out Families initiative so far and refer some child concern report matters directly to relevant family support services in other parts of Queensland.

⁴¹ Section 159M(4), *Child Protection Act 1999*

⁴² Section 159M(4), *Child Protection Act 1999*

Case study 7: Direct referral of a child concern report matter to a family support service

An intake was received and recorded as a Child Concern Report (CCR) about concerns regarding a 12 year old. The concerns relate to the child repeatedly attending school with limited or no lunches over the last month, falling asleep during class and presenting unkempt in dirty clothes. The child has been absent from school for 10 of the last 40 school days. Despite numerous requests for the mother to meet with school staff to discuss the concerns, she has not attended arranged meetings. The family has one previous notification substantiated child not in need of protection relating to physical abuse when he was 6 years old.

The mother is a single parent who is in extremely poor health. She suffers from osteoporosis, rheumatoid arthritis and is morbidly obese. Last month, she developed pneumonia and requires daily oxygen, which is still continuing. The child is the mother's primary carer, he undertakes general physical care of the mother including cooking, cleaning and shopping. The mother regularly runs out of money for the fortnight. The family did have support from the mother's brother until he recently moved interstate. There are no other family members who can assist in the mother's care. The child's father left 3 years ago and has not maintained contact. The child stayed with a neighbour when the mother was recently hospitalised.

The mother and child have a very good relationship and enjoy each other's company. He is very concerned about his mother's health and has started having nightmares. Both the mother and child are keen to accept assistance.

Referral: The family is referred to the Referral for Active Intervention (RAI) service to provide intensive family support to the family with the aim of preventing the need for a statutory child protection service. In addition, RAI has funds to purchase additional services to assist families where required.

Investigation and assessment

In the current system, when child protection information meets the legislative threshold of harm or risk of harm and it is reasonably suspected that a child is in need of protection a 'notification' is recorded on ICMS.

Currently in Queensland, Child Safety Services has one response only to a notification, that is, to conduct an investigation of the allegations and assess the child's need for protection (ie, an investigation and assessment). In 2011-12 there were 22,894 notifications with a finalised investigation and assessment outcome recorded. Of these, 7,681 (33.5 per cent) were substantiated. 14,342 (62.6 per cent) were unsubstantiated and 871 (3.8 per cent) had no investigation outcome recorded. The investigations and assessment response for all notifications is a policy rather than a legislative requirement. Section 14 of the Act requires that once a reasonable suspicion has been formed Child Safety Services must immediately undertake an investigation and assessment or take other action considered appropriate.

Where the outcome of an investigation and assessment is that a child is in need of protection, ongoing intervention by the department is required. The investigation and assessment phase of statutory child protection intervention is resource intensive and intrusive for families. In cases where the outcome of an investigation and assessment is that a child is not in need of protection, the fact that an investigation and assessment has been undertaken may negatively impact on the family's trust of Child Safety Services and other support services and could result in them being less likely to seek help.

An investigation and assessment process is and will continue to be the only appropriate response for a proportion of notifications. A formal holistic and comprehensive investigation may be required because of the nature of the allegations of harm (including allegations of sexual abuse or other criminal offences are alleged), the severity of the alleged harm to the child (for example very young children with multiple injuries), the child's high level of vulnerability, or the complex nature of the concerns where the family has multiple needs or the child requires medical assessment. This type of approach may also be required where Child Safety Services needs to use investigative powers in the *Child Protection Act 1999* or to seek and assessment order for the child. However, an investigation and assessment and the use of statutory powers should be a last resort rather than the only option.

Some of the notifications that were substantiated following an investigation and assessment may have benefited from an alternative approach. There is opportunity for Child Safety Services to use a differential response at the time a report is assessed to be a notification. A range of differential response pathways for child protection intervention could be considered within the context of the Queensland statutory child protection system. These include, for example:

- A direct referral to a community based support service;
- An assessment and support response;
- An investigation and assessment process.

At the point of a matter being assessed as a notification (ie, the child is considered to be in need of protection) Child Safety Services could play an active role in referring the family directly to a support service. As these referrals relate to a child considered to be in need of protection, Child Safety Services may make contact with the family and assist in the process of referring the family to an appropriate service. Child Safety Services may also follow up with the service to monitor whether the family has engaged with the service. If additional or new information emerges about the safety of the Child Safety Services may need to escalate the level of intervention to ensure the child's ongoing safety.

An alternative approach for some of these families may be for Child Safety Services to lead an "assessment and support" response, rather than undertaking an investigation and assessment. Although an assessment and support response would sit within the statutory child protection process at the stage of an investigation it differs from the current investigation and assessment process.

An assessment and support approach would involve Child Safety Services working in partnership with a non-government family support service to jointly engage with the family. The non-government service would assist in Child Safety's assessment of the family's needs and jointly provide information and advice to the family. This kind of approach may be best targeted at cases where a notification has been recorded as a result of harm to a child resulting from limited parenting skills, parental mental health issues, situational crisis, a lack of family or external support, parents struggling to care for a child with a disability, conflict between parents and their adolescent children, or financial distress.

Notifications responded to through an assessment and support response may involve a formal "Support Service Case" being opened for a limited period for the child within Child Safety Services. These cases could be included in current caseload allocations for child safety officers to ensure they are appropriately reflected in caseload analysis processes and can be given the same status as other 'open' cases. Child Safety's role in these cases may involve:

- coordinating a case discussion meeting to develop a support plan involving the child (if appropriate), the parents and key government and non-government service providers;
- engaging with the family directly to provide family support in collaboration with a non-government family support service (if required) for a limited period;

- participating in a Family Group Meeting early in the assessment to discuss how best to keep the child or young person safely at home.

Child Safety's involvement in a Support Service Case of this nature would be time limited and would be focused on achieving the family's linkage and engagement with community based supports so that Child Safety could withdraw and non-government family support services could continue to work with the family. If this aim was not achieved in the timeframes, Child Safety would need to consider whether a Support Service Case response continued to meet the child's needs or whether other statutory child protection intervention was required. There may also be some cases where a Support Service Case is opened without additional services being provided by a non-government support service.

Case Study 8: Assessment and support response

An intake was taken and recorded as a notification about concerns regarding two children, a two year old and a ten month old. The alleged harm to the children was neglect, with cumulative harm identified due to past history (two Child Concern Reports, and two notifications with outcomes (1) Substantiated – child not in need of protection, and (2) Unsubstantiated). The mother, aged 22 years, is the primary parent and has previous child protection history as a child herself.

The concerns about the child included that both children are not achieving developmental milestones, and are below the 50th percentile for both weight and height; the small flat is dirty, with leftover food scraps on the floor; both children have scabies and require further treatment as there are early signs of infection due to previous medical advice not being followed through. The mother states she is completely overwhelmed about her family's current circumstances. The mother has a mild intellectual disability, has just moved into the area and has no family and social supports.

It is considered that there is a reasonable suspicion that the children may be in need of protection and the matter is recorded as a notification. A preliminary assessment included contact with Child Health and the general practitioner. Following consultation with the team leader, an 'assessment and support' differential response was assessed as the appropriate in response to the concerns identified in the notification.

A joint visit to the family was undertaken by a child safety officer with a worker from a non-government family support service agency. The child safety officer observed both children during the visit and both the child safety officer and the support service worker discussed the notified concerns and gathered information about her and her children's current needs. The mother willingly engaged and requested assistance. A six week assessment and support plan was jointly developed with the mother child safety officer and the support service worker for the provision of:

- practical assistance to the mother addressing health and hygiene needs of the children, establish routines, and provide cooking and budgeting assistance (provided by the support service);
- modelling positive engagement and play with the children to promote their developmental growth (agency and CSO);
- developing a therapeutic relationship with the mother and introducing key local resources and services to provide ongoing support – child care, neighbourhood centre groups, financial and budgeting service (agency and CSO).

The child safety officer maintained contact with the family during the assessment and support plan because the children were so young and vulnerable and there was previous child protection history for the family.

Following six weeks of support, the mother had maintained engagement with local support services and the CSO observed significant changes in the family environment and the children's health and

wellbeing. The investigation and assessment outcome was recorded as 'substantiated – child not in need of protection' and the case was closed as local services were continuing their support of the family.

Case study 9: A direct referral response to a notification

Using the above case scenario, a 'direct referral to a non-government organisation' (non-investigative pathway) differential response may have been appropriate, for example if:

- If the mother was the source of information to Child Safety Services and she requested assistance or the outcome of a previous Child Concern Report included a referral to a Referral for Active Intervention (RAI) service and the family are still engaged with that service; or
- the children were subject to an Intervention with Parental Agreement case, closed six months ago, the mother is currently experiencing a situational crisis due to financial stress and poor housing, and the previous NGO has capacity to immediately re-engage with the family again (within the 5 day response timeframe).

8.0 Future directions for Queensland: Opportunities for a differential response in Queensland

As part of a cultural shift to strengthen the role of child safety officers to support families, differential responses could be introduced to the intake and investigation and assessment phases of the child protection continuum.

This could be achieved by:

- 8.1 Child Safety Services implementing an internal shift in focus to ensure a 'supporting families' focus underpins all statutory child protection work.
- 8.2 The department introducing a practice framework, such as the Signs of Safety approach adopted in Western Australia, to support this shift in practice and undertake relevant education, information, and professional development to implement this change in approach.
- 8.3 Child Safety Services building upon the experience gained through the Helping Out Families initiative to implement policy and practice reforms so relevant matters recorded as a child concern report can be referred directly to appropriate local services.
- 8.4 Child Safety Services trialling a 'differential response' when there is a reasonable suspicion that a child is in need of protection (notification) to provide additional options to support families rather than undertaking an investigation and assessment for each notification.
- 8.5 The differential response approach in 8.4 above may include:
 - Child Safety supported direct referrals to local support services in appropriate cases;
 - The use of an assessment and support response with local services in appropriate cases which may include a Support Service Case;
 - The ongoing use of investigation and assessment in appropriate cases.
- 8.6 The preferred approach should be for Child Safety to work with families voluntarily, with their consent to help them to care safely for their child including through a Support Service Case. The department will recognise the value of this important work by reflecting it in caseload calculations.

When a child is assessed as being in need of protection, Child Safety Services must provide ongoing intervention to the child and family to ensure the child's protection and care needs are met. This intervention can include as an intervention with parental agreement or intervention with a child protection order.

Integrated Client Management System

The CMC Inquiry report highlighted that the Child Protection Information Management System that was in place at the time was cumbersome and difficult to use resulting in data extracted from it being unreliable. It was also noted that the two high profile child deaths that preceded the inquiry highlighted the need for effective record keeping to support effective documentation of information to enable proper decision making leading to significant problems with accountability. The CMC noted that "in the absence of adequate information and recordkeeping systems, the DCS may fall victim to many of the current department's practice failures as outlined in the evidence before the CMC".⁴³

The Integrated Client Management System (ICMS) was introduced to enable appropriate record keeping, support decision making and effective decision making, and enable reliable performance data and information to be extracted to inform the further development of the statutory child protection system. ICMS has been updated and modified since its original implementation. As amendments to the Act come into effect and policy and practice guidelines are updated, components of the system are modified or rebuilt to reflect the changes. Today, Child Safety Services reports on over 160 different measures and additional pieces of information. Reliable and wide ranging performance data is published on the department's website each quarter.

The Commission of Inquiry has heard evidence and received information about the need for a central database to collect intelligence about children and families in Queensland that could be accessible to various agencies across government. This type of database may go beyond the original intent and capability of the ICMS.

As reports to Child Safety Services have increased over time, the amount of information collected and stored in ICMS about individual children and families has also increased. Other national and international jurisdictions have had similar experiences with some finding that the benefits of a system which operates more as an intelligence database are outweighed by the disadvantages. The maintenance of a large database may be costly and time consuming with little tangible benefit in identifying child protection concerns. In England, ContactPoint was developed and implemented after the death of a child known to a number of government agencies. It aimed to improve the protection of children by improving the way information was shared between agencies. The database cost £224 million to establish and was estimated to cost £44 million a year to run. ContactPoint was criticised by a wide range of groups that held concerns about privacy, security of information, and effectiveness from a child protection perspective. In May 2010 the government in the United Kingdom announced plans to disband it and on 6 August 2010 it was switched off.

Case planning

A case plan for a child is a written plan for how a child's protection and care needs will be met. A case plan for a child provides an opportunity for the child and their family and for other people involved in meeting the child's needs to plan how the child's needs will be met. A case plan is required in all cases when the department is satisfied that a child is in need of protection and needs ongoing help under the Act⁴⁴.

⁴³ Crime and Misconduct Commission, *Protecting Children: an inquiry into the abuse of children in foster care*, Appendix E: Recommendations, page 341, 2004

⁴⁴ Section 51C, *Child Protection Act*

Case planning also provides accountability and a mechanism to safeguard the child and family's interests by requiring documentation for how the child's needs will be met. A case plan may include: the goals to be achieved by implementing the plan; the arrangements about where and with whom the child will live; services to be provided to meet the child's protection and care needs and to promote the child's future wellbeing; the things Child Safety will be responsible for; the child's contact with their family or other people they are connected to; arrangements for maintaining the child's cultural identity, matters for which a parent or carer will be responsible for; and when the plan will be reviewed⁴⁵. A case plan provides a written record of the intent of statutory child protection intervention that can guide Child Safety practice and provide the family with valuable information about what the intervention will mean and look like for them and their child.

Case planning must be undertaken in a participatory and timely way. A case plan can be developed or reviewed at a family group meeting. Family group meetings can include the child, members of the child's family, service providers, and other relevant people and may be held for other purposes to enable inclusive discussions as issues arise. Family group meetings are not primarily a dispute resolution process. Rather they are an inclusive mechanism for the child's needs to be discussed and plans developed. A family group meeting may be convened by the department or by a private convener⁴⁶.

There are benefits in family group meetings being convened by a private convenor, particularly if there is some conflict or disagreement between the child's family and the department. A private convenor may be better able to independently and objectively convene the meeting. There may be some benefit in engaging a private convenor if a family group meeting is convened early in an assessment phase of a Support Service Case to facilitate discussions about how to safely keep a child or young person at home. However, engaging a private convenor has resource implications for the department and appropriately qualified convenors may not be available in all locations when they are required. In some circumstances it is useful for the department to convene a family group meeting because it can occur in a shorter timeframe and may be more effective than engaging a private provider. Internal family group meeting convenors may also play a wider role within their local Child Safety Service Centre by facilitating relationships with support services who may regularly participate in family group meetings.

There may be some benefit in providing greater guidance in the *Child Protection Act 1999* about when the appointment of a private convenor should be considered. Irrespective of how they are engaged, family group meeting convenors should have specialist skills and experience in child protection and in facilitating inclusive discussions between relevant people working with the family to achieve an outcome.

Because a child's needs and arrangements may change often, case plans must be reviewed frequently. How often a case plan for a child is reviewed depends on the individual circumstances of the child and the help provided to the child and their family. If a child is the subject of a child protection order granting long term guardianship of them Child Safety should contact with them at least every twelve months to consider whether they need to have their case plan reviewed⁴⁷. For all other children the subject of ongoing intervention under the Act, their case plan must be reviewed at least every 6 months.

It can be difficult convening a meeting to develop or review at a time when all relevant people can attend. Family members may be difficult to contact or not attend planned meetings. This can impact on the timely development of a case plan for a child. Delays may also be caused if people attending the meeting don't all agree on matters to be included in the plan. The Act provides for

⁴⁵ Section 51B, *Child Protection Act 1999*

⁴⁶ Section 51H, *Child Protection Act 1999*

⁴⁷ Section 51VA, *Child Protection Act 1999*

Child Safety Services to develop a case plan when a meeting has not been held⁴⁸, however, delays could be avoided by making it clear that if all practical and reasonable steps to seek the views and to discuss the case plan with the child's family and to resolve differences have been made, Child Safety Services ultimately has responsibility for the development of a case plan for a child.

9.0 Future directions for Queensland: Improving case planning as part of ongoing statutory child protection intervention

Case planning processes are an essential mechanism to enable a coordinated response to meeting a child's protection and care needs. The requirement for there to be a written case plan for a child the subject of ongoing help under the *Child Protection Act 1999* provides clear information to children and families about why the child is in need of protection, what the child's needs are, and how they can be met. The process for developing a case plan for a child could be improved to help to enable all children the subject of ongoing help to have a current case plan.

This could be achieved by:

- 9.1 Amending the *Child Protection Act 1999* to provide greater guidance about when consideration may be given to engaging a private convenor to convene a family group meeting. The appointment of a private convenor should be considered when: a family group meeting is convened during the assessment phase of a Support Service Case; where there is protracted conflict or disagreement between the child's family and department about an issue to be discussed at a family group meeting; or when the meeting is to develop an initial case plan.
- 9.2 Amending section 51I(2) to make it clear that private and internal family group meeting convenors should be appropriately qualified and including in the Act a power to make a regulation about what may be taken into consideration in determining whether a person is appropriately qualified.
- 9.3 Amending section 51S in Part 3A or Chapter 2 of the *Child Protection Act 1999* to make it clear that the provision applies in circumstances where the department has taken all reasonable steps to hold a case planning meeting have been made. In these circumstances Child Safety should be responsible for the development and endorsement of the case plan for the child in accordance with section 51S.

Intervention with parental agreement

An intervention with parental agreement enables Child Safety Services to provide support following an investigation and assessment process where a child is considered to be in need of protection. This type of intervention provides an option for Child Safety Services when the child's protection and care needs require intensive supervision by Child Safety Services but the child's parents are willing to engage by consent and it is safe for the child to do so. The aim of the intervention is to reduce the level of risk in the home and build the capacity of the parents to meet the protection and care needs of the child. Intervention with parental agreement is only appropriate where it is likely that by the end of the proposed intervention, the child's parents will be able to meet the child's protection and care needs.

Intervention with parental agreement is generally of a short-term and intensive nature. It is often the case that the child will remain at home for all, or most of, the intervention period. Out-of-home care can form part of this type of intervention under a *care agreement*. This is the first level of ongoing statutory intervention under the Act that may involve out-of-home care for the child.

⁴⁸ Section 51S, *Child Protection Act 1999*

There is no maximum timeframe for an intervention with parental agreement to remain open, however, up to 12 months is generally seen as an appropriate length of time in which to address the concerns. There are maximum time limits on the period of time out-of-home care can be provided to a child under a care agreement⁴⁹. This is to safeguard the rights of a child and their family and ensure that appropriate judicial oversight and accountability is provided when decisions include removing children from their families in the longer term.

As at June 2012 there were 2,149 children the subject of an intervention with parental agreement, of which 799 (or 37.2 per cent) were Aboriginal or Torres Strait Islander children.

The department funds a range of non-government Family Intervention Services across the state that provide support to children and their families in the statutory child protection system. These services mainly work with families subject to an intervention with parental agreement but also work to reunify children subject to other forms of statutory intervention with their parents. The objective of the intervention is to reduce the likelihood that ongoing intervention by the department will be required and to divert families from the statutory child protection system.

Family Intervention Services provide intensive and mostly home-based support that teaches caregivers practical parenting skills. This includes how to establish routines in the home, learning how to prepare meals, budget and keep the house clean and offer a safe and stable living environment. The Family Intervention Program also provides therapeutic counselling and support to caregivers, information on child development and implements strategies to improve child-parent attachment.

Unlike other intensive family support programs such as Referral for Active Intervention and Helping Out Families, Family Intervention Services target families the subject of statutory child protection intervention. Families are referred to this program because the department has assessed that the child is in need of protection and there are ongoing concerns about the child's safety. The consequence for parents not cooperating or engaging with these services is that longer periods or more intensive departmental intervention may be required and in some cases the removal of the child.

Family Intervention Services are an effective way of providing intensive family support to address child protection concerns. During 2011-12, 50 services funded for \$18.3 million provided support to 3,334 individual children. As with any service or program, the capacity of Family Intervention Services is limited.

There is potential for Child Safety Services to use existing resources in a more flexible way to purchase additional service capacity for a particular child or family to further reduce the likelihood of more intrusive intervention being required. Currently, it costs the department from a minimum of \$20,000 up to an average amount of \$300,000 per annum for an out-of-home care placement for a child. In some cases, it may be appropriate and safe for the department to purchase additional Family Intervention Services, including in home support for example, to enable the child to remain safely at home at a lower cost than the cost of an out-of-home care placement for the child. This increased flexibility may result in fewer out-of-home care placements being required

10.0 Future directions for Queensland: Improving intervention with parental agreement

Family Intervention Services have demonstrated success in addressing child protection concerns and supporting parents to safely care for their children at home and reduce the need for further statutory intervention. However, increased flexibility in how these services are purchased and

⁴⁹ Section 51ZH, *Child Protection Act 1999*

provided could result in some children being able to remain safely at home.

This could be achieved by:

- 10.1 Using existing resources more flexibly to purchase additional intensive family support or specialist services to keep a child safely at home rather than being placed in out-of-home care, in appropriate cases.
- 10.2 This increased flexibility could be utilised in Support Service Cases (8.5 above) and cases where an intervention with parental agreement is provided.

Child protection orders and Childrens Court proceedings

A child protection order provides the most intrusive type of statutory child protection intervention. A child protection order is an appropriate intervention when a child is considered to be in need of protection and the child's protection and care needs cannot be met by a less intrusive type of intervention. This may include circumstances when it is not safe for the child for the response to be an intervention with parental agreement or a longer term response is required.

The oversight provided by the court system regarding child protection decisions including applications for child protection orders is an important component of the Queensland child protection system. The role of the court ensures that sufficient regard is given to the rights and liberties of individuals involved in child protection matters and is consistent with the principles of natural justice. This oversight is particularly vital given that child protection proceedings involve the State (through a large government entity) in proceedings against vulnerable, disadvantaged and usually unrepresented people.

The role of the Court in proceedings on an application for a child protection order is to determine whether certain legislative criteria are satisfied to justify the intervention of the State in a parents' care for their child and, if so, to what extent. If the Court determines that the threshold has been met and a custody or guardianship order is made, then the care of the child becomes the responsibility of Child Safety Services.

The protective nature of the child protection jurisdiction of the Childrens Court, the requirement for matters to be determined quickly in the best interests of the child, and the requirement for courts to be accessible across Queensland warrants the jurisdiction remaining primarily with a Childrens Court constituted by a magistrate.

The Act provides for a number of types of child protection orders including short-term directive and supervision orders for up to 12 months, custody and short-term guardianship orders for up to 2 years, and long-term guardianship orders until a child reaches the age of 18 years.

Before a child protection order can be made for a child the court must be satisfied on the balance of probabilities of a number of core matters including that: the child is a child 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 is appropriate for meeting the child's protection and care needs; if the order is contested, a court ordered conference has been held (or reasonable attempts made); the child's wishes and views, if able to be ascertained, have been made known to the Court; and the protection sought to be achieved by the order is unlikely to be achieved by an order on less intrusive terms⁵⁰.

The development of a case plan for a child is required as soon as ongoing help is provided to the family under the Act. This enables supports and services to be provided to the child and their family and arrangements to be made for the child without delay. When proceedings on an

⁵⁰ Section 59(1), *Child Protection Act 1999*

application for a child protection order are commenced the case plan for the child at that stage can provide for families the details of the nature of the order sought for the child. Good case planning processes leading up to and during proceedings can result in parents who are more aware and fully informed about the proceedings and who may be more likely to not contest the application.

When proceedings on an application for a child protection order are commenced, parents are sometimes reluctant to participate in case planning meetings or to agree to the case plan for their child. Parents may be concerned or have been advised that their participation or agreement may be inferred to be an admission to matters related to the grounds of the application. This means that during interim proceedings while the application is adjourned until a hearing can be held the child does not have a final case plan and work cannot progress towards safely reunifying the child and their family. This can result in intervention that is longer than was originally sought as part of the order. The impact of this for children and for families could be reduced by making it clear in the *Child Protection Act 1999* that the fact that a child's parents have participated in a family group meetings and agreed to a case plan for a child cannot be used in evidence in the proceedings for a child protection order as an admission by them to any of the matters before the court.

The requirement for a Court to be satisfied that the case plan is appropriate for meeting the child's protection and care needs can result in proceedings being prolonged as disputes about details of the case plan are litigated and can lead to final orders being made by the Court that are detailed and prescriptive about the exercise of the Child Safety's responsibilities and obligations during the period of the child protection order. This approach may be more consistent with the determination of private disputes between parties in family law matters and fails to recognise the nature of the proceedings as a protective jurisdiction. The role of the court in child protection matters is to determine whether the State should intervene to protect the child. If this requirement has been satisfied, then it follows that the best interests of the child warrants the State exercising custody or guardianship responsibilities in accordance with the order made by the Court. It may not be appropriate for an order to be made on the basis of a detailed case plan for a child, which may change as the child's needs change from time to time while the order endures.

This approach also makes a clear delineation between the role of the Court in child protection proceedings and the ongoing exercise of administrative powers in accordance with Court orders. It is important that judicial oversight for the exercise of significant administrative powers remain through the capacity of the Queensland Civil and Administrative Tribunal to review prescribed decisions on an application by a person aggrieved by the decision. Given these administrative decisions impact on the day to day arrangements for vulnerable children in out-of-home care, it is essential that they be considered and determined quickly whilst maintaining the rights and interests of parties to a review.

A requirement for the court to be satisfied that all reasonable steps have been taken to provide services to the child and their family in the best interests of the child before a child protection order can be made will also encourage Child Safety Services to have taken reasonable steps to offer support to a child's family and to work with them to keep their child safely at home before proceedings for an order are commenced. This will further encourage more extensive case planning to be undertaken before matters come before the court.

It is in the child's best interests to have an application for an order decided as soon as possible⁵¹. Queensland has the highest number of orders issued in Australia, with 7,109 admissions to orders in 2011-12. These orders include court assessment orders, interim orders made each time a court proceeding is adjourned and short and long term child protection orders. Nearly 3,500 of these orders were interim orders which are orders that are made when a court adjourns the proceedings

⁵¹ Section 66(3), *Child Protection Act 1999*

to another court date. This reflects numerous appearances and adjournments being made in one proceeding on an application in the majority of matters.

Proceedings may be adjourned for a variety of reasons including documents not being filed with sufficient notice, parties not being legally represented and Courts being concerned that further attempts should be made to support the family to enable them to keep the child safely at home.

The CMC Inquiry made a number of recommendations to improve court processes that resulted in the provision of additional resources and support to Child Safety staff. However, court work continues to consume the majority of time for Child Safety officers and it has been identified as the key workload pressure point in the field.

The approaches discussed previously in this submission including that Child Safety Services shift its focus from a forensic investigatory approach to a supporting families approach are likely to have the impact of reducing the number of child protection orders required over time. This approach could be strengthened by requiring the Court before making a child protection order to take into consideration the reasonable steps that have been taken to provide services to the child and the family to enable the child to remain safely at home. The Victorian legislation includes a similar approach⁵² that provides that a court must not make a child protection order for a child unless it has received and considered a disposition report that includes information about the steps taken by the department to support the family, and is satisfied that all reasonable steps have been taken to provide the services necessary in the best interests of the child. This requirement places emphasis on the requirement for the department to work with families first (when it is safe for the child to do so) before an application for an order is made.

This approach would then require Child Safety Services to include in the material supporting its application for an order information about steps taken to support the family to care safely for their child or why it was reasonable for such steps not to be taken.

Alternative dispute resolution

The majority of proceedings on an application for a child protection order do not proceed to a contested hearing. The parties to an application either come to an agreement at a Court Ordered Conference or otherwise before the hearing is held, or the respondents do not appear and an order is made in their absence. Court Ordered Conferences should be distinguished from family group meetings, which are primarily a collaborative decision making process.

The *Child Protection Act 1999* provides for the Court to adjourn proceedings on an application for an order to enable a conference between the parties be held. The purpose of the conference is to decide the matters in dispute or try to resolve the matters⁵³. However, it may not be until the proceedings are formally contested that a Court Ordered Conference is held.

Court-ordered conferences are undertaken by the Office of Child Protection Conferencing within the Department of Justice and Attorney-General and give parents, legal representatives and the department the opportunity to resolve matters in dispute in order to avoid the necessity of a court hearing.

Court ordered conferences are the only mechanism for alternative dispute resolution in child protection proceedings and the Act provides little guidance on the scope and intent of these conferences.

It is appropriate that conferencing is targeted at matters likely to be contested, however reviewing the current scope and approach of provisions relating to Court Ordered Conferences against

⁵² Section 276(1)(b), *Children, Youth and Families Act 2005* (Vic)

⁵³ Section 68(1)(e), *Child Protection Act 1999*

contemporary best practice to enable proceedings to be settled as early as possible may assist in reducing the number of adjournment orders made in many child protection proceedings.

11.0 Future directions for Queensland: Improving court processes

Child protection court proceedings are resource intensive and often lengthy with matters being adjourned on several occasions. An increased focus on supporting families will help to ensure that applications for court orders are made only as a last resort when other appropriate opportunities to divert the child and their family from this type of intrusive intervention have been exhausted. Strategies that enable the timely resolution of court proceedings and aim to reduce conflict between the parties, whilst ensuring natural justice and procedural fairness are maintained may assist in the more efficient use of court and departmental resources.

This could be achieved by:

- 11.1 Amending the *Child Protection Act 1999* to provide that the child's parent's attendance at a family group meeting and agreement to a case plan for a child is not an admission to any issues in evidence in proceedings on an application for a child protection order for the child.
- 11.2 Amending section 59(1)(b) of the *Child Protection Act 1999* to limit this provision to a requirement that the Court be satisfied that there is a case plan for the child that has been developed or revised under Part 3A and removing the requirement for the Court to be satisfied that the case plan is appropriate for meeting the child's protection and care needs. This would maintain the requirement for an up to date case plan to be provided to the Court and the parties before the making of an order, but limits the Courts role to determining the substantive matters rather than reviewing the case plan that has been developed in accordance with the Act.
- 11.3 Amending the *Child Protection Act 1999* to insert a new requirement in section 59 that before a child protection order can be made for a child, the Court must be satisfied that all reasonable steps have been taken to provide services to the child and their family in the best interests of the child.
- 11.4 The department work with the Department of Justice and Attorney-General to review the current legislative, policy and practice approach to support Court Ordered Conferences to ensure they align with best practice to enable proceedings to be settled as early as possible.
- 11.5 Amending section 66(3) of the *Child Protection Act 1999* to make it clear that a court should not adjourn a proceeding on an application for a child protection order if it is not in the best interests of the child to do so and section 66(4) of the Act to make it clear that the Court may direct parties to do things in relation to the timely resolution of the proceedings on an adjournment of an application for a child protection order.

Specialisation in child protection legal practice

The Commission of Inquiry has heard evidence of a lack of positive working relationships between professionals in the Childrens Court and a lack of understanding of the roles of different players. Despite the serious consequences of child protection proceedings and the obvious power imbalance between the parties, most parents and children involved in child protection proceedings in Queensland are not legally represented. It is important that court processes are accessible, that the proceedings are not overly legalistic and courts are not bound by the rules of evidence so failure to comply with technical requirements does not disadvantage parties and mean that relevant information is not able to be considered by the court because it has not been provided in the right form.

However, when children, parents and the department are legally represented, lawyers in these roles require special skill, knowledge and expertise. Child protection proceedings are unusual.

They are civil public law matters. The children the subject of the proceedings are often the subject of interim intervention while proceedings are on foot. The parties to the proceedings need to remain in contact and continue to interact outside of the court process during the proceedings to continue to meet the child's needs.

Child protection proceedings are adversarial in nature; the best interests of children are served when proper judicial scrutiny, procedural fairness and natural justice are observed. This includes the rights and interests of the child's parents being properly represented by professionals with expert knowledge and understanding of the law and the statutory child protection system.

The establishment of an accreditation process for legal practitioners who practice in child protection would help to raise the profile of this important area of practice as well as providing an avenue for practitioners to gain particular expertise and recognition. A collaborative process involving agencies with interest in child protection proceedings may also assist to strengthen effective working relationships between relevant stakeholders.

12.0 Future directions for Queensland: Specialisation in child protection legal practice

Specialist training and accreditation processes should be established for lawyers practicing in child protection matters in Queensland to enable the provision of high quality legal information, advice and representation services to children and parents involved in child protection proceedings.

This could be achieved by:

- 12.1 The department working with the Department of Justice and Attorney-General, Legal Aid Queensland and the Queensland Law Society to explore options for the establishment of a child protection practitioner accreditation process.
- 12.2 The development and implementation of training and information materials to support an accreditation process.

The interface between family law and child protection

Family law proceedings about children are private law matters. They relate to personal disputes between private citizens about things like where and with whom a child should live, who they should have contact with, and other care arrangements for a child that the parties are unable to agree on. The role of the court is to determine matters relating to the exercise of parental responsibility between the parties in the best interests of the child. Child protection matters are public law matters essentially about the intervention of the State in personal affairs based on a threshold about the safety of the child being reached. There is some commonality in both jurisdictions legislatively providing that the paramount consideration is the best interests of the child. However, the context in which this paramount principle applies in each jurisdiction is quite different.

The complexity in the interface between child protection and family law arises when the two systems intersect. Child Safety's participation in this interface includes providing information and reports to the Court upon formal request, responding to subpoena for the production of documents, and intervening as a party in proceedings. Child Safety's participation in individual matters depends on the information that has been received about the child and their family and the level of involvement Child Safety has had with the family.

Statutory child protection intervention is a last resort and is based on the threshold of the child being in need of protection. Although family courts may be concerned that neither of the parties to proceedings before them present as viable parenting options for a child, these families may not be

assessed as meeting the threshold for statutory child protection intervention, although they may require support to best provide for their child's wellbeing.

Case Study 10: Parental separation and children not in need of protection

The parents of two primary school aged children separate. There are no family law parenting orders in place for the ongoing care of the children who are primarily being cared for by their mother.

The mother of the children is in a new relationship and her new partner moves in with her and the children. He has a long criminal history including offences against children. A report about a risk of harm to the children is reported to Child Safety Services. Child Safety Services is concerned about the mother's new partner living in the house with the children. There is a reasonable suspicion that the children may be in need of protection and a notification is recorded and an investigation and assessment is undertaken.

The children's mother does not want to cooperate with Child Safety Services when they make contact with her and refuses to provide information about where the children's father is. She does not consider her new partner is a risk to the children.

Child Safety Services is concerned about the children's safety but need to continue to investigate whether they need protection including by locating their father and assessing whether he is able and willing to care for them. An application for a Temporary Assessment Order is made for the children and custody is granted to the chief executive during the order. While the children are in the care of a foster carer they disclose where their father is living.

The Temporary Assessment Order is due to expire and although Child Safety Services has now made contact with the children's father, they have not had an opportunity to assess whether he is able and willing to care for the children. Child Safety Services applies for a Court Assessment Order for the children while they continue to assess whether the children are in need of protection.

The children appear to have a strong attachment to their mother who has been their primary carer since their parents separated. However, she indicated that she is committed to her relationship with her new partner and that his offending is in the past and there is no risk to her children. The children's father says he would like to care for the children and has no child protection or criminal history, but acknowledges that he has had little contact with them since the separation because things have been so hostile between him and the children's mother since they separated.

Ongoing statutory child protection intervention is only warranted if the children do not have a parent who is able and willing to protect them from harm. In this case, although their mother may not be able and willing to protect them from the risks posed by her new partner, their father may be. He will need to re-establish his relationship with the children and may need to seek parenting orders so that the children can remain in his care.

Child Safety's involvement with the family has been limited to an investigation and assessment process during the course of Temporary Assessment (three days) and Court Assessment Orders for the children (4 weeks). Child Safety may be unlikely to obtain child protection orders for the children in these circumstances and cannot administratively act as an arbiter between separating parents by removing children from one parent and placing them with another when there is conflict and disagreement between the parties and without the oversight of a court.

In some cases such as this, Child Safety may be able to apply for a short term child protection order for the child while a parent seeks a family law parenting order however, this may not be an appropriate use of Child Safety's powers or an efficient use of limited resources.

There may also be circumstances where a report is made to Child Safety Services about a child whose separated parents do have some family law parenting orders. In these circumstances it is important for Child Safety Services to understand, as part of the consideration and assessment of the child's safety, the context in which any prior family law orders were made. For example, interim family law orders may be made on the basis of limited information being before the court.

There is a long history of an effective working relationship between the department and the Federal family law courts. This relationship is underpinned by the *Protocol between the Family Court of Australia and the Federal Magistrates Court of Australia and Child Safety Queensland*. The protocol provides for the participation of Child Safety Services in family law matters and the sharing of relevant information within the scope of the *Family Law Act 1975* and the *Child Protection Act 1999*.

The relationship in Queensland is also underpinned by Child Safety Services' participation in the Magellan case management model within each of the Family Court of Australia registries in Queensland. The Magellan model provides for the case management of matters in the Family Court of Australia that involve serious allegations of physical and sexual child abuse. It involves the early use of resources such as appointing an Independent Children's Lawyer, the early sharing of information and close liaison on case management.

13.0 Future directions for Queensland: Understanding the interface between family law and child protection

The interface between the Commonwealth family law jurisdiction and the State child protection system is complex. It is important that each system has an understanding of the role and responsibilities of the other. It is important for Child Safety Services to maintain an ongoing effective collaborative relationship with Commonwealth family law courts.

This could be achieved by:

- 13.1 As part of a focus on supporting families, Child Safety Services reinforce quality statutory child protection practice to enable both parents to participate in each stage of statutory child protection intervention when a child's parents have separated
- 13.2 Child Safety Services continuing to play an active role in maintaining an effective collaborative working relationship with Commonwealth family courts including continuing to participate in the Magellan case management model, ongoing implementation and review of the existing protocol between the department and the courts, and exploring opportunities for joint training and information for staff.

Keeping children safe and well in out-of-home care

The out-of-home care system in Queensland

In Australia, out-of-home care for a child in need of protection is seen as a last resort when other options to keep the child safe have not worked or when it is not safe to leave the child at home. Removing a child from their home should be considered a last resort. In some other jurisdictions, including in Europe, it is used in a different way and is thought of as another option in the range of ways that families can be supported to meet their child's protection and care needs. Out-of-home care for a child provides another option to help working with a family to enable them to care safely for their child at home.

In Queensland, the *Child Protection Act 1999* supports the use of out-of-home care as a mechanism for working with a child's family. The principles for the administration of the Act provide that the preferred way of meeting a child's protection and care needs is through supporting their family and if a child is removed from their family support should be given to the child and their family for the purpose of allowing the child to return to their family's care if it is in their best interests to do so⁵⁴. Out of home care can also be provided for limited periods with the agreement of a child's parents under a care agreement or assessment care agreement⁵⁵. If a short term child protection order is made for a child, Child Safety Services must take steps that are reasonable and practicable to help the child's family to meet the child's protection and care needs⁵⁶.

There have been significant reforms in the out-of-home care system in Queensland since the implementation of the CMC Inquiry report. The range of out-of-home care options to meet individual children's needs have been broadened, the quality of care provided improved, and mechanisms for children's care needs to be planned for and met have been improved. Although there is room for improvements in practice, case plans for children in out-of-home care provide for the health needs of child (Child Health Passports), education (Education support Plans), cultural support needs (Cultural Support Plans) and therapeutic and behaviour and support needs when required (Evolve Interagency Services)⁵⁷.

A range of placement options are now available in Queensland for children in out-of-home care. These include family based placements (kinship care, foster care, intensive foster care and specific response care) and non-family based placements (residential care, therapeutic residential care, supported independent living and safe houses). The majority of out-of-home care placements are coordinated and supported by non-government organisations.

The Commission for Children and Young People and Child Guardian also plays an important role in monitoring the safety and wellbeing of individual children living in alternative care.

The wellbeing of children in out-of-home care is monitored by the Commission for Children and Young People and Child Guardian through its Community Visitor Program. The Community Visitor Program provides regular visits to children and young people in residential facilities and foster care, and assist to resolve concerns and issues at a local level. Information reported after each visit is provided by the Commissioner to Child Safety Services locally. Serious issues are referred by the Commissioner to the Commission's complaints process and to other relevant authorities if necessary. Information collected during visits informs the Commissioner's systemic monitoring, reporting and advocacy functions. The Commission also undertakes biannual surveys of children in out-of-home care to ascertain and report on the views of children and young people to inform the improvement of the statutory child protection system.

In 2011, 98.4 per cent of young people surveyed reported feeling safe in their foster care placement, and 99.1 per cent of young people surveyed reported that they were being treated well in their foster placement⁵⁸. In 2011, 87 per cent of young people surveyed reported feeling safe in their residential placement with issues such as staff, personal space and privacy, being treated well, good security and co-residents, exercising, playing games and listening to music and the support of family contributing to feelings of safety for some of these young people⁵⁹.

Despite these reforms, the out-of-care system in Queensland continues to face a number of pressures and challenges.

⁵⁴ Section 5B(c) and (f), *Child Protection Act 1999*

⁵⁵ Part 3B, Division 3, *Child Protection Act 1999*

⁵⁶ Section 73, *Child Protection Act 1999*

⁵⁷ Evolve provides therapeutic and behaviour support services to children with severe and complex needs.

⁵⁸ Commission for Children and Young People and Child Guardian, *2011 Views of Children and Young People in Foster Care Report, Overview and Selected Findings*, Page 10

⁵⁹ Commission for Children and Young People and Child Guardian, *2011 Views of Children and Young People in Residential Care, Overview and Selected Findings Report*, Page 9

In Australia, there are four main challenges in the delivery of out-of-home care services including:

- increasing numbers of children requiring statutory out-of-home care;
- the complex needs of children requiring placements;
- maintaining an adequate range and mix of out-of-home care placement options with capacity to provide care for children requiring an out-of-home care placement;
- the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care⁶⁰.

14.0 Future directions for Queensland: Reframing time limited out-of-home care as a mechanism for supporting families

As part of a cultural shift within Child Safety Services to focus on supporting families, the use of time limited interventions including out-of-home care should be reframed as an option for providing support to families to safely assist them to meet their child's protection and care needs.

This could be achieved by:

- 14.1 Implementing a family support practice framework such as the Signs of Safety framework implemented in Western Australia that provides for good practice in supporting families to keep their children safely at home and may include the use of time limited out-of-home care to support families to care safely for their children at home.
- 14.2 Increasing the use of intervention with parental agreement and care agreements as a mechanism to support families to keep their children safely at home in appropriate cases.

Children requiring out-of-home care in Queensland

As at 30 June 2008 there were 6,670 children in out-of-home care and by 20 June 2012 this had grown to 7,999 children in out-of-home care. Of these, 3,041 (or 38 per cent) were Indigenous.

The best way to improve the wellbeing of children is to support their families to care for them safely at home. However, even with a shift in focus to supporting families across the continuum of the child protection system, including in the statutory component of the system, to incorporate multiple diversion points for families, there will be a number of families who require an out-of-home care placement for their child. Children have a right to be protected from harm and if a child does not have a parent who is able and willing to protect them from harm the State has a responsibility to protect the child. For some children, a return to the safe care of their family will not be possible. The out-of-home care system must provide a range and mix of out-of-home care options and deliver high quality care for vulnerable children.

A diverse range and mix of placement options and integrated services for children in out-of-home care

More children and young people are entering out-of-home care and they are coming into out-of-home care with increasingly complex needs and behaviours. For many children, this is a result of the trauma they experienced before being removed from their family home.

When children in need of protection are removed from their families and cared for in the out-of-home care system they require more than a place to stay. Their lives have included family experiences that have led to concerns about their protection and care and the capacity of their families to meet those needs. Children have been harmed and have the traumatic experiences of

⁶⁰ McHugh, M. & Valentine, K. (2010) *Financial and Non-Financial Support to Formal and Informal Out-Of-Home Carers*, Social Policy Research Centre, November 2010.

suffering that harm and of being removed from their families. Children in out-of-home care have a right to have their needs met⁶¹.

National and international research studies report high numbers of children in out-of-home care with aggression, sexualised behaviours, delinquency, emotional disturbance, learning needs, developmental delay and disabilities, substance use and addiction in older children and drug and alcohol affected babies⁶².

Child Safety Services currently funds a range of out-of-home care placement options for children and young people in the statutory child protection system. These include family based placements (kinship care, foster care, intensive foster care and specific response care) and non-family based placements (residential care, therapeutic residential care, supported independent living and safe houses).

By intervening in a family's care for their child, the State has a legal duty of care and a moral responsibility to meet the needs of children in out-of-home care to at least a minimum standard of care⁶³. Just as the issues that lead to each child's need for protection and out-of-home care placement are different, each child's needs whilst they are in out-of-home care are different. A child's needs may also change over time as they grow and develop and as their trauma experiences impact on their lives in different ways.

Meeting the needs of individual children and young people

To achieve good outcomes for children in out-of-home care the individual needs of a particular child need to be met. A thorough assessment of the child's individual needs and how those needs can best be met includes considering the type of placement, the skills and abilities of the carer, and the other support services a child requires.

In some cases, the circumstances contributing to the need for an out-of-home care placement, such as a child's sudden entry into care, may limit how the placement can meet the child's needs. In these types of cases, once the child's immediate placement needs have been met, a review of the placement is required to ensure it is the best available option to meet the child's ongoing support needs.

Many of the children in out-of-home care have moderate and high support needs that are able to be met through placement with foster and kinship carers. Moderate support needs includes needs that are typical for all children placed in care such as counselling to ameliorate the effects of the harm they have experienced. High support needs are needs that express serious emotional, medical or behavioural components that require additional professional and specialist support.

Complex needs are those that impact on the daily functioning of the child or young person, usually characterised by health conditions or disabilities and/or challenging behaviours that significantly affect the child's functioning. Children and young people with extreme support needs have needs that have a pervasive impact on their daily functioning, usually characterised by the presence of multiple potentially life-threatening health or disability conditions and /or extreme challenging behaviours that impact on their functioning and/or necessitate a constant level of supervision and care. In 2008 the department considered the options for the development of a framework for a continuum of care for children and young people in out-of-home care. At that time there were 6,773 children placed in out-of-home care and it was estimated that approximately 57 per cent had moderate support needs, 26 per cent were considered to have high support needs, 13 per cent had complex support needs and 4 per cent had extreme support needs.

⁶¹ Section 74, *Child Protection Act 1999*

⁶² McHugh, M. & Valentine, K. (2010) *Financial and Non-Financial Support to Formal and Informal Out-Of-Home Carers*, Social Policy Research Centre, November 2010.

⁶³ Section 122, *Child Protection Act 1999*

The vision for placement and support services in Queensland is to enable the safety and wellbeing of children and young people who are in need of protection and require an out-of-home care placement to meet their protective and care needs. The aim is to build an integrated range and mix of services with capacity and diversity to respond to the range of placement and support needs children and young people in out-of-home care may have. These include the trauma and attachment issues that are often experienced by children and young people 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.

Case Study 11: Flexible and integrated out of home care services meeting the complex needs of young people

Aaron, a 16 year old Aboriginal boy is currently subject to departmental intervention and is in out-of-home care in a residential facility. The child protection concerns that lead to Aaron entering out-of-home care included a lack of parental supervision; inappropriate adults visiting the home presenting as a risk to him and his siblings; his parents' were using drugs; and there was significant conflict between Aaron and his parents. Aaron was starting to become involved in criminal activity including property related offences and was not engaged in school for a significant period of time.

Aaron first entered the residential facility due to his challenging and non compliant behaviours that contributed to the breakdown of a number of his previous placements in family-based foster care. When he first entered the residential facility he was verbally aggressive towards staff, would frequently abscond from the placement whenever he felt out of his comfort zone and would not keep in contact with staff. He was also engaging in criminal activities. Child Safety Services worked in collaboration with the residential facility and intensively worked with Aaron to assist him to feel safe and accepted at the residential facility, to make positive decisions and changes to his behaviours and to identify and reach his goals.

As part of his goal setting, Aaron identified that formal schooling was no longer meeting his needs and he chose to leave school and attempt to find work. To assist with this endeavour departmental and residential staff identified a program at a shearing school as a way to help him to find a job. He agreed to participate in this program and was subsequently accepted into a course at this facility. The shearing school program provides training for Indigenous Australians aged 16 to 20 years who want to work in the shearing industry. This is a live-in program situated on a working sheep farm.

When Aaron returned to his residential placement after completing the program his behaviour and attitude to life had vastly improved, and he was extremely proud of himself for participating in the program. He advised that he:

- learnt more about his Aboriginal culture and was now able to speak some of his language;
- thoroughly enjoyed making friends, being treated more like an adult and having responsibilities;
- now has a much better understanding of why staff at his residential placement make the young people get up in the morning and make them commit to school or look for employment as "when you are in the real world you have to do this by yourself"; and
- is very keen to attend an extended course at this facility in 2013 and now has a goal of looking for work on the land.

Aaron is now a very positive young person. He is now much more respectful towards staff and stays in contact with staff if he leaves the placement. He has also not committed any further property related offences for some time and is participating in activities.

Child Safety Services continues to work with Aaron through the Transition from Care program including encouraging and supporting him to achieve his goals of attending the shearing school in 2013, to complete the extended course and to later utilise the knowledge and skills he has gained through the program to seek future employment working on the land.

15.0 Future directions for Queensland: Meeting the needs of individual children and young people

Continuing to build and maintain an out-of-home care service system that includes a diverse range and mix of placement options and integrated services, with flexibility and capacity to meet the demand and the individual needs of individual children will help to deliver better outcomes for children in the statutory child protection system.

This could be achieved by:

- 15.1 Further developing the current range and mix of out-of-home care placement options for children who are the subject of statutory child protection intervention.
- 15.2 Improving outcomes for children in out-of-home care by continuing to integrate placement and support services to flexibly meet the needs of individual children and their families and provide a continuum of therapeutic care.

Kinship care

Kinship care is a rapidly growing form of care for children the subject of statutory child protection intervention in Australia and internationally. This growth is attributed to a growing understanding of how the placement of a child removed from the care of their family with relatives or other significant people may help to provide better outcomes for the child.

Research on the effectiveness of kinship care remains limited; however, there is evidence that kinship care can benefit children by:

- increased stability and continuity;
- enhanced opportunity to develop their identity;
- increased feelings of belonging;
- better opportunities for family contact and ties;
- increased chance of siblings remaining together;
- a buffering against the effects of family separation;
- longer placements and few placement changes.

Kinship care seems to be most successful when the child is younger at the time of placement, the child has minimal problems, the child has resided with the kin previously, the kin initiated the placement, the kin is a grandparent, the kin is a sole carer and there were no children of the kinship carer living in the household.

However, kinship care does bring risks and challenges and is distinct from foster care in a number of areas. Kinship care is not the most appropriate option in all cases. Issues can include recognising intergenerational issues that may have contributed to the child protection concerns for the child in the family, ongoing relationships and how these can impact on the capacity of kinship carers to continue to meet a child's best interests and maintain relationships with the child's family. Due to the nature of kinship care and its unique challenges and specific support requirements, a specific kinship care program is required across all phases including identification, assessment and support.

In Queensland, if a child is removed from the care of their family consideration should be given to placing them with kin as a first option⁶⁴. Children should be placed with their siblings as far as possible⁶⁵ and should be provided with stable living arrangements that provide connection with family and community, maintain relationships, identity and values including cultural, ethnic and religious identity and values⁶⁶. These principles are further reinforced by the Charter of Rights for a child in care⁶⁷.

It is particularly important for Aboriginal and Torres Strait Islander children in out-of-home care to maintain connection with family and kin, culture and identity⁶⁸. Decisions made at a point in time can have long term profound effects and impact upon broader outcomes and the child's wellbeing.

The Act provides a legislative base for the implementation of the Aboriginal and Torres Strait Islander *Child Placement Principle* that includes consultation with a recognised Aboriginal or Torres Strait Islander agency and adherence to the hierarchy of placement options when making decisions about where to place the child⁶⁹.

However, the increase number of Aboriginal and Torres Strait Islander children requiring an out-of-home care placement and the capacity to identify and recruit kin carers or other appropriate carers in accordance with the principle impacts on compliance with the principle.

Kinship care is a key placement option in Queensland; however, there is scope for the improvement of current policy and practice in this area. As at 30 June 2012, 34.6 per cent of the 7,999 children in out-of-home care were placed with kin.

Increasing the number of children in out-of-home care who are placed with kin is not simply a matter of making better placement decisions. It requires a shift to more family focused practice through statutory intervention with a family. A successful and sustainable kinship care program involves the identification of kin early in Child Safety's involvement with a family, appropriate assessment of kin as an appropriate placement option, and ongoing support to maintain the placement in the best interests of the child.

Early placement of children with kin

The realities of statutory child protection intervention often mean that children are removed from their family's care at times of crisis. It is often an unplanned reaction to secure a child's immediate safety. This means that a placement for a child is required quickly. Children requiring an out-of-home care placement in these circumstances may be placed depending on what is available rather than what is optimal for the child.

The approach outlined above of early identification of kin when a child first comes into contact with the statutory child protection system and ongoing consideration and assessment of kin as a potential placement option for a child may help to enable the placement of children, even in crisis situations, with kin. When a child is first placed in out-of-home care they may become stable and secure in that placement and there may be some reluctance to move them and cause further disruption.

⁶⁴ Section 5B(h), *Child Protection Act 1999*

⁶⁵ Section 5B(i), *Child Protection Act 1999*

⁶⁶ Section 5B(k), *Child Protection Act 1999*

⁶⁷ Section 73 and Schedule 1, *Child Protection Act 1999*

⁶⁸ Section 5C, *Child Protection Act 1999*

⁶⁹ Section 83, *Child Protection Act 1999*

The *Child Protection Act 1999* enables the placement of a child with a *provisionally approved* kinship carer⁷⁰ while the carer's application for approval as a kinship carer is assessed. Provisional approval as a carer can be granted after an application for a certificate of approval as a carer has been made and some initial assessment of the carer is undertaken to inform their preliminary suitability to care for the child⁷¹. Provisional approval is currently valid for a maximum of 60 days⁷² and may be extended for a further 30 days but cannot exceed 90 days⁷³.

Earlier identification of kin may enable appropriate people in the child's family to be identified and initial assessment processes required to provisionally approve a kinship carer to care for a child to be commenced before the child requires placement. Enabling the placement of a child with kin for a very limited period prior to them making an application for a certificate of approval may further support the initial placement of a child in out-of-home care with kin carers. Arguably this kind of placement would be possible under section 82(1)(f) of the Act, however, there may be some benefit in specifically providing for very short term placements with kin in defined circumstances.

Barriers for Aboriginal and Torres Strait Islander carers

For a provisional approval or a certificate of approval as a foster or kinship carer to be granted, the carer and each adult member of their household needs to hold a current Blue Card (or an exemption notice). Anecdotally, this requirement may prevent some Aboriginal and Torres Strait Islander people from applying for approval to care for children in out-of-home care because they are reluctant to apply for a Blue Card. There have been suggestions that some people believe that criminal history of any nature will disqualify them. This may be an issue of perception, the vast majority of foster and kinship carer applicants are successful in their application⁷⁴ and many people with convictions for minor offences may still receive a Blue Card or exemption notice.

Other obstacles for Aboriginal and Torres Strait Islander people in being issued a Blue Card include:

- A lack of personal identification documentation, particularly for people in remote communities. While there are alternative means for proving identity, it is an onerous process.
- Language issues for Aboriginal and Torres Strait Islander people present an issue particularly where English is a second language and proficiency may be poor.
- Where it has been identified that a person has a criminal history, the Commission for Children, Young People and Child Guardian may ask the applicant to provide a response. This process involves the completion of a long and legalistic form and it has been reported that some Aboriginal and Torres Strait Islanders do not proceed with a submission due to the complex nature of this process.
- There is a lack of information about Blue Cards and support to apply for a Blue Card in remote locations as well as increased travel times for staff to visit prospective kinship carers.
- The composition of households in remote communities present difficulties in relation to all adult household members in a carer's household. Because of the large size of some households, and the fluidity of their membership, it may be difficult for all members to apply for and be issued with a blue card. It is also more likely, the larger the household, that misconceptions and barriers to applying for a blue card will be present.

Being a foster or kinship carer is voluntary and carers are unpaid. In Queensland, unlike other Australian jurisdictions, kinship carers are entitled to all the financial and non-financial allowances and supports available to foster carers. Kinship carers are invited to participate in foster care

⁷⁰ Chapter 4, Part 2, Division 3A, *Child Protection Act 1999*

⁷¹ Section 136C, *Child Protection Act 1999*

⁷² Section 136D, *Child Protection Act 1999*

⁷³ Section 138B, *Child Protection Act 1999*

⁷⁴ In 2010-11, the Commission for Children and Young People and Child Guardian issued 21 negative notices out of 7,788 blue card applications.

training, however given the unique characteristics of kinship care, training is not compulsory for kinship carers.

Case Study 12: Kinship Care

The department had concerns for Lidia and Paul and their eight children. Paul was in prison for assaulting Lidia. Lidia had been struggling to maintain the household and provide basic care needs for her children including a hygienic household and adequate supervision. Lidia had been using excessive discipline on the older children including punching the eldest child in the mouth when he would not have medicine as directed. Alcohol consumption within the household was of a major concern for both Lidia and Paul.

The seven children that were born prior to the initial investigation entered care and are currently waiting on the outcome of a long-term guardianship (chief executive) order that has not yet been finalised. These children resided together with their paternal aunt in Kinship Care in their own community for their first seven months in departmental care. The eighth child was born after the other seven siblings were already in the care of the department, and was removed from the care of the parents three days after birth.

All of the siblings currently reside no more than 60 minutes drive from the remainder of the sibling group. In addition, this sibling group have been placed with a number of the same Respite Carers which has enabled some of the siblings to have additional meaningful contact with each other.

All of the siblings have resided in Kinship Care at some point with the paternal Aunt, Great Aunt or Cousin. Four of the siblings are currently with Kinship Carers and four reside in Foster Care (three with Aboriginal and Torres Strait Islander Foster Carers and one with a Generalist Foster Carer).

Cultural planning is in place for this family including the children staying in contact with their cultural heritage through ongoing relationships with family. It was identified that this would be supported through the Recognised Entity and Foster Care and Kinship Care Service, the Indigenous Child Safety Support Officer and Child Safety Services.

The cultural support planning has allowed the children to stay connected even though they are not placed with one carer, they have an understanding of the members of their extended family and utilise Indigenous health, dental and counselling services where they are available.

16.0 Future directions for Queensland: Improving the use of kinship care

The placement of a child in out of home care with kin is preferred. Kinship is likely to provide greater security and stability for children in out of home care and may assist them to maintain connections to their family. The use of kinship care should be increased so it becomes the primary out-of-home care placement option in Queensland.

This could be achieved by:

- 16.1 Policy and practice improvement within Child Safety Services to support the early identification and involvement of kin in statutory child protection intervention.
- 16.2 Child Safety Services amending operational policies and practice to require the proper consideration of appropriately placing the child with kin before other out-of-home care options can be accessed.
- 16.3 Amending the *Child Protection Act 1999* to enable the placement of a child, when a safety plan is in place for the child, with an unapproved kinship carer for a maximum period of 7 days if the unapproved kinship carer intends to make an application for approval. This will enable

the placement of a child with kinship carer while the carer compiles the required information and completes an application for a certificate of approval.

- 16.4 Amending the *Child Protection Act 1999* to remove specific timeframes for when a child can be placed in the care of a provisionally approved kinship carer to enable the placement of a child with a provisionally approved kinship carer from when their application for approval is made up until when a decision is made on the application for approval. This approach will enable a child in the care of a provisionally approved carer can remain in their care until the application for their approval is decided.
- 16.5 The department and the Commission for Children and Young People and Child Guardian continuing to provide information to the community, including specifically to Aboriginal and Torres Strait Islander communities about the process of applying for a Blue Card to encourage people to consider being a kinship or foster carer.

Family based care

Improving efficiency in carer re-approval processes

Under the *Child Protection Act 1999*, foster and kinship carers are required to renew their certificate of approval as a carer one year from the date of their initial approval⁷⁵ and every two years⁷⁶ thereafter. Carer re-approvals are comprehensive and thorough to ensure the carer remains suitable to care for a child. However, the renewal of carer approvals at two year intervals does impose a high administrative burden on carers, Child Safety Services and non-government agencies.

All kinship and foster carers are required to have a current Blue Card although this is only one aspect of their suitability assessment to be an approved carer.

Blue Card renewal does not occur as part of the application for renewal of approval process. Blue Cards must be renewed every three years and the Commission for Children Young People and Child Guardian notifies existing Blue Card holders sixteen weeks before their cards expire. Blue Cards are monitored on a daily basis. The Queensland Police Service provides the Commission for Children and Young People and Child Guardian with a daily update on any changes to the criminal history of Blue Card holders.

The department is currently considering improving how the quality of all of the services it funds is audited and is considering a shift to four year independent quality auditing. This approach may extend beyond services to vulnerable children and families. If progressed, this may require the extension of licensing of care services under the *Child Protection Act 1999* from a 3 year licence period to a 4 year licence period.

Efficiencies could be achieved by extending the current approval period for approved carers under the *Child Protection Act 1999* (other than the initial period of 12 months) to a four year period. The Act could also be amended to make it clear that an approved carer's ongoing suitability can be reviewed at any time during the period of their approval. If during a review of suitability a carer is determined to no longer be suitable, their approval as a carer could then be suspended or cancelled.

⁷⁵ Section 133(9), *Child Protection Act*

⁷⁶ Section 135(8), *Child Protection Act 1999*

17.0 Future directions for Queensland: Improving the carer approval process

Efficiencies could be achieved for carers, non-government agencies and Child Safety Services if re-approval periods for approved carers (other than an initial 12 month period) were extended from the current two year period to a four year period.

This could be achieved by:

- 17.1 Amending section 135(8) of the *Child Protection Act 1999* to extend the re-approval period of a certificate of approval for foster and kinship carers from two years to four years.
- 17.2 Amending the *Child Protection Act 1999* to enable the review of an approved carer's ongoing suitability during the period of a certificate of approval. It should also be made clear that if following a review a carer is determined to no longer be suitable, their approval as a carer may be suspended or cancelled.

Professional models of care

Australian jurisdictions are heavily reliant on volunteer carers to care for children. Recruiting and maintaining carers has become increasingly difficult in all jurisdictions. Demographic and social factors such as changing patterns of family life, an aging population, increased cost of living; and an increase in women's participation in paid employment has contributed in a substantial decline in the households participating in foster care.

As a result of the both the decreasing pool of foster carers and the increasingly complex needs of children in out-of-home care, researchers are increasingly considering the future of foster care as a professional care service. The use of professional, well-trained and well-paid carers may ameliorate some aspects of carer recruitment and retention difficulties⁷⁷ particularly for young people with complex and extreme needs.

Victoria in particular is experiencing the pressure of a decreasing pool of foster carers and the Victorian Government has estimated that this decline will reach a critical point around 2015⁷⁸. In response, Victoria is currently leading a national project under the *National Framework for Protecting Australia's Children* to develop models of professional care. This will require the participation of the Commonwealth Government to address taxation and industrial relations barriers to professional care.

The *Protecting Victoria's Vulnerable Children Inquiry*⁷⁹ that released its report in February 2012 also considered this issue and the work undertaken to date by Victoria on examining professional models of care. The Inquiry recommended (recommendation 27) that 'the Victorian Government should, as a matter of priority, give further detailed consideration to the professional carer model and associated arrangements and request that the Commonwealth Government address and resolve, as a matter of priority, significant national barriers associated with establishing this new category of worker including industrial relations and taxation arrangements'.

Queensland has a model of care, specific response care that goes some way towards professional care although there is currently very limited use of this placement option. Specific response care involves a child being placed in a carer's own home, with the carer paid a taxable salary or wage

⁷⁷ McHugh, M. & Valentine, K. (2010) *Financial and Non-Financial Support to Formal and Informal Out-Of-Home Carers*, Social Policy Research Centre, November 2010.

⁷⁸ McHugh, M. & Valentine, K. (2010) *Financial and Non-Financial Support to Formal and Informal Out-Of-Home Carers*, Social Policy Research Centre, November 2010.

⁷⁹ <http://www.childprotectioninquiry.vic.gov.au/report-pvvc-inquiry.html>

(in addition to non-taxable carer allowances) to provide full-time intensive care. Specific response care may only be used to meet the needs of children who have extreme support needs⁸⁰.

There are high expectations of specific response carers who are required to demonstrate they have the necessary knowledge, skills and/or expertise to care for a child with extreme support needs. This may involve previous experience as a foster carer in caring for a child with challenging behaviours; holding a human services qualification; and/or previous or current employment in a role requiring behavioural interventions based on theories of child development, attachment, trauma and grief and loss.

Specific response carers must:

- provide a therapeutic environment conducive to children or young people recovering from the impact of physical, psychological and emotional trauma resulting from their experience of harm or risk of harm
- assist children or young people in dealing with relational, behavioural and emotional issues to decrease the risk of placement instability
- support reconnection with family and community (where consistent with the case plan)
- help the child develop the skills and behaviours required to successfully transition to less intensive forms of out-of-home care within six months.

Under the current policy, specific response care can only be provided by approved carers affiliated with a non-government organisation that is currently licensed to provide care services under the *Child Protection Act 1999*, actively proceeding to apply for a license, or awaiting the outcome of a lodged application. The non-government organisation is then responsible for the employment, support, supervision and ongoing training of carers. Specific Response Care has been difficult to deliver for a range of reasons. For example, by having carers as paid employees, their homes fall within the category of 'workplaces' in workplace health and safety laws with the result that additional processes must be undertaken to ensure compliance. There is also a tension created between volunteer carers who are heavily relied on to provide care for children in out-of-home care, and this specific type of 'paid foster care' service. This tension can be mitigated by strictly confining Specific Response Care to carers with appropriate professional qualifications and are full time carers providing care to children with extreme long term support needs. However, this still creates a dual system where some carers are paid a wage while the majority are volunteers.

While this model exists and is defined in policy, there are currently no grant funded places for specific response care. A small number of specific response care placements are made through ad hoc funding arrangements. The department has identified a need to further develop this model of care which will need to consider worker conditions and occupational health and safety issues. Further work is also required on developing a realistic funding model, as there was limited interest from the non-government sector in the previous service offer.

Other responses may also encourage the participation of Queensland households to participate as approved carers including priority access and increased subsidies for children in out-of-home care to attend early childhood education and care programs (including long day care, afterschool care and vacation care programs) to enable working carers to remain in paid employment while they care for children in out-of-home care.

Queensland will continue to participate in national work to develop and implement professional models of care.

⁸⁰ Children with extreme support needs have severe problems in one or more areas of functioning that present an imminent and critical danger of harm to self or others. Indicators may include extreme violent, destructive and avoidant behaviours, substance misuse and dependency, significant developmental delays and disabilities, significant medical or physical care needs and chaotic and disorganised attachments.

18.0 Future directions for Queensland: Exploring options for professional care

To meet demand for family based out-of-home care for children in the statutory child protection system, and to broaden the range of placement models for children and young people with complex and extreme needs, and in response to the changing demographics in the community, Queensland should continue to develop and implement models of professional care.

This can be achieved by:

- 18.1 Queensland participating in national work and continuing to advocate nationally for taxation and industrial barriers to be removed to enable carers to work safely and be adequately remunerated for providing professional care services for children and young people with complex or extreme support needs.
- 18.2 Child Safety Services continuing to encourage the use of specific response care in appropriate cases.
- 18.3 Queensland continuing to develop other models and options to enable and encourage more Queensland households to participate as approved carers for children in out-of-home care.

Alternative options for out-of-home care

Increased flexibility in the use of resources

In Queensland, the primary means of providing out-of-home care placements to children is through departmentally supported and grant-funded non-government placement services. These include family based placements (kinship care, foster care, intensive foster care and specific response care) and non-family based placements (residential care, therapeutic residential care, supported independent living and safe houses).

However, where children require placement in out-of-home care but no appropriate placement is available, a more flexible use of resources to fund alternative placement models may be required. Flexibility in the use of existing resources will enable Child Safety Services to better match a child to the best possible placement to meet his or her needs and assist the out-of-home care system to remain responsive to the changing needs of children over time.

The types of out-of-home care placements that may be funded under these arrangements include kinship care, foster care, intensive foster care, residential care, supported independent living, specific response care and emergent accommodation.

Flexibility of this nature is also required to provide additional support when a placement option is best suited to the child; however, additional support is required to ensure the child's needs are met within the placement. These resources may be used to improve the stability of the placement and/or minimise placement disruption. Child Safety Services current range and mix of placement services includes kinship care, foster care, intensive foster care, residential care, supported independent living, safe houses and therapeutic residential care placements.

Case Study 13: Supported independent living

Angela was a young woman in the care of the department. Angela was linked to the Supported Independent Living Skills (SILS) program after having a number of foster care placement breakdowns and a difficult period in residential care.

Angela was at an age and level of maturity where it was important for her to have greater responsibility and independence. Her Child Safety Officer considered that a move towards more independent living would help her to meet her transition from care goals.

The SILS placement provided her with the opportunity to live on her own, to make her own decisions and develop a pride in herself and her belongings. She blossomed in this environment and showed a new level of maturity. She became more emotionally ready to explore and discuss her experience of being in care with her case worker. Angela is now 19 and working in the hospitality industry. She continues to be in contact with the SILS worker and is linked with umbrella agencies providing youth support services.

Residential care

In 2004 the Crime and Misconduct Commission Inquiry report identified that at that time there was a limited capacity and lack of diversity of intervention and placement options to meet the range and complexity of support needs of children and young people in out-of-home care. The CMC Inquiry report recommended that the department reduce its over-reliance on foster care by building up the capacity of alternative placement options. It further recognised that children with complex and extreme needs, coupled with those in the adolescent age groups may not be able to be placed in 'standard' foster care arrangements and required a more diverse and flexible range of alternative placement options.

Residential care in Queensland is defined as out-of-home individual or small group care (up to six places) primarily for young people aged 12 -17 years (though they may also accommodate sibling groups) in residential placements (not a carer's own home) by paid or contracted workers.

Residential care is fundamentally different from foster or kinship care in that staff are employed, either as live in or rostered staff, to work in the residence. Care is not provided in the direct carer's home. The other key difference is that residential services have an underpinning philosophical position, a clear target group, with operational guidelines and intervention strategies provided by the residential service. The benefits of residential care are that they offer a less emotionally intense relationship than foster care does, and that paid staff are able to provide greater attention to detail and manage complex and testing behaviours because staff rest between shifts. Children and young people may be able to be more closely supervised, supported and monitored.

The department currently funds 105 residential care facilities across Queensland. Residential care facilities are licensed under the *Child Protection Act 1999*. The operational features of the service delivery model include:

- intensive 24 hours a day support;
- suitably experienced and qualified team of direct care workers;
- therapeutic programs that ensure a safe environment for the young people living in the residential setting;
- a support program that is developed and implemented to address the young person's individual needs for recovery, healing and/or behaviour support;
- further assessment to gain knowledge of the young person's history and current presenting strengths and difficulties, their family relationships, social networks, educational/work needs and situation, and their therapeutic needs;
- the capacity to develop a detailed therapeutic care plan for each young person, inclusive of therapeutic goals and trauma sensitive interventions, and transition planning in conjunction with departmental staff and other key stakeholders;
- the participation of the young person in developing the detail of their individualised therapeutic care plan; and
- development of a support network for the young person which facilitates participation in the community (the rationale for locating two residential therapeutic services in south east

Queensland and north and far north Queensland is to strengthen the range, diversity, flexibility and integration of out-of-home support environments in Queensland).

Some of the challenges for residential care include the appropriate placement of children and young people, taking into consideration the combination of children and young people in a facility at the same time, and the provision of consistent high quality care by qualified and experienced staff. It is essential that staff within the residential care facility are skilled at caring for and meeting the needs of challenging young people including the capacity to avoid and de-escalate situations so young people are provided with consistent care and not unnecessarily involved in other systems, including the youth justice system.

Therapeutic care

The CMC Inquiry report found that the range of placement options in Queensland was inadequate for children with complex and extreme support needs and recommended that funding for therapeutic placement and support services be increased.

The department responded to the CMC Inquiry report recommendations in part by considerably expanding the provision of residential care and developing models of service delivery that focus explicitly on meeting young people's therapeutic needs. As a result the department now funds four therapeutic residential care facilities (in Goodna, Morayfield, Townsville and Cairns). Therapeutic care placement services could be expanded so intensive services were available in more locations across Queensland to provide support to a greater number of children with complex or extreme support needs.

Therapeutic care is a placement and support model in which children are placed with a residential care service and provided with intensive therapeutic care, in a therapeutic living environment, to facilitate recovery from the impacts of physical, psychological and emotional trauma resulting from their experiences of harm or risk of harm. This model of care is typically for children assessed as having complex and extreme levels of support needs.

Interventions that take into consideration that children in out-of-home care have experienced harm that has impacted on them profoundly including their emotional, psychological and physical wellbeing and development. The impact of the trauma they have experienced can affect many aspects of their lives include how they form attachments, how they learn and develop, how they feel about themselves and how they behave. Therapeutic care models focus on providing care to the child than helps them to progress their social, emotional and psychological development by establishing secure and sustainable attachments with available, responsive and caring adults. This may be an opportunity that some children with complex and extreme support needs have not previously experienced. If these children and young people are not provided with secure attachment techniques that aim to manage their behaviour may actually retraumatise them.

The Therapeutic Residential Services model is different to other residential care and less intensive models. Specifically, the intensity and comprehensiveness of the therapeutic program provided to children and young people and the length of their placement which is typically shorter than other placements according to the individual child or young person's case plan (for example 12 -18 months). The aim of therapeutic residential care program is to improve all aspects of the young person's development so they are progressively able to function with less formal supports over time. They aim to reduce the risk to the young person and to others due to their behaviour and to progress them towards meeting the level of skills and competencies appropriate to their age and developmental level. Children and young people should stay in these placements for shorter periods of time, as the goal is for them to require a less intensive placement as progress is made.

The model is dependent upon the expertise and ability of professional staff to provide trauma specific treatment. Therapeutic foster care is often a model most favoured for children with complex and extreme behaviour support needs because it supports the development of close

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relationships with foster carers and there are only one or two children in a placement reducing the tendency of children learning anti-social behaviour from each other. This option is supported, but requires the recruitment and retention of specifically skilled foster carers, and may not be feasible as a predominant therapeutic response under the current primarily voluntary foster care model.

Therapeutic care is based on positive behaviour support. To further embed this approach, the department could engage the Centre for Excellence in Behaviour in Behaviour Support to develop evidence base resources and training for carers providing care to children in out-of-home care and to Child Safety Services staff.

Therapeutic care facilities are not intended to physically detain young people and are not a "secure care" model. Detention is limited to a punitive measure in response to criminal behaviour.

19.0 Future directions for Queensland: Building capacity in the out-of-home care system to meet individual children's needs

A range and mix of placement options are required to best match the needs of a child to the type of placement and carer. The out-of-home care service system should aim to provide a continuum of therapeutic care, encompassing all elements of placement and support services and focusing on the critical interconnections between services rather than stand alone services. A responsive out-of-home care system requires flexibility in the use of resources to enable a child's needs to continue to be met by their placement.

This could be achieved by:

- 19.1 Child Safety Services continuing to develop the out-of-home care service system enabling an integrated response to be provided to children in out-of-home irrespective of the type of placement they are in.
- 19.2 Increased flexibility for local child safety service centres to utilise resources to enable innovative responses to appropriately meet the needs of particular children and young people when other placement options have been exhausted or are not appropriate.
- 19.3 Child Safety Services further developing quality practice to support the appropriate placement of children and young people in residential care facilities.
- 19.4 The staged introduction of a requirement for minimum qualifications for all carers working within residential care facilities and a plan for how this requirement can be met over future years.
- 19.5 Working with non-government organisations towards expanding the use of therapeutic care approaches within residential and family based care services to provide greater coverage across Queensland.

Secure care

The Commission of Inquiry has heard evidence about the option of a containment approach for children and young people with extreme needs who exhibit challenging behaviours. This kind of approach is sometimes referred to as "secure care".

Secure care is provided in a lock-up facility requiring a purpose built facility in most cases. Queensland does not currently have this infrastructure or the legislative power to forcibly detain children and young people in its care. The use of containment in secure care is a controversial because it breaches an individual's personal rights and liberties. There is a lack of evidence to support the use of secure care to provide better outcomes for young people who have been removed from their family's care.

There is no doubt that the State has an ethical and legal obligation to actively intervene to assist young people and children in the out-of-home care to change self destructive patterns of behaviour. However, whether extreme intervention such as the deprivation of a young person's liberty can be reasonably expected to achieve positive outcomes, and whether these obligations necessitate a more extreme intervention than is available to other parents and families in the community, is not so clear.

Many jurisdictions do support some type of secure care. The purpose of secure care in other Australian jurisdictions is to restrict the movement or activity of a young person so as to counter an imminent and serious risk to their personal safety (the circuit breaker) and to provide opportunity to engage them in assessment of and planning for their needs (the long-term strategy). Secure care may be an option where a young person displays chronic high-risk behaviour coupled with a refusal to access available services and other options for protecting the young person have been exhausted or are deemed not appropriate.

For example, Victoria implemented secure care for children and young people in the statutory child protection system in 1992. The Victorian legislation⁸¹ provides for the placement of a child in a secure welfare service for a maximum period of 21 days where it is in the child's best interests, there is a substantial and immediate risk of harm to the child and there is no other available support or placement that will ensure they will not experience substantial harm and a secure welfare service confirms they can meet the child's needs. The Western Australian legislation is also based on this approach⁸².

The point when a secure care placement may be necessary and appropriate may depend on the capacity of existing placement and support services to manage young people in crisis. The effectiveness of a secure care placement is dependent on what is offered within the placement and how young people are supported to leave the placement.

Queensland has a history of detainment of young people outside of the criminal justice system. This approach was considered during the Forde Inquiry. The Forde Inquiry made a number of findings and recommendations about institutional care which are relevant to the consideration of secure care and containment. The United Nations Convention on the Rights of the Child, to which Australia is a signatory, also contains relevant provisions about safeguarding children's rights when their liberty is deprived.

The *Disability Services Act 2006* includes a legislative regime that regulates the use of restrictive practices by funded service providers that provide services to adults with impaired capacity or cognitive impairment. Restrictive practices covered by the regime include containment, seclusion, chemical restraint, mechanical restraint, physical restraint and restricting access to objects.

The regime aims to protect the rights of adults with an intellectual disability or cognitive impairment in a way that has regard to the human rights of those adults, safeguards them and others from harm, maximises the opportunity for positive outcomes and aims to reduce or eliminate the need for use of restrictive practices and ensures transparency and accountability in the use of restrictive practices. Under the Act, before a restrictive practice can be used, a service provider must meet a number of requirements depending on the restrictive practice sought to be used.

The Act requires extensive assessment and planning to be undertaken to ensure that the restrictive practice is appropriately utilised in a time limited, planned and monitored way for each person it is to be used for. The use of a restrictive practice is only considered appropriate if it is necessary to prevent an adult in the target group from causing harm to themselves or others and is the least restrictive way of ensuring the safety of the adult or others.

⁸¹ Section 173(2)(b), *Children, Youth and Families Act 2005* (Vic)

⁸² *Children and Community Services Act 2004* (WA)

The Act provides that for seclusion and containment to be used the adult must be assessed by at least two appropriately qualified or experienced people in different defined fields, the adult has a positive behaviour support plan based on the assessment of them. The plan must include certain prescribed information including the suitability of the adult's environment and the maximum period of use. The use of the practice must be approved by the Queensland Civil and Administrative Tribunal or by the Adult Guardian in relation to short term where there is an immediate and serious risk of adults harming themselves or others. The Act provides for the use of a restrictive practice under the regime to be rigorously monitored and reviewed independently.

In March 2009, Child Safety Services introduced the Positive Behaviour Support Policy which allows the use of restrictive practices as a last resort to avert risk of harm to the child or anyone else. It does not allow the proactive use of a restrictive practice and prohibits planned practices such as containment and seclusion. This approach was based on the contemporary evidence base about the most effective and efficient mechanisms to support children and young people in the statutory child protection system.

Child Safety Services also has a practice paper *A framework for practice with 'high-risk' young people (12 – 17 years)* that was compiled in December 2008.

An effective out-of-home care system that provides a continuum of therapeutic care for children and young people may reduce the need for extreme intervention such as secure care. The availability of acute mental health services specifically targeted towards children and young people with significant trauma experiences may further reduce the need for secure care and may ultimately provide better long term outcomes.

Improved stability and security

The importance of continuity and stability of relationships

Research on early brain development, learning and attachment, and trauma informs an understanding of the profound impact child protection concerns may have for a child or young person. It also informs how the statutory child protection system should respond to care for children in out-of-home care.

Research on the impact of abuse on cognitive and affective development highlights that:

- The development of neuronal connections in a child's brain, which occurs rapidly in the first three years of life, needs appropriate stimulation and nutrition. If this is not provided in their environment and care during this time, it may lead to permanent cognitive or sensory limitations.
- Differences in experience in early childhood lead to measurable differences in brain function, and the quality of care received by a child and the attachments formed, may affect the extent to which the brain develops, and in turn can affect how the child interacts with their environment.
- A child's brain, when exposed to a highly stressful or unpredictable environment releases a hormone that affects the development of memory, cognition, behaviour and the immune system. Young children who are consistently exposed to this type of environment demonstrate fear responses, hyper arousal and memory loss to cope with stress and this can lead to neurochemical changes that foster anxiety, depression, and problems with anger management.
- The duration of an adverse early experience is believed to be more crucial than the extent of the deprivation with respect to the development of disturbances in children.
- Attachment to a caring adult from birth provides the framework for the development of self-regulatory functions in children. In the absence of secure attachment the child's ability to trust and learn, particularly about social relationships and expectations, is severely impaired and they may not have internalised any of the normal social rules that govern daily existence.
- Abused children who form attachments to adults other than the abusing parent may develop secure internal working models regardless of their age.

- Children who have been exposed to long durations of familial abuse in chaotic and unstable families, may develop secure working models if they form attachments to adults after leaving their family of origin. Of these children, those that have previously had secure attachments will fare better than those that have not. However, those children that continue to be exposed to uncertainty and instability after they leave their family of origin (for example through multiple placement changes) will go on to suffer serious relational, emotional and cognitive consequences.

A number of factors are identified in the research as impacting upon placement stability in out-of-home care, including:

- Placements are more vulnerable to breakdown within the first two years;
- The longer the child has been in care and the more placements they have had, the more likely any new placement will also be disrupted;
- Children's emotional or behavioural problems are exacerbated by and/or associated with placement breakdown;
- The presence of siblings is protective;
- The presence of children in the house close in age and unrelated, is associated with a higher disruption in placement than if the carer has no children.

A South Australian study⁸³ found that a single indicator, two or more placement breakdowns due to behaviours during the previous two years, could accurately predict instability. In that study, children who had experienced two or more placement breakdowns during the previous two years had only a 5 per cent chance of finding a stable placement after two years.

The key implication drawn from a review of the research is that continuity and stability of relationships are critical to children in out-of-home care, particular those with complex and extreme support needs. Carers, direct care workers and caseworkers need to have high levels of skill in building and maintaining relationships with these children and young people. The placement and daily care of a child needs to be closely integrated with expert or specialist interventions, and that usually a single intervention in isolation will not be successful for this group of children and young people. Multiple interventions working together are likely to be required for successful outcomes. The design of the service delivery system needs to take into account and support the continuity of relationships as far as possible.

Child protection orders granting long-term guardianship to a suitable person

The *Child Protection Act 1999* recognises 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 care⁸⁴.

The Act provides for a number of different types of child protection orders that may be made independently or in a combination to provide the level of intervention necessary to meet an individual child's needs. These include short term directive orders that can be made for up to 12 months that direct a parent to do or refrain from doing something. Supervisory orders can also be made for up to 12 months. Short term orders that grant custody of the child (apportion the daily care decision making component of parents' responsibilities to either a member of the child's family or to Child Safety Services while the parents retain responsibility for longer term matters) or short term orders that grant guardianship (responsibility for daily and long term matters) to Child Safety Services for a maximum of 2 years. Long term orders that grant guardianship of a child (responsibility for daily and long term matters) to another suitable person, who may be a member

⁸³ Delfabbro, P. and Barber, J. (2003) *Before it's too late: Enhancing the early detection and prevention of long-term placement disruption*, Children Australia 28(2), 14-18

⁸⁴ Section 5B(g), *Child Protection Act 1999*

of the child's family or not, or Child Safety Services extend until the child reaches the age of 18 years.

Before a child protection order that grants long-term guardianship of a child, the court must be satisfied that there is no parent able and willing to protect the child within the foreseeable future or that the child's need for emotional security will be best met in the long term by making the order⁸⁵.

The Act protects from the making of long term guardianship orders that grant guardianship of a child to a person that they may not already know or live with as a first option by requiring that an order that grants long term guardianship of a child to a person who is not a member of the child's family cannot be made unless the child is already the subject of a custody or guardianship order⁸⁶.

Long term guardianship orders that provide permanent stability for a child within a family like arrangement are preferred. Options must be explored for guardianship of the child to be granted to another suitable person before guardianship can be granted to Child Safety Services⁸⁷.

Ongoing uncertainty and repeated court applications for successive short term orders can be disruptive and may re-traumatise children. Before a successive short term order can be made for a child the court must consider the child's need for emotional security and stability.

Long-term child protection orders are an essential part of the child protection system as they enable the department to pursue long-term, stable living arrangements for children who cannot be safely reunified with their families. When a long-term order is made for a child, the focus of a case plan for a child may shift from supporting the child's family to meet the child's protection and care needs to supporting the child to maintain their placement, and to maintain connections to their family and community.

Of the 8,814 children subject to child protection orders as at 30 June 2012, 4,146 were subject to short-term orders and 4,668 were subject to long-term orders. Over the last five years, the number of children subject to long-term orders increased by 70.8 per cent (from 2,733 as at 30 June 2008 to 4,668 as at 30 June 2012). Of these, 976 children were on a long term child protection order granted to a relative, or another suitable person.

An order granting long-term guardianship to a suitable person appoints that person as the legal guardian of the child until the child turns 18 years of age. The guardian accepts full parental responsibility and is relied upon to care for the child and to respond to his or her needs. They have similar responsibilities and rights as parents have for their children. They provide the child with a permanent family and lifelong relationships. Children the subject of these orders do not require a 'placement' and have, as far as possible, a regular family life similar to other children who live at home.

However, unlike other parents in the community, guardians appointed under child protection orders have additional responsibilities because the child is the subject of statutory child protection intervention. A guardian has an ongoing legal responsibility to provide information to the child's parents about the child and provide opportunities for the child to have contact with their parents and extended family members. A long-term guardianship order can be revoked if circumstances change for the child or guardian.

The level of intrusion by Child Safety Services is significantly reduced for children the subject of a long term guardianship order to a suitable person. This is because the guardian assumes responsibility for the child's care and wellbeing. This also enables the arrangement to evolve as

⁸⁵ Section 59(6), *Child Protection Act 1999*

⁸⁶ Section 59(7)(a), *Child Protection Act 1999*

⁸⁷ Section 58(7)(b), *Child Protection Act 1999*

far as possible like a normal family. There is a requirement for Child Safety Services to contact the child at least every 12 months to give them the opportunity to ask for their case plan to be reviewed⁸⁸.

An approved foster or kinship carer who is granted long-term guardianship is eligible for financial support including the carer allowance, high support needs allowance and child related costs. Non-financial support includes assistance with family contact, casework in response to emergent issues (for up to three months), access to Referral for Active Intervention Services, and ongoing access to the foster and kinship carer support line and training.

There are a range of benefits for children on long-term guardianship orders including:

- strengthened sense of identity and positive self-image;
- reduced feelings of stigma associated with being in out-of-home care;
- increased likelihood the child will develop a secure attachment and improved development;
- increased feelings of belonging and connection with family and community; and
- continued relationships with parents and extended family.

Long-term guardians also benefit because there is:

- greater certainty about the child's future with the family which is likely to increase their capacity for an emotional commitment to the child;
- more autonomy for decision making which improves the quality of day-to-day family life; and
- less involvement by the State (that is, Child Safety Services) in their family life.

Stable long term arrangements for child in out-of-home care also benefit the system as a whole. Child Safety Services has greater capacity to support and work with other children and families and the need to recruit and maintain carers may be reduced.

A planned approach is required to ensure long term outcomes for children in the out-of-home care system. A child's stability and security needs should continually be assessed even if a longer term intervention is not ultimately required. The options for the longer term should be identified even during shorter interventions when support is being provided to a child's family with the aim of the returning the child home safely.

Case Study 14: Child protection orders granting long term guardianship to a suitable person

Three young children with significantly delayed development were removed from the care of their parents. The concerns that resulted in statutory child protection intervention related to an unacceptable risk of harm to the children due to their parents' substance abuse, and harm to the children caused by neglect of their medical needs. Their mother was not able to protect them from harm due to a variety of issues including an acquired brain injury, which significantly impaired her capacity to meet the children's daily care needs.

The parents and extended family were engaged in the case planning processes and identified that a maternal aunt and her husband were in a position to care for the children. The carers were supportive of the mother and father and encouraged the children's relationship with their parents. The carers involved the parents in key family events, including the children's birthdays but also demonstrated a capacity to effectively manage these situations if the parents arrived drug affected.

A range of strategies were put in place to support the carers and address the children's developmental needs. Over the next two years, while the parents began to acknowledge the child protection concerns, they failed to commit to the case plan and only intermittently engaged in

⁸⁸ Section 51VA, *Child Protection Act 1999*

services provided to support them to address the child protection concerns. The parents showed very limited progress in addressing the child protection concerns.

At a family group meeting with the parents and extended family, it was agreed that the children's long term interests and placement stability would be best met by them being placed in the long term guardianship of the kinship carers. Child Safety Services applied for a child protection order granting long term guardianship of the children to their maternal aunt and her husband who had already been caring for the children under the short term order. This provided the children with continuity of care and long term stability and security, but enabled them to maintain a connection with their family and identity.

20.0 Future directions for Queensland: Improving stability and security for children and young people in out-of-home care

Children and young people who have been harmed and removed from their family's care achieve better outcomes if they are cared for in a way that provides them with stability, security and a continuity of care with a caring adult. A planned approach is required to meet children's long term stability and security.

This can be achieved by:

- 20.1 Child Safety Services providing ongoing practice support to enable case planning for children to take into consideration a child's need for stability and security from early in a child's involvement with the statutory child protection system. This should include the early identification of long term options for the child, irrespective of whether the goal of a case plan for a child is to provide ongoing support to the child's family to enable them to care for the child safely in the future.
- 20.2 Child Safety Services actively supporting kinship carers to encourage them to consider being a long term guardian for the child when it is appropriate to do so.

Adoption

The Commission of Inquiry has heard evidence about the option of adopting children from the statutory child protection system as a mechanism for providing long term stability and security.

Adoption is a way to provide a permanent family for children who, for various reasons, cannot live with their birth family. Many jurisdictions, in Australia and overseas provide for the adoption of children who are the subject of statutory child protection intervention as a mechanism of providing them with long term stability and security.

Adoption may provide an appropriate long term option for some children who have been harmed and removed from the care of their families. However, the particular nature of adoption and the needs and circumstances of the individual child need to be taken into consideration. Adoption should be considered only when it is the best option to meet a child's needs and interests rather than a punitive response for a child's parents' lack of capacity to meet their child's needs. The adoption of a child at a point in time after statutory child protection intervention may not provide incentive to motivate a child's family to address entrenched behaviours and may arbitrarily impose a deadline on the resolution of complex and multiple parental capacity issues.

It may be rare that adoption would be an appropriate response for a very young child in the statutory child protection system. This is because the first option should be to support the child's parents to care safely for their child at home. Children requiring a stable permanent out-of-home

care arrangement are likely to be older, and to have some relationship with the parents and extended family irrespective of whether it is safe for them to live at home with their parents.

In considering whether adoption is an appropriate option for a child, the specific nature of adoption should be considered. The legal adoption process establishes a permanent parent-child relationship between a child and his or her adoptive parents. Adoption also removes the legal relationships between a child and his or her birth parents and extended family. For a child who has been removed from the care of their parents due to child protection concerns, this means that they not only have new legal parents, but the legal relationship between them and their parents and grandparents and other family members is severed.

The importance of maintaining of a child's relationship with their family of origin has been highlighted extensively in history and research. Particular issues that have been identified include the impact of severing relationships on a child's identity which may continue into adulthood and be lifelong. In adulthood children often return to their family of origin post-care. It is also important for children removed from their family to maintain relationships with siblings and other relatives.

From a therapeutic perspective adoption may provide a child with a legal and emotional attachment to a caring couple within a family structure. However, it may also pose issues for the child and their identity which may exacerbate the trauma they have previously experienced. Adoption of a child from the statutory child protection system should only occur in planned circumstances. The risk to the child of the adoption breaking down may be significant given the disrupted attachments they have already experienced.

Couples seeking to adopt a child who has been removed from the care of their family due to child protection concerns may require additional screening and assessment and ongoing support to enable them to care for the child and to prevent the adoptive placement from breaking down. These children are likely to be older and have higher support needs than other children requiring an adoptive placement. In some Australian and overseas jurisdictions the child welfare agency may continue to provide allowances for child related costs to adoptive parents in these circumstances.

Other than in accordance with cultural practices in the Torres Strait, it is not usually considered to be in a child's best interests for family members to adopt a child because it disrupts the relationships within the family which may be confusing and unnecessary for a child. There may be other ways that family members can care for a child in the longer term including under a child protection order that grants them guardianship of the child, becoming a kinship carer for a child, or a family law parenting order.

In Queensland, the *Adoption Act 2009* does provide for the adoption of children who are the subject of statutory child protection intervention in appropriate cases. The consent of both of the child's birth parents to the adoption is required. The *Adoption Act 2009* does provide for a court to make an order that consent of a birth parent is not required in certain circumstances⁸⁹ including:

- The parent cannot be identified or located;
- The parent is a lineal relative of the child's mother;
- The parent is the child's conception was the result of a criminal offence committed by the person;
- There would be an unacceptable risk of harm to the child or mother if the parent were made aware of the child's birth or proposed adoption;
- The Queensland Civil and Administrative Tribunal has made a declaration that the parent does not have capacity to give consent;
- The parent is not an adult and the Court is satisfied that they do not have capacity to give consent;

⁸⁹ Section 39, *Adoption Act 2009*

- The parent is not, and will not be within a time frame appropriate to the child's age and circumstances willing and able to protect the child from harm and meet the child's need for long-term stable care and is unreasonably withholding his or her consent to the adoption or refusing to engage with Child Safety Services in relation to the issue of whether to give consent to the adoption.

The court cannot make an order that a parent's consent for their child to be adopted is not required unless it is satisfied that it would be in the child's best interest for arrangements for the child's adoption to continue to be made. If the child is in the custody or guardianship under a child protection order the court must also have regard to anything in the case plan for the child about adoption as a way of meeting the child's need for long term stable care, or about re-uniting the child with their family. The court must also consider whether there is another way of meeting the child's need for long-term stable care that would better promote the child's wellbeing and best interests.

If the child has any views about their parent and is able to express the views, having regard to the child's age and ability to understand, the court must consider the views.

While there is no legislative barriers to the adoption of children in long term out-of-home care, adoption as an option is rarely supported as being in the best interest of an individual child. Since these provisions in the *Adoption Act 2009* came into effect in 2009, there have been only a very limited number of circumstances where this approach has been considered necessary in the best interests of a child.

Dispensing with consent of a birth parent for their child to be adopted is a profoundly significant decision that requires judicial oversight, due process and thorough accountability. The legacy of past forced adoption practices and policies in Queensland and the impact of the forced removal of Aboriginal and Torres Strait Islander children from their families continue to permeate the community. The policies and practices of the past also have ongoing traumatic and profound implications for people affected by them and their families. Numerous reports⁹⁰ have highlighted these impacts and serve as stark reminders of need for a measured approach.

Improving the wellbeing of children in out-of-home care

Many children in out-of-home care do not fair as well as their peers across a range of areas including emotional development, health, education and social and relationship skills. These issues may have a life-long impact. A significant proportion of adults who were in out-of-home care as a child experience homelessness, unemployment, financial difficulty, physical and mental health problems, drug and alcohol abuse, early parenthood and involvement in the criminal justice system.

Research highlights that the impact of abuse on children is more complex and more far-reaching than has been previously understood. Children in out-of-home care share all the same needs as their peers, however, for children in out-of-home care, these are compounded by the trauma that they have experienced and, subsequently, the disruption of their closest relationships. For many children, the manifestation of trauma and disrupted attachment is evident in their behaviours and for some children, these behaviours become more extreme over time.

⁹⁰ Bringing them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families (1997); Australian Government Senate Committee Inquiry on the Commonwealth Contribution to Former Forced Adoption Policies and Practices (2012).

Prioritised access to services and support for children in out-of-home care

Children and young people in out-of-home care are some of the most vulnerable and disadvantaged people in our community. They have complex experiences that impact on all areas of their wellbeing and development. Child Safety Services does not have the capacity or responsibility to provide for all of the needs of children in out-of-home care. In order to meet the holistic needs of children in out-of-home care, integrated services and supports across multiple government and non-government agencies are required.

The implementation of recommendations from the CMC Inquiry report have resulted in significant improvements in collaborative policy and program development and the delivery of coordinated services in Queensland. Improvements have been made in coordinating health and mental health and education services for children in out-of-home care. Ongoing reform is required to continue to improve education and health outcomes for children in out-of-home care.

South Australia has developed the Rapid Response model to address the multiple needs of children in out-of-home care. In 2004, the South Australian Government agreed that 'children under guardianship would be given the highest priority in all relevant services and support mechanisms'. Government agencies were asked to consider the services they currently provided as well as any additional services that could be provided to children in out-of-home care.

In South Australia, priority access is not just about the timeliness of service delivery (and a reduction in waiting times) but also involves providing additional services (that are beyond existing criteria restrictions) to children in out-of-home care.

For example, under Rapid Response, children and young people are entitled to priority access to public orthodontic treatment, Disability South Australia services and targeted sport and recreation programs including free vacation swimming programs. Young people have an adolescent health assessment at 14 years of age and a life skills assessment at 15 years of age. Like Queensland, children in South Australia also have a comprehensive health assessment when coming into care and individual education support plans.

An evaluation of Rapid Response⁹¹ found that it has improved how agencies identify and respond to children in out-of-home care and improved information exchange and relationships between agencies. However, it also found that priority access continues to be a challenge with children in out-of-home care perceived by service providers as competing with other high-need groups for services.

A whole-of-government model, like Rapid Response in South Australia, could be considered in the Queensland context.

Education support

The Commission of Inquiry has heard evidence about the importance of education on the short and long-term outcomes for children in out-of-home care. Children in out-of-home care often experience disruption and instability in school due to statutory interventions, placement changes, and arrangements for them to have contact with their parents and families. Children in out-of-home care may experience a range of issues that impact on their performance at school including limited motivation, behaviour problems, social skill deficits and reduced attentiveness. Children may also experience suspensions and exclusions from school due to learning, emotional and behavioural

⁹¹ Cox, D. and Rogers, N. *Evaluation of Rapid Response*, Government of South Australia, Department of Families and Communities, Research Bulletin, 2010

difficulties. All these factors contribute to poorer academic performance by children in out-of-home care.⁹²

Good engagement with school has the potential to have a protective influence on children in out-of-home care and contribute to their social development. For example, positive relationships with teachers may compensate for a lack of supportive relationships with other adults and access to sport, art, drama, music and excursions is just as important for children in out-of-home care as it is to other children.

Education Support Plans provide the main way for the education needs of a child in out-of-home care to be met currently. The department provides funding to the Department of Education, Training and Employment to provide additional educational support to children in out-of-home care.

Within Child Safety Services ongoing practice development will continue to develop the skills and capacity of child safety officers and carers to support children in out-of-home care to succeed in education.⁹³ However, schools and the school environment also play a role to support children, particularly children with challenging behaviours, to remain engaged with school and improve educational outcomes.

Initiatives such as low cost kindergarten for children with a Health Care Card enable children in out-of-home care to have greater access to quality early childhood education and care programs that will help them to be better prepared for Prep and school. Initiatives such as integrated Child and Family Centres and Early Years Centres may assist vulnerable families to better meet their children's needs to prevent the need for intervention and also support young children in out-of-home care. Exploring opportunities for other early childhood education and care programs, including long day care services, to better meet the needs of children in out-of-home care would also help young children to progress towards the necessary social and developmental milestones they need to participate in formal schooling.

Mental health services

As a result of the trauma and disrupted attachment they have experienced, children in out-of-home care may develop mental health issues. Child Safety Services has experienced children younger than 12 years old displaying self-harming behaviours. Child Safety has policies to support the identification, monitoring and support of children at risk of self-harming and suicide⁹⁴.

The primary options for treatment available for children in out-of-home care with mental health issues are through Queensland Health Child and Youth Mental Health Services and departmentally funded Evolve Interagency Services. The Evolve program estimates that 17 per cent of children in out-of-home care have severe and complex psychological and/or behavioural problems and are eligible for a specialist Evolve intervention.

However, some children and young people in out-of-home care with mental health needs fall below or outside the criteria for intervention by Child and Youth Mental Health Services and Evolve and

⁹² *Education Matters: A call for action to improve educational participation, retention and attainment for children and young people in care in Queensland*, Working Group on Education for Children and Young People in Out-of-Home Care in Queensland, March 2011.

⁹³ *Education Matters: A call for action to improve educational participation, retention and attainment for children and young people in care in Queensland*, Working Group on Education for Children and Young People in Out-of-Home Care in Queensland, March 2011.

⁹⁴ *Assessing and responding to self-harm and suicide risk*, Policy No. CPD 605-2, <http://www.communities.qld.gov.au/resources/childsafety/child-protection/assessing-responding-self-harm-suicide-risk-605.pdf>

there is a need for earlier intervention to prevent an escalation into a severe mental health disorder.

Whilst health services should be provided on the basis of clinical need, the State should exercise its duty of care to active proactively to intervene early and prevent issues escalating.

21.0 Future directions for Queensland: Improving the wellbeing of children and young people in out-of-home care

Child Safety Services has primary responsibility for meeting the protection and care needs of children in out-of-home care. Children in out-of-home care are the responsibility of the State as a whole. Improved wellbeing for children in out-of-home care could be achieved through a whole-of-government approach which prioritises the delivery of government services to children in out-of-home care.

This could be achieved by:

- 21.1 Undertaking a coordinated and holistic review of all services accessed by children and young people across government to improve how those services can meet the needs of children and young people in out-of-home care.
- 21.2 Implementing a coordinated whole of government response model to meeting the care, development and wellbeing needs of children in out-of-home care and those transitioning home or to independence including priority access to services, similar to the Rapid Response model in South Australia.

Transition from care

Preparation for adulthood is generally defined as the development of practical, emotional and interpersonal living skills that enable young people to cope physically and emotionally and assist them in forming effective social relationships. National and international studies have documented the challenges facing young people transitioning from out-of-home care to independence⁹⁵.

Young people who have turned 18 years old and left the out-of-home care system often experience unemployment, poverty, mental health problems, social isolation, homelessness, instability and involvement in crime.

Research has shown that young people in out-of-home care generally make the transition to independent adult living sooner and in a more abrupt manner than young people in the general population (who tend to remain in the family home until their mid to late twenties). To complicate matters further these young people often lack the level of support (emotional, social and financial) available to most young people in their transition to adulthood. The impacts of this lack of support can be profound. Young people who have left care also face very practical barriers that can further disadvantage them. This can include things like a lack of financial support and practical assistance to get the skills and practice hours required to get a driver's licence or support to complete higher education. There are real impacts for young people of them no longer having the support of an adult carer after they reach the still very young age of 18.

⁹⁵ Stein, M. and Munro, E. (2008). *Young people's transitions from care to adulthood: International research and practice*. London: Jessica Kingsley

Cashmore, J. and Paxman, M. (2007). *Longitudinal Study of Wards Leaving Care: Four to five years on*. Sydney: Social Policy Research Centre.

Transition from care refers to the transition that a young person makes from the custody or guardianship of the chief executive, and typically a placement in out-of-home care, into independent adulthood. This transition is not a single point in time, when the young person becomes legally an independent adult, but is a phase in the young person's life that includes preparing for independence, the transition phase, and after-care independence. This is explicitly acknowledged in the *Child Protection Act 1999* that places a statutory obligation on Child Safety Services to, as far as practicable, ensure the child or person is provided with help in the transition from being a child in care to independence⁹⁶. This help may include financial assistance.

The need for quality planning, preparation and support

Quality case management is required to ensure that young people have the basic skills and knowledge required for successful independent living. To assist in achieving good outcomes, young people need to be well prepared to make a planned and supported move from care. Planning needs to go beyond a tick-box process and incorporate practical strategies and actions that provide care leavers with realistic and supported pathways to adulthood. Plans also need to include specific assistance in relation to independent living skills (cooking, shopping, budgeting, education, health and hygiene) and basic necessities like somewhere to live and access to an income.

In Queensland, the transition from care program commences as part of the ongoing case work and review processes with a young person from the year they turn 15. Within this planning stage, a young person will be involved in discussions about their strengths and needs and to identify their goals for their adult life. Consideration is given to what supports, practical assistance and financial resources young people may need to achieve their goals.

Other agencies across government such as education, disability, health and housing services may also need to be involved to secure any additional supports that may be available into adulthood.

Priority access to young people in out-of-home care to government services (as described above) would contribute to the improvement of transition from care outcomes for young people in Queensland. In Queensland, young people transitioning from out-of-home care may receive priority housing.⁹⁷ This is similar to the South Australian model, however, in Queensland, such arrangements are made department by department whereas Rapid Response is a whole-of-government approach. For example, under Rapid Response, young people in South Australia are also eligible for priority access to TAFE and TAFE fees are waived.

Case Study 15: Supporting independent young people

Toowoomba North Child Safety Service Centre has implemented a Youth Team.

The goal of the youth team is to re-engage young people 15 years and over with the department and offer support to successfully transition to independent living. To do this the team has:

- provided incentives for young people to meet with child safety officers on a weekly basis;
- purchased phones and credit for young people with agreement that they will answer calls from the department;
- implemented regular visits to the Brisbane Youth Detention Centre and the team attends every court appearance with our young people;

⁹⁶ Section 75, *Child Protection Act 1999*

⁹⁷ As described in the witness statement to the Commission of Inquiry by Ms Deldre Mulkerin, Executive Director, Department of Housing and Public Works on 10 August 2012, 'a Joint Action Plan is being developed between Housing Services and Child Safety Services to determine if social housing assistance is required and the urgency of this response. If it is agreed that social housing is the best solution, the applicant receives priority housing and is automatically streamed into the very high needs segment on the Housing Register'.

- organised monthly meetings with youth program providers and placement support workers in the area to discuss self-placing and independent young people.

The team has seen a significant improvement in the engagement of young people. Case plans are consistently up-to-date (with completion statistics above 90 per cent) and, accordingly, transition from care and cultural support plans are also high.

In addition to the components of the Transition from Care program provided by Child Safety Services, young people who are transitioning from care may access:

- Commonwealth funded post-care services including After Care Services delivered by the Youth Housing and Reintegration Service. This service is funded in Queensland as part of the national homelessness strategy until 30 June 2013.
- Commonwealth benefits specifically for young people transitioning from care, such as the Transition to Independent Living Allowance (TILA).
- Other Commonwealth benefits, available more widely, such as Youth Allowance, Newstart and Austudy.

Dedicated expertise and resources to support young people transitioning to independence

Child Safety Services has responsibility for supporting a young person's transition to independence, the daily demands and workload pressures may mean that adequate resources are not devoted to the attention required to facilitate detailed planning with young people about their transition to independence.

The challenges experienced by Child Safety Services in prioritising transition from care planning is reflected in recent reports such as the *CREATE Report Card 2009*, and the *Child Guardian Key Outcome Indicator – Queensland Child Protection Report 2008-2011*. These reports indicate high numbers of young people say that they either do not have a transition from care plan, or are not aware of having such a plan (indicating that they have not been actively involved in the plan's development). These figures are even more pronounced in rural and remote locations.

Consistent feedback from the CREATE Foundation Queensland has identified that high numbers of young people who are transitioning from care to independence want to have better relationships with Child Safety staff. CREATE has advocated for dedicated positions within Child Safety designated to transition from care service delivery as an effective strategy to improve outcomes for young people exiting care.

After or post-care support

Providing young people with additional supports that promote a gradual and delayed move to independent living can act as a protective factor against later difficulties.

Post-care models in the United Kingdom advocate that local authorities must maintain contact with young people up to the age of 21 (or later if they are in or returning to education or training). They must also appoint a 'personal advisor' to provide direct support, assistance with education, employment and training and put in place a 'pathway plan' that sets out goals for the young person and actions that must be taken by the local authority and relevant services.

All Australian states and territories provide some form of post-care support to young people who have been in care. For example, Victorian legislation provides for the support of young people up to the age of 21 years. The Australian Capital Territory, New South Wales, Northern Territory, South Australia and Western Australia provide support up to 24 or 25 years of age. Queensland and Tasmania both have legislative provisions for post-care support but the nature of that support is not clearly defined, and there is no limit to the age to which a person can access that support.

During the 2012 election campaign the Queensland Government committed to ensure that all children in out-of-home care aged 15 and over have a transition from care plan that offers personal support for them up to 21 years of age.

Currently, limited post-care support can be provided by the department to assist young adults who are no longer subject to a child protection order by way of a Support Service Case. This can occur when there are existing case planning goals and outcomes still to achieve, or if there are key life events for which the young person may require ongoing support, for example, completing year 12. However, the process for opening a support service is inconsistent across the state.

Extended after care support

A post-care support model creates a clear division between the planning and preparations phases that occur for young people from the age of 15 years to 17 years, and the post-care support phase that occurs from 18 years onward.

Queensland has already had some success in providing extended after care support to young people transitioning to independence. In 2010, the Youth Housing and Reintegration Service including After Care Service was established to provide support to young people up to 21 years of age. These services are delivered by non-government organisations across the state.

In Victoria, the department has responsibility to provide or arrange to provide services to assist in supporting a person under the age of 21 years to gain the capacity to make the transition to independent living where they have been in the custody of, under the guardianship of the department and exit care at an age where they intend to live independently⁹⁸.

There is merit in continuing to provide after-care support through a community service delivery model and many Australian jurisdictions offer post-care services through non-government agencies. The advantages of a model of this nature include:

- young people accessing a community agency will experience less stigma than having involvement with a statutory child protection department
- a community agency, ideally a youth focused service with networks to housing, education, employment and services, will facilitate strong ongoing links for young people to essential community support
- a community agency is well placed to transition a young person that continues to require support once they have turned 21 years of age (such as young parents, young people with a disability or mental illness, young people who have experienced sexual abuse) with ongoing support services.

22.0 Future directions for Queensland: Improving support for young people to transition to independence

In Queensland, although progress has been made over recent years in supporting young people to transition from out-of-home care to independence, more can be done to support young people to become independent.

This could be achieved by:

- 22.1 Child Safety Services developing within its workforce further specific expertise and dedicated resources to support young people during this critical phase including transition from

⁹⁸ Section 16(1)(g), *Children, Youth and Families Act 2005* (Vic)

care planning and direct post care support and coordination through Support Service Cases when required.

- 22.2 Amending section 75 of the *Child Protection Act 1999* to make it clear that the obligation to help a young person to transition to independence may extend until the young person reaches 21 years of age and may include ongoing direct support or assisting a young person to access or referring a young person to other support services. This help should include enabling the ongoing payment of child related costs for a child until they reach 21 years of age and the continued payment of a carer allowance to a young person's foster or kinship carer.
- 22.3 Child Safety Services supporting quality practice by supporting frontline staff by providing information and support about when a Support Service Case should be opened for a young person transitioning from care and enabling these cases to be included in caseload calculations for front line services.
- 22.4 Child Safety Services developing a post care support program to coordinate and extend non-government support services for young people exiting care including in regional and remote areas of Queensland.
- 22.5 The coordinated whole of government response model outlined in 21.2 above, extend to young people up to the age of 21 who were in out-of-home care and include initiatives such as the waiving of TAFE and university fees for young people who have exited out-of-home care.

Building a sustainable and skilled workforce

Child protection is a highly challenging and demanding area of work requiring skilled and dedicated professionals across government and non-government organisations. As community expectations about acceptable levels of care for children in the community and in out-of-home care have increased, the role of child protection workers has also become more complex and specialised. While the separation rate of Child Safety staff has improved over the last four years, the attraction and retention of skilled workers is an ongoing issue for the department.

Ongoing commitment to core qualifications, skills and experience

Traditionally, child safety officers have held qualifications in social work, behavioural and social sciences and human services. These core qualifications are valued by the department and they continue to constitute approximately 85 per cent of the Child Safety workforce.

However, the need to rapidly increase and diversify the workforce to meet demands in recent years has led to the expansion of mandatory qualifications. 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. For example, qualifications in early childhood have contributed to departmental practice with babies and infants.

Quality practice in the delivery of child protection services is not solely based on qualifications. An ongoing commitment to quality practice through the provision of training, information and education is also required. This submission has also highlighted the need for a practice framework to support the shift in focus within statutory child protection services to supporting families. Opportunities for maintaining a depth of experience within frontline Child Safety Services positions should be explored to provide a career path for more experienced workers and to target areas of practice that require greater skill to engage with specific children and families.

Providing pathways for a qualified workforce

Child safety support officers provide direct support to families involved in the child protection system, children in out-of-home care and young people transitioning to independence. Child safety support officers are not required to have a formal qualification or participate in child safety officer training as they do not undertake statutory duties. Within Child Safety Services, child safety

support officers are a stable workforce group. From May 2010, the department commenced a pilot child safety support officer to child safety officer career pathway. This involved child safety support officers to completing a Certificate IV in Protective Care and a Diploma in Community Services (Protective Care) in order to participate in a Vocational Graduate Certificate (Statutory Child Protection). In August 2012, 15 officers from this program were working as child safety officers.

Initiatives such as these build the skills and capacity of para-professionals already engaged in family support and child protection work and contribute to the retention of the workforce. A similar initiative under the Community Services Skilling Plan has enabled workers in the family support sector, including Aboriginal and Torres Strait Islander services, access a certificate course in family support. Building relationships with universities that support para-professionals to complete a tertiary qualification would further strengthen the career pathways for para-professionals.

Specialisation within the workforce

Currently in Queensland more than 1500 staff are employed in front-line roles within Child Safety Services. This includes child safety officers (997), child safety support officers (183), family group meeting convenors (41), senior practitioners (54) and team leaders (208).

Changes to frontline positions commenced with the implementation of the recommendations in the CMC Inquiry report. A number of specialist positions were introduced to take on specific tasks that required specialist knowledge and to provide special expertise and advice. These positions were also intended to assume work that had previously formed part of the role of child safety officers which allowed them to focus on their core responsibilities and to meet the requirements (legislation, policy and practice) to deliver quality practice.

There is an ongoing trend towards specialisation in child protection workforces for two reasons. Firstly, increased complexity in the work has resulted in a growing need for particular skills and expertise in specific areas. Secondly, specialist positions support increased efficiency through the organisation of work (for example, through dedicating resources to specific functions such as intake, ongoing intervention and carer support).

In 2010, a national frontline staff and caseload profile project was undertaken that included a survey that was sent to all Australian jurisdictions in relation to specialist staff. All jurisdictions who responded to the survey on frontline staff and caseloads reported the use of specialist staff.

Although each jurisdiction structures its workforce to respond to their own service delivery demands and resources there are relatively consistent specialist positions across jurisdictions. These included senior practice consultants/senior practitioners, casework support workers and Aboriginal family workers. Two states had placement support workers and one had a high risk infant worker. Across all states some specialist positions carried a caseload and a broad range of positions undertook casework activities, which assists to alleviate case/workload pressures on other frontline officers.

Currently, the department employs a number of specialist positions including court coordinators, family group meeting convenors, Suspected Child Abuse and Neglect (SCAN) Team Coordinators, senior practitioners, One Chance at Childhood Coordinators and child safety support officers (AO4 identified officers). As these roles have developed and changed over time, a review of specialist positions and their impact on child safety officer caseloads may be beneficial.

Reducing caseload pressures

The CMC Inquiry recommended (recommendation 5.4) that frontline child-protection service staff numbers be increased annually in line with workload pressures. The 2007 review of the implementation highlighted that the number of funded team leader and child safety officer positions in the then Department of Child Safety had more than doubled since the CMC Inquiry. There had

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also been increases in the number of specialist officers and administrative staff with the aim of supporting the work of frontline child safety officers.

Since the CMC Inquiry, the department has undertaken a number of projects to address caseload pressures including the 2008 Frontline Work Analysis and Job Design Project and the 2010 Frontline Staff and Caseload Profile Project. These projects aimed to identify options and strategies to maximise the availability and capacity of staff to undertake frontline work.

Overall for Queensland the average caseloads have decreased from 24 in 2009 to 20.2 in 2012. However, growth in the numbers of children requiring statutory child protection responses has continued to create caseload pressures impacting upon service delivery to children and young people. The strategies outlined in this submission aim to reduce demand on statutory services, however, annual processes to align child protection service staff numbers in line with workload pressures should continue. Annual processes should take into consideration any change in the patterns of service demand and whether specialist and other positions continue to represent an effective and efficient use of resources within each region.

23.0 Future directions for Queensland: Building a sustainable and skilled workforce

A professional and resilient workforce with high level skills is the key to delivering the best services possible to Queensland children and families.

This could be achieved by:

- 23.1 Child Safety Services maintaining a commitment to the core qualifications of social work, behavioural and social sciences and human services being the preferred qualifications for frontline child protection workers.
- 23.2 Child Safety Services continuing to provide pathways for workers to gain tertiary qualifications and to build diversity in the work force.
- 23.3 Child Safety Services reviewing the current organisational structure within frontline service areas to identify opportunities to enable more senior child safety officer positions to provide career pathways and retain more experienced staff. These positions should be specifically targeted towards areas of practice requiring a depth of practice experience such as the first contact with complex families, and engagement with young people with complex and extreme support needs.
- 23.4 Child Safety Services reviewing the ongoing role of specialist positions within the statutory child protection workforce to ensure they continue to efficiently support frontline service delivery.
- 23.5 Formalising operational policies and procedures to enable family support and transition from care Support Service Cases to enable them to be included in case load calculations.
- 23.6 Continuing to annually align regional organisational structures and staffing numbers in line with workload pressures.

Strategies to reduce the over-representation of Aboriginal and Torres Strait Islander children at all stages of the child protection system, particularly out-of-home care

Many Aboriginal and Torres Strait Islander people experience significant, systemic and sustained disadvantage. The Commission has also noted that despite the investment in services to support Aboriginal and Torres Strait Islander children and families, this group continues to be over-represented at every point in the child protection system. Based on the most recent population

estimates, the department has projected that by 2012-13, every second Aboriginal and Torres Strait Islander child will be known to Child Safety Services.⁹⁹

Less than 7 per cent of Queensland's children are Aboriginal and Torres Strait Islander, yet Aboriginal and Torres Strait Islander children comprise nearly 40 per cent of children in out-of-home care as at 30 June 2012. Since 2003-04, the number of Aboriginal and Torres Strait Islander children subject to a notification has nearly tripled from 1,943 to 5,820 at 30 June 2012.

There is no doubt that the systemic disadvantage experienced by Aboriginal and Torres Strait Islander people has an impact on the safety and wellbeing of Aboriginal and Torres Strait Islander children. The reasons why Aboriginal and Torres Strait Islander children are more likely to come into contact with the statutory child protection system are complex and involve multiple historical, social, community, family and individual factors.¹⁰⁰

Some of the key individual, family and community problems associated with unresolved trauma that have also been associated with heightened rates of child abuse and neglect in Aboriginal and Torres Strait Islander communities include) alcohol and drug abuse, family violence and overcrowded and inadequate housing.¹⁰¹

Analysis of the parental risk factors within Aboriginal and Torres Strait Islander households where harm to a child was substantiated has found that within these households:

- 64 per cent of parents had or have a drug and/or alcohol problem in compared to 47 per cent of all households;
- 45 per cent had experienced domestic violence within the last year, compared to 35 per cent of all households;
- 34 per cent of primary parents were abused or neglected as a child, compared to 25 per cent of all households;
- 30 per cent of primary parents had a criminal history, compared to 21 per cent of all households;
- 14 per cent of primary parents has or had had a diagnosed mental illness, compared to 19 per cent of all households.¹⁰²

Supporting Aboriginal and Torres Strait Islander families and communities to keep their children safely at home

Organisations known as Aboriginal and Islander Child Care Agencies (or AICCA's) were initially established and funded by the Australian Government in the 1970's. They had a broad 'family support' focus around Indigenous families with children. The State Government departments with responsibility for statutory child protection then funded these organisations to play a role with Indigenous children and families who came into contact with the statutory system.

Funding for these services at that time was relatively low, a fact highlighted during the CMC Inquiry in 2003. At the same time, the child protection department was not very specific about the actual outputs that were required for the modest amount of funding provided and expectations were generally very broad.

⁹⁹ Queensland Child Protection Commission of Inquiry: emerging issues, September 2012.

¹⁰⁰ Australian Institute of Family Studies (2012) *Child protection and Aboriginal and Torres Strait Islander Children*, Retrieved 27 September 2012 from <http://www.aifs.gov.au/cfca/pubs/factsheets/a142117/index.html>.

¹⁰¹ Australian Institute of Family Studies (2012) *Child protection and Aboriginal and Torres Strait Islander Children*, Retrieved 27 September 2012 from <http://www.aifs.gov.au/cfca/pubs/factsheets/a142117/index.html>.

¹⁰² Department of Child Safety (2008) *Characteristics of parents involved in the Queensland child protection system: Report 2: Parental risk factors for abuse and neglect*, Queensland Government.

In the late 1990's and early 2000's, a number of AICCA's (including the AICCA Peak Body) were defunded by both the Australian Government and the State Government, primarily because of corporate governance failures which in some cases included misappropriation of funds.

In 2000 the *Child Protection Act 1999* introduced the concept of a recognised entity for an Aboriginal or Torres Strait Islander child. The CMC Inquiry highlighted that many AICCA failures could be attributed to limited funding being aligned with unlimited expectations, and a lack of support for these organisations either from Government or a properly functioning peak body. The Queensland Government response to the CMC Inquiry report included a substantial funding increase for Indigenous Recognised Entities representing a 450 per cent increase on existing funding for this function.

In 2004-05 funding for recognised entities was significantly increased from \$2.8 pa to \$15.6M pa, (a \$12.8M pa increase) commencing in 2004-05 and fully appropriated in 2006-07. In 2005 amendments were made to the *Child Protection Act 1999* to clarify that the role of the recognised entity includes participating in the making of significant decisions about an Aboriginal or Torres Strait Islander child and requiring Child Safety Services to consult with the relevant recognised entity for a child for other decisions¹⁰³.

The Act also places an obligation on the Childrens Court when exercising a power in relation to an Aboriginal or Torres Strait Islander child to have regard to the views of the recognised entity for the child about the child and about the Aboriginal tradition and Islander custom relating to the child¹⁰⁴. The structure and governance of recognised entities was also clarified in the Act by amendments made in 2005 including a requirement that recognised entities be independent of the department¹⁰⁵. Prior to these requirements the department had on occasions set up and operated its own 'internal' recognised entity type function.

In 2009 despite increasing over-representation of Aboriginal and Torres Strait Islander children in the statutory child protection system, recognised entity services continued to report underspending.

The issues covered in this submission about supporting vulnerable children and families to keep their children safely at home apply equally to Aboriginal and Torres Strait Islander children and families as well as non-indigenous families.

Many Aboriginal and Torres Strait Islander families experiencing one or more parental risk factors can be supported to safely care for their children. However, these issues are complex and require sustained intervention by qualified and highly skilled professionals with the expertise to work intensively with families to provide a culturally appropriate and relevant intervention. Services need to respond intensively to address often intergenerational and entrenched issues to not only keep children safe while the family is being supported by the service but to enable families and communities to keep children at home safely in the longer term.

Case Study 16: Supporting Aboriginal and Torres Strait Islander families

Wendy and her partner Tom live in a remote community in Far North Queensland. The couple have four daughters. Child protection concerns in relation to this family include the use of alcohol, domestic violence and Wendy's mental health.

Wendy and Tom's youngest daughter, Bella, was taken into care immediately after her birth because of these concerns. Bella was placed in foster care because there were no placement options in her own community. Bella is now almost three and a half years old.

¹⁰³ Section 6, *Child Protection Act 1999*

¹⁰⁴ Section 6(4), *Child Protection Act 1999*

¹⁰⁵ Section 246I, *Child Protection Act 1999*

As part of working towards the goal of reunification, Bella was subsequently placed in her community's Safe House. This enabled Bella to live in her own community and have regular contact with Wendy and Tom.

Both Wendy and Tom have been working hard to address their child protection and personal issues. They have needed a collaborative approach to do this and they have been supported in this challenge by their extended family, the health clinic and the local counselling service. A mental health service was also able to work with Wendy on her mental health issues.

One of the major obstacles for reunification was Wendy and Tom's housing situation. Wendy and Tom were living with other family members that were not suitable because of their ongoing mental health issues.

As Safe Houses are not designed as long term placements, Wendy and Tom needed to secure their own house in a timely fashion to prevent Bella from returning to foster care.

A joint housing plan was drawn up and through assistance and support from the Department of Housing and Public Works and the Council, Wendy and Tom moved into their own house.

Since then, Wendy and Tom have continued to make great progress in bringing their family together. Bella has been reunified with her parents and her older sisters also live with Wendy, Tom and Bella when they are not attending boarding school.

Child Safety Services is continuing to work with the family, but their child safety officer is confident that when Bella's child protection order expires early next year, Wendy and Tom will be more than ready to care for Bella independently.

In October 2009 a taskforce including representatives from key Aboriginal and Torres Strait Islander service providers and non-government peak organisations and Child Safety Services was established to work on the issue of over-representation. A key function of the taskforce was to develop a plan to address the delivery of culturally appropriate and responsive child protection services for Aboriginal and Torres Strait Islander children, young people and their families. Membership of the taskforce included key peak bodies, the Coalition of Aboriginal and Torres Strait Islander Services Organisations and respected and experienced child protection practitioners from Aboriginal and Torres Strait Islander organisations. Representatives from the department, other government agencies and the Commission for Children and Young People and Child Guardian also attended taskforce meetings.

The taskforce identified four key priority areas and projects which became the basis for the *Blueprint for Implementation Strategy: Reducing the over-representation of Aboriginal and Torres Strait Islander children and young people in Queensland's child protection system*. These were:

- 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 network of Indigenous service providers.

The department responded to the report with the *Blueprint for Implementation Strategy: Reducing the over-representation of Aboriginal and Torres Strait Islander children in Queensland's child protection system* in 2010. Child Safety Services continues to develop and implement collaborative actions between government and non-government organisations to implement this strategy.

A key outcome from the taskforce was that additional culturally specific targeted family support services were required to support families to keep their children safely at home. In 2009-10 the total recognised entity service funding of \$17M was reallocated into two funding programs: Recognised Entity Services (\$8.5M pa) and Aboriginal and Torres Strait Islander Family Support Services (\$8.5M pa).

Aboriginal and Torres Strait Islander Services in Queensland

Aboriginal and Torres Strait Islander children and their families in Queensland live in urban, regional and remote communities. A variety of service and support options are required to enable vulnerable indigenous families choice to access specific community owned organisations or mainstream services depending on the needs and personal preferences.

The department has funded a number of community controlled non-government organisations to deliver a range of services to Aboriginal and Torres Strait Islander children and families. These include:

Recognised Entities: There are 11 Recognised Entities across the state providing critical cultural advice to assist the department to make the best possible decisions for vulnerable Aboriginal and Torres Strait islander children and their families including those who may require out-of-home care.

Aboriginal and Torres Strait Islander Family Support Services: In 2010 funding was re-invested in Aboriginal and Torres Strait Islander Family Support Services in recognition of the need to not only provide cultural advice to inform statutory child protection intervention but to also support families and reduce the need for intervention to keep children safe. Aboriginal and Torres Strait Islander Family Support Services provide intensive support to families to prevent the need for ongoing statutory intervention. Referrals to these services are primarily from the department but can also be made by Queensland Health; the Department of Education, Training and Employment and Aboriginal and Torres Strait Islander Medical Services.

Foster and Kinship Care Services: Ten Foster and Kinship Care Services operate across the state to recruit and support carers to provide placements for children in out-of-home care.

Safe Houses: A Safe House provides suitable dwelling from which to provide supervision residential care and support for children and young people in out-of-home care in remote communities while their child protection needs are being assessed. Safe Houses also deliver a family intervention service. Nine Safe Houses are operational at Bamaga (Northern Peninsula Area), Aurukun, Kowanyama, Pormpuraaw, Napranum, Palm Island, Mornington Island, Doomadgee and Yarrabah. An additional Safe House is also planned for Thursday Island. An interim Safe House is currently operational in Lockhart River however the department is exploring options to provide a broader range of child protection services across additional East Cape York communities in lieu of one single facility at Lockhart River.

The introduction of Aboriginal and Torres Strait Islander Family Support Services has been a promising move towards rebalancing the system and preventing statutory intervention into the lives of Aboriginal and Torres Strait Islander families. However, these services are yet to reach full capacity and further work is required by the department to support them to achieve and maintain full case loads. Early data from these services also indicates a trend to working with less complex clients.

In 2008 the Queensland Government commenced the Cape York Welfare Reform trial in four Queensland communities (Aurukun, Coen, Hope Vale and Mossman Gorge) in partnership with the Commonwealth Government. The welfare reforms aim to restore social norms and local authority; change behaviours in response to chronic levels of welfare dependency, social dysfunction and economic exclusion; and provide alcohol and treatment support, improved educational opportunities, better health services, economic development and income management support.

Well-being centres were established in each of the Cape York Welfare Reform communities. These centres provide integrated drug and alcohol counselling and support services (as well as general counselling services) and will meet the objectives of both projects. Other services established to support the trial include Family Income Management and School Attendance Case Managers. Parenting programs were also established in all four communities.

As part of the Welfare Reforms, the *Family Responsibilities Commission Act 2008* was passed, which established the Family Responsibilities Commission (FRC). The FRC commenced operation on 1 July 2008 and has been extended until the end of December 2013.

A report can be made about a person to the FRC if their child has been reported to Child Safety Services. The FRC is responsible for linking families with support services to work on strengthening family roles. The commission can refer people to health, employment and education services already in place.

In 2011 consultation was undertaken with stakeholders at central and regional levels and in each of the four Trial communities to inform consideration of whether the trial should be extended. Written submissions were also received. Whilst there were some dissenting views reflected, the Consultation Report¹⁰⁶ notes that the key outcomes of the consultation included that the Trial is seen as having a positive effect on behaviour of community members, with community members seeing more children going to school, people regularly paying rent and communities generally quieter, than before the Trial commenced. The Trial is seen as a key driver of improved school attendance and school readiness in the communities. The report notes that while it took community members time to realise how the FRC worked, people now understand how the FRC can assist in addressing their problems. It also noted that people know now where to access help. The Trial has created new avenues including the FRC, the local program offices and the village opportunity hubs, for people to seek assistance.

Cultural advice

The *Child Protection Act 1999* includes a number of requirements for the department and other decision makers including the Childrens Court to make decisions with a recognised entity for an Aboriginal or Torres Strait Islander child or to take into consideration their views about the child and Aboriginal tradition and Island custom about the child. A recognised entity must be given an opportunity to participate when significant decisions are made about the child, and to be consulted when other decisions are made, participate in family group meetings, participate in a Court Ordered Conference, participate in decision making about where the child is to be placed in accordance with the Indigenous Child Placement Principle, and participate as a core member of SCAN.

When consulting with a recognised entity for a child the kinds of information that the department would seek from a recognised entity may include relevant information about the child's family, relationships and community connections, as well as advice on community engagement strategies to facilitate culturally appropriate planning, decision making, and interventions.

Recognised entities also has a role in helping Aboriginal and Torres Strait Islander children and families understand the purpose, processes, and implications of statutory child protection intervention.

To undertake their role and functions, recognised entities must work closely with, and maintain strong links to local communities, and productive partnerships with key services, such as

¹⁰⁶ Aboriginal and Torres Strait Islander Services, *Cape York Welfare Reform Consultation Report to The Honourable Curtis Pitt MP, Minister for Disability Services, Mental Health and Aboriginal and Torres Strait Islander Partnerships and The Honourable Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs*, 2011
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Aboriginal and Torres Strait Islander community controlled family support services, foster and kinship care services, and health services.

Prior to the current network of recognised entity services being established, some use was made of fee-for-service purchasing of recognised entity functions from individuals (such as respected elders). However, this mechanism proved problematic as it placed these individuals in an invidious position – they were required to have an ABN for taxation purposes and declare payments received as assessable income; they had no quality framework or supervision within which to operate; and as an individual, the advice they provided to the department, while confidential, was effectively attributed to them on a personal level.

Most of the RE organisations elect to be members of the Queensland Aboriginal and Torres Strait Islander Child Protection Peak organisation, QATSICPP, although membership is not mandatory. QATSICPP recently developed a recognised entity manual which complements the Child Safety Practice Manual and is aimed at promoting the consistency of practice across recognised entities.

The recognised entity model in itself has not made any appreciable difference to reducing the unacceptably high level of Indigenous over-representation. Recognised entity services remain a challenge for organisations. These services are funded to primarily provide information and advice to Child Safety Services which may fundamentally undermine their capacity to engage directly with communities. There may also be particular challenges for individual recognised entity services in engaging with and providing advice about particular families within a community, depending on the cultural background of the recognised entity staff. The department has observed that many recognised entity services tend towards providing more family support type services which can further confuse their role and function in the statutory child protection system.

The Commission of Inquiry has heard evidence about the expansion of the role of recognised entities within the statutory child protection system. Other options may include prioritising funding towards Indigenous family support services and refocusing the role of Indigenous Child Safety Support Officers and increasing the number of Aboriginal and Torres Strait Islander child safety officers to provide advice and participate in statutory decision making. This could include the department supporting a network of volunteer community leaders to drive community ownership of child protection and wellbeing in local communities.

The Aboriginal and Torres Strait Islander Child Placement Principle

The Aboriginal and Torres Strait Islander Child Placement Principle has been endorsed in legislation or policy in all Australian states or territories. The principle provides an important acknowledgement that previous policies caused suffering to Aboriginal and Torres Strait Islander peoples and reflects the right of Aboriginal and Torres Strait Islander people to raise their children and retain them in their communities.¹⁰⁷

States and territories fail to place children in accordance with the preferred placement types in the principle primarily because there is a shortage of Aboriginal and Torres Strait Islander carers. While recruitment and retention of carers is a problem across the sector for both Aboriginal and Torres Strait Islander and non-Indigenous carers, there are several factors that are unique to Aboriginal and Torres Strait Islander communities including:

- trauma and disadvantage associated with the stolen generations affecting many adults today to the extent they are not able to care for children
- the unwillingness of some Aboriginal and Torres Strait Islanders to be associated with the 'welfare' system due to past government practices

¹⁰⁷ Australian Institute of Family Studies (2012) *Child protection and Aboriginal and Torres Strait Islander Children*, Retrieved 27 September 2012 from <http://www.aifs.gov.au/cfca/pubs/factsheets/a142117/index.html>.

- the disproportionately high number of Aboriginal and Torres Strait Islander children compared to adults.¹⁰⁸

In Queensland, Aboriginal and Torres Strait Islander children less than 18 years make up 50 per cent of the total Aboriginal and Torres Strait Islander population. Even though Aboriginal and Torres Strait Islander adults are approximately five times more likely to be carers than non-Indigenous adults, the demand for placements outstrips the numbers of available carers.

When a child is unable to be placed according to the hierarchy outlined in the child placement principle, the department must continue to:

- facilitate contact between the Aboriginal or Torres Strait Islander child and his or her parents and other family members
- help the child maintain contact with his or her community or language group
- assist the child maintain a connection with his or her Aboriginal or Torres Strait Islander culture
- preserve and enhance the child's sense of Aboriginal or Torres Strait Islander identity.

Case Study 17: Reviewing how Aboriginal and Torres Strait Islander children in out-of-home care remain connected to kin and community

The South West region of the Department of Communities, Child Safety and Disability Services is partnering with the Queensland Aboriginal and Torres Strait Islander Child Protection Peak, the recognised entities and Aboriginal and Torres Strait Islander Family Support Services to undertake a reconnection project.

Across the region, 250 Aboriginal and Torres Strait Islander cases have been reviewed and work is being undertaken to ensure that these children are connected with kin and/or connected with their community.

This is a key initiative aimed at increasing compliance with the Indigenous Child Placement Principle and improving outcomes for children and young people in the child protection system.

A 10 year plan towards community ownership and responsibility

While progress has been made with the development of these services, clearly there is more to be done to support families and reduce over-representation.

International¹⁰⁹ and Australian¹¹⁰ research demonstrates that a one size fits all approach to child protection with indigenous populations is not appropriate or successful. However, the research does identify a number of common elements to effectively delivering these services including:

- a focus on family and community strength and healing;
- use of holistic and multi-faceted interventions;
- flexible approaches where services can tailor their responses to each family and community;
- accessible locations and environments where people feel safe and comfortable.

¹⁰⁸ Australian Institute of Family Studies (2012) *Child protection and Aboriginal and Torres Strait Islander Children*, Retrieved 27 September 2012 from <http://www.aifs.gov.au/cfca/pubs/factsheets/a142117/index.html>.

¹⁰⁹ Australian Institute of Family Studies, (2004) *Child welfare approaches for Indigenous communities: International perspectives*, Issues Paper Number 20, Autumn 2004.

¹¹⁰ Tilbury, C. (2012) *Intensive Family-Based Support Services for Aboriginal and Torres Strait Islander Children and Families: A background paper*, School of Human Services and Social Work, Griffith University.

Cultural competence is a key factor that underpins the delivery of any service to Aboriginal and Torres Strait Islander people. Cultural competence includes an understanding of the influence of past policies and practices as well as contemporary systemic disadvantage experienced by Aboriginal and Torres Strait Islander people. For mainstream organisations, culturally competent service delivery is more than the employment of Aboriginal and Torres Strait Islander staff; it requires the incorporation of cultural knowledge into the service delivery framework.

Data from the department demonstrates that Aboriginal and Torres Strait Islander children are coming into contact with the statutory child protection system because of a range of parental risk factors. Research also demonstrates that the best approaches to vulnerable families, in particular Aboriginal and Torres Strait Islander families, involve coordinated and holistic interventions. New models of service delivery that combine family support with addressing the causal factors of child abuse and neglect are more likely to meet the needs of Aboriginal and Torres Strait Islander children and families.

The department is keen to explore innovative options to build the capacity of community managed Indigenous non-government organisations in Queensland. The current level of investment in services delivered by Indigenous non-government organisations is not commensurate with the level of over-representation, however all funded non-Indigenous agencies are explicitly tasked with delivering services to both Indigenous and non-Indigenous clients.

While the range and quantum of departmental funding to Indigenous organisations has increased in recent years, this sector remains in need of qualified Indigenous staff and professionalization of service delivery. The department has funded over 100 Certificate IV and Diplomas for Indigenous NGO staff but this is not a current program.

The department is working with the Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP) to learn more about the processes adopted in NSW by the Indigenous Child Protection Peak (ABSEC) in conjunction with the NSW Child Protection agency DOCS. It is understood that ABSEC is specifically funded for organisational development in three ways:

- A Partnership model where funding is allocated initially to an established and experienced non-Indigenous child protection service provider who works with an Indigenous NGO to build their capacity. The partnership is actively facilitated and supported by ABSEC who make the assessment of how long the partnership needs to run (periods range from 2 years to 10 years depending on ABSEC's assessment of the maturity and capacity of the Indigenous NGO) before the funding and full responsibility can be handed over to the Indigenous NGO;
- A model where non-Indigenous 'practice coaches' are placed in Indigenous services to build specific practice capabilities following an ABSEC audit;
- A model where Indigenous non-government organisations are given additional non-recurrent funding for skills development following an ABSEC audit.

The department is particularly keen to adopt the first of these three strategies in the areas of Family Support; and out-of-home care placement services.

Whilst a number of international jurisdictions including Canada and New Zealand have established self-government models to provide family support and child protection services it is acknowledged significant work is still required to build capacity within the non-government sector in Queensland before such an approach can be taken in Queensland. In the delivery of child protection services, self-government models seem to generally have to goals:

- To encourage and enable community ownership and responsibility for issues that lead to children not being safe at home and to enable communities to more directly take

responsibility for supporting families to address those issues and to keep children safely at home; and

- To enable Indigenous owned and controlled organisations to take responsibility for case management, placement and service delivery for children and families the subject of statutory child protection intervention.

The ABSEC model in NSW seems to focus on the second goal. Given the level of over-representation of Aboriginal and Torres Strait Islander children and families in the child protection system in Queensland there also needs to be a focus on the first goal and a plan to build capacity in the provision of community owned and controlled family support services that can actively engage with families to provide intensive services for the length of time required to actually address issues.

A staged plan to build capacity within the sector over the next ten years should be developed to ultimately enable community owned and controlled organisations to take responsibility and provide services to Indigenous children and their families to keep children safely at home and to take responsibility for case management, placement and service delivery for children the subject of statutory child protection intervention.

24.0 Future directions for Queensland: Supporting Aboriginal and Torres Strait Islander families and communities to keep their children safely at home

Specific strategies are required to reduce the over-representation of Aboriginal and Torres Strait Islander children and their families in the statutory child protection system in addition to the proposals included in this submission. To keep children safe at home and to reduce the need for statutory child protection intervention communities need to take responsibility for supporting families and for caring for children who require out-of-home care. A long term plan to work towards community ownership and responsibility is required.

This could be achieved by:

- 24.1 The department reviewing the current range and mix of family support services that support Indigenous children and their families including specific Aboriginal and Torres Strait Islander community owned and controlled services and mainstream services to establish a comprehensive and integrated Indigenous family support program and to enable families to choose a service that can help them to care safely for their children at home. This could include exploring opportunities for innovative partnerships between Aboriginal and Torres Strait Islander community controlled organisations and mainstream family support service providers and encouraging mainstream services to also provide culturally specific services.
- 24.2 The department work collaboratively with relevant peak non-government agencies to review the effectiveness of Aboriginal and Torres Strait Islander Family Support Services to support families to provide better outcomes for children. This work should specifically address the capacity of services to work intensively with families with complex issues to address risk factors and the skills and expertise workers within services need to deliver effective outcomes for families.
- 24.3 The department implementation of other mechanisms to obtain cultural advice to inform decision making about Aboriginal and Torres Strait Islander children and families in contact with Child Safety Services to enable resources to be focused towards Indigenous specific family support services.
- 24.4 The department supporting the establishment of a network of volunteer community leaders to drive community ownership of child wellbeing and protection in local communities. This could be based on the Community Justice Group model supported by the Department of Justice and Attorney-General.

- 24.5 The department developing a comprehensive 10 year plan to enhance the capacity and capability of Aboriginal and Torres Strait Islander controlled organisations to: take responsibility for and provide services to Indigenous children and their families to keep children safely at home; and to take responsibility for case management, placement and service delivery for children and young people the subject of statutory child protection intervention. The 10 year plan should be based on evaluated components of models implemented in other jurisdictions that are effectively reducing the over representation of Indigenous children and their families in the child protection system and delivering better outcomes for children and young people and their families. The ten year plan should include:
 - Developing skills and expertise within communities;
 - Developing a sustainable funding model to support the establishment of an alternative pathway for children in out-of-home care;
 - Identifying and supporting Aboriginal and Torres Strait Islander community controlled organisations to put in place sustainable, accountable and effective governance and business arrangements;
 - Implementing relevant legislative reforms to support the model;
 - Providing incentives for Aboriginal and Torres Strait Islander community controlled organisations to develop innovative partnership arrangements with mainstream service providers delivering out-of-home care services.
- 24.6 The department reporting regularly on the implementation of key milestones to deliver on the 10 year plan.

Legislative reforms

Throughout this submission, the department has highlighted a number of options for legislative reform to improve the child protection system in Queensland. Not all of the areas for systemic reform covered in this submission require a legislative underpinning or legislative reform. The options for specific legislative amendments highlighted elsewhere in this submission cover amendments that could be progressed relatively quickly to support the first stages of reform.

A flexible and sustainable service system requires a clear legislative framework supported by contemporary operational policies and procedures that can be reviewed and amended to flexibly respond to changes in service demand and contemporary evidence.

The review of the *Child Protection Act 1999*

In addition to the specific areas for legislative reform highlighted in this submission Child Safety Services should undertake a complete policy review of the *Child Protection Act 1999* to ensure it continues to align with contemporary best practice and evidence relating to human service delivery and legislative drafting.

This review should involve a process of targeted consultation with key stakeholders and peak non-government organisations to define the issues to be considered within the review and a period of public consultation on specific issues and options for the amendment of the Act.

The review should specifically aim to ensure that the provisions of the Act continue to align with the strategic policy objectives within the child protection system, clearly provide a framework for child protection practice, support effective and efficient court and administrative decision making processes, and adequately protect the rights and interests of children and their families. The review should also resolve minor and technical issues that may have been identified in the current wording of the Act include any provisions that are unclear. A legislative review process of this

nature could take up to two years to complete and would require dedicated resources within the department to lead the policy process.

25.0 Future directions for Queensland: A comprehensive review of the *Child Protection Act 1999*

It is contemporary good practice to review major legislative instruments within 10 years of the commencement. The *Child Protection Act 1999* has been in operation since 2000 and has been significantly amended during that time. A comprehensive review of the Act would provide a legislative framework for the child protection system in Queensland that is based on current evidence about what works in child protection policy and practice and is clear and logically drafted.

This could be achieved by:

- 25.1 A comprehensive review of the *Child Protection Act 1999* including a process of targeted consultation with key stakeholders and peak non-government and broad public consultation to consult on recommended or proposed reforms to the Act within 2 years.

Any reforms to improve the current oversight, monitoring and complaints mechanisms of the child protection system

The statutory child protection system includes a number of monitoring and review mechanisms that focus primarily on how the system has responded in individual cases and how issues identified through those cases can be addressed in the future. These processes include: the Community Visitor Program, Child Death Case Reviews, systemic monitoring and investigation functions of the Commission for Children and Young People and Child Guardian; coronial investigations undertaken by coroners; investigations undertaken by the Ombudsman; and investigations into specific complaints made to the Crime and Misconduct Commission.

Child Death Review processes

There is no event taken more seriously by the department than the death of a child or young person. The death of any child or young person has a very significant emotional impact on families, friends, carers, communities and departmental staff. Child deaths stem from a wide range of causes including diseases and morbid conditions, sudden infant death syndrome, accidents (for example, the result of road fatalities and drowning), suicides and fatal assaults.

Legislative requirements to conduct a child death review

Child deaths provide an important opportunity to review and improve departmental practice and decision making in relation to a child or young person. Chapter 7A (Child Deaths) of the *Child Protection Act 1999* requires that:

'If a child dies and within three years before the child's death the chief executive became aware of alleged harm or alleged risk of harm to the child or took action under this Act in relation to the child or the child was born and, before the child was born, the chief executive reasonably suspected that the child might be in need of protection after he or she was born, the chief executive must carry out a review about the department's involvement with the child.'¹¹¹

¹¹¹ Section 246A, *Child Protection Act 1999*

For the purpose of determining whether a review will be conducted or not, action by the chief executive is defined as any ongoing involvement or any action or intervention that the department has taken in relation to the child, including:

- intakes and child concern reports
- notifications, including notifications with a protective advice response, initial assessments and investigation and assessments
- a child subject to Child Protection Orders, Assessment Orders, child protection follow up, intensive family support or intervention with parental agreement
- any other action under the Act, even if not recorded at the time of the child's death.

The Queensland Child Death Review process

In Queensland, the child death case review process consists of a two-tiered system for reviewing the deaths of children and young people known to Child Safety Services. The first tier is an internal review which is conducted by Child Safety Services, while the second tier is an external review conducted by the Child Death Case Review Committee of Child Safety Services' original review.

First Tier Review: The first tier of the process is a review (the original review) conducted by officers of Child Safety Services' Case Review Unit, which is located within Complaints and Review, Office of the Director-General. This review is called a Systems and Practice Review (SPR) and has a single term of reference which is 'review the practice decisions and practice issues in Department of Communities, Child Safety and Disability Services' service delivery to the subject child under the *Child Protection Act 1999* in the three years prior to the subject child's death, and analyse in detail those that significantly impacted on service delivery to the subject child.'

The review seeks to answer questions in relation to:

- whether the Department's involvement with the child and the child's family complied with legislative requirements and departmental policies
- the adequacy and appropriateness of departmental involvement with the child and family
- the sufficiency of departmental involvement with other entities in the delivery of services to the child and the child's family
- the adequacy of legislative requirements and the department's policies relating to the child

There are two types of review conducted by child safety services. These are:

- A limited review which is conducted by the Case Review Unit where it has been assessed, during the review planning process, that there is limited potential for identifying and modifying decision making or practice issues and there is limited educative value in conducting a detailed review. In such cases it is considered an unjustifiable use of resources to conduct a detailed review. In these cases, the review methodology is based on a review of the file material, the critical incident, and if required, a discussion with the relevant child safety service centre Manager and/or Regional Director. These discussions might occur to ensure there are no significant decisions or issues within the case which were not apparent in the file material. It is unlikely further discussions would occur if a decision is made to complete the review by way of a limited review. At the completion of the limited review, the relevant child safety service centre Manager and Regional Director are provided with a copy of the review.
- A detailed review is conducted by the Case Review Unit where the departmental decision making or practice may have significantly impacted on Department of Communities, Child Safety and Disability Services' service delivery to the child under the *Child Protection Act 1999*.

Upon completion, the review is submitted to the department's Systems and Practice Review Committee which, in turn, reviews the report for comprehensiveness and the suitability of proposed recommendations.

Once approved by the Committee, the chief executive (Child Safety Services) must provide a copy of the report to the State Coroner where the death was a reportable death as defined in the *Coroners Act 2003*. Such deaths include the death of a child under the guardianship of the chief executive (Child Safety Services) or a child under a care assessment agreement, in the care of an approved relative carer or under a long term guardianship order.

In addition, the Chief Executive must also provide a copy of the internal review report and any relevant documents used for the review, to the Child Death Case Review Committee within six months of the Chief Executive becoming aware of the child's death.

Second Tier Review: The internal review is then assessed by the Child Death Case Review Committee. The Child Death Case Review Committee acts independently when performing its functions and is chaired by the Commissioner for Children and Young People and Child Guardian and membership includes the Assistant Commissioner and seven appointed members.

Chapter 6 of the *Commission for Children and Young People and Child Guardian Act 2000* identifies the scope of the Child Death Case Review Committee's recommendations to the chief executive, which includes:

- improving the department's policies relating to the delivery of services to children and families
- improving the relationships between the department and other entities whose functions include having involvement with children and families
- whether disciplinary action should be taken against officers or employees of the department in relation to the department's involvement with a child.

The Committee has a period of three months to complete its review and provide a copy of that review to the chief executive (Child Safety Services). A copy of the report is also provided to the State Coroner where the death of the child was a reportable death under the *Coroners Act 2003*.

In the 2010-11 reporting period, the Child Death Case Review Committee considered the internal reviews of the deaths of 65 Queensland children and young people. It was determined that during this time period the most common cause of death for children known to the department was natural causes, such as disease and morbid conditions. This accounted for 34 per cent of deaths. In addition, the Child Death Case Review Committee also indicated that the actions or inactions of the child safety service system were not linked to any of the deaths reviewed.

Opportunities to improve efficiency in the child death review process

Queensland has a strong and independent child death case review process. It provides the Queensland public and government with a strong accountability framework, ensuring that Child Safety Services conducts reviews of all child deaths where the child was known to the agency within the three years prior to his or her death, and rigorous, independent scrutiny is applied to all cases.

Reviews are the primary mechanism for in-depth analysis of the department's practice framework, systems and service delivery. While they provide the opportunity for a 'spot audit' of departmental practice surrounding the case of a child about whom the Department has received information under the *Child Protection Act 1999*, the benefits of this process are reduced if the scope of the review period is too lengthy.

Currently, a review is completed when the department has had any involvement in a child's life in the three years prior to their death. The review provides a 'snap shot' of this three year period; however, the reality is that practice and procedures are more fluid. Within that three year period, practice may have changed, staff responsible for decisions may have moved on and systems and service delivery altered. Given the time, effort and expense invested in such reviews, there is an

imperative that the lessons gleaned are of current value and used positively to inform policy, practice and professional development.

It is proposed that a one year capture period would provide a far more relevant basis to conduct child death reviews in Queensland.

Most jurisdictions review deaths of children known to child protection services within the three years prior to their death. Differences to this time period occur in Western Australia, where the Ombudsman reviews deaths of children who had contact with the Department of Child Protection in the two years prior to death; and Victoria, where the Child Safety Commissioner has a legislative mandate to conduct inquiries and prepare reports in relation to children who have died and who were child protection clients at the time of their death or within 12 months of their death.

Table 1 below provides for a comparison of the deaths of children known to the department within one year, two years and three years of their deaths.

Table 1 – Comparison of the numbers of deaths of children known to the department

Reporting year	Known in 3 years prior to death	Known in 2 years prior to death	Known in 1 year prior to death
2008-2009	79	71	66
2009-2010	64	58	47
2010-2011	67	62	53
2011-2012	79	77	68
Totals	289	268	234

Table 1 indicates that moving to a one year model would see an average reduction of 19.03 per cent in the number of reviews conducted. This figure, however, is only indicative and cannot be relied upon for any planning purpose as the total deaths in any given period cannot be estimated. A reduction would increase the capacity of the Case Review Unit.

While the total number of reviews may not be significantly reduced, the scope of reviews would enable a tighter focus on decisions and child protection service delivery which occurred within the 12 months prior to the child's death. This would enhance the opportunity to explore in depth decisions and issues which are more recent and, therefore, more relevant rather than incorporating a focus on historical situations that may no longer be reflective of current practice.

Staff involved in decision making and practice would be more reliably accessible to reviewers, given that over a period of three years, staff are more likely to have changed jobs or left the department.

Other common limitations to the review process, for example, poor staff recall of decisions and practice up to three years prior to the review occurring, would be largely overcome and contribute toward better review outcomes.

The resources required to review the death of every child that has been known to Child Safety Services within a three year period is significant and departmental policy and practice may have changed significantly within that three year period. Reviewing the death of a child within a 12 month period would maximise the learning opportunities available and better inform contemporary child protection practice.

Despite the number of deaths in any given period being unpredictable additional capacity within the Case Review Unit may provide an increased capacity to provide specialist professional advice and support to regional staff undertaking reviews of other cases.

26.0 Future directions for Queensland: Improving efficiency in the child death review process

While each child death inquiry identifies factors significant in each case, the review function ensures that collective learning across cases is used to inform continuous system improvements. This process provides critical information to inform ongoing system and practice improvement. Efficiencies could be achieved to enable greater balance of resources across the child protection system as a whole by limiting the scope of cases requiring a child death review to be undertaken.

This could be achieved by:

- 26.1 Amending section 246A(1)(b) to reduce the scope of Chapter 7A of the Act to children who within 12 months before the child's death Child Safety Services became aware of alleged harm or risk of harm to the child or took action under the Act or the child was born and before the child was born Child Safety Services reasonably suspected the child may be in need of protection after the child was born.

The Community Visitor program

The Commission of Inquiry into Abuse of Children in Queensland Institutions (Forde Inquiry) was established in 1998 following public concerns regarding abuse of children in institutions including longstanding allegations of inappropriate use of handcuffs on juvenile offenders in detention centres in 1989.

Amongst other things, the Forde Inquiry found that there was no legislative provision for advocacy services for young people in residential care or in detention centres.

The Commission for Children and Young People and Child Guardian Community Visitor Program is established under Chapter 5 of the *Commission for Children and Young People and Child Guardian Act 2000*. Community Visitors make regular visits to children and young people in alternative care including in youth detention centres, out-of-home residential care, such as a youth shelter or a mental health facility; supported accommodation, respite care, foster care. They provide help and support and listen to any concerns they may have. Community Visitors can help children and young people in out-of-home care to solve problems about their living arrangements.

Opportunities to improve efficiency in the Community Visitor Program

The CMC Inquiry report noted that the Community Visitor Program administered by the then Commission for Children and Young People did not extend to children in family-based care but was limited to children placed in residential care facilities and in juvenile detention and mental health facilities. It had been recommended in the Forde report in 1999 that the program be extended but this had not been implemented at the time of the CMC Inquiry report in 2004. Events leading up to the CMC Inquiry "demonstrated the need for children in foster care to have access to the advocacy services of community visitors, and be subject to monitoring by them."¹¹²

The CMC Inquiry report recommended that the Community Visitor Program be extended to cover all children in the alternative care system, including those in foster care¹¹³.

¹¹² Crime and Misconduct Commission, *Protecting Children: an inquiry into the abuse of children in foster care*, page 159

¹¹³ Crime and Misconduct Commission, *Protecting Children: an inquiry into the abuse of children in foster care*, recommendation 5.23

The Community Visitor Program within the Commission for Children and Young People and Child Guardian now provides an important mechanism for accountability and advocacy for children and young people in out-of-home care. Community visitors play important monitoring role given third parties do not often attend to observe the living arrangements for a child in out-of-home care.

The Commissioner must make arrangements for each 'visitable site' and 'visitable home' under the *Commission for Children and Young People and Child Guardian Act 2000* to be visited regularly and frequently¹¹⁴. In practice, Community Visitors aim to visit all children in out-of-home care each month and provide detailed reports back to Child Safety Services about issues raised directly by children. A child can also request to be visited by a community visitor.

A community visitor must prepare a report after each visit and the Commissioner has a discretion to provide reports onto the department¹¹⁵. However, reports from Community Visitors often cover very minor issues that could be resolved more directly for children and young people and may not require independent mechanisms and reporting.

It is important that the Community Visitor Program be maintained to provide an ongoing mechanism for children in out-of-home care to raise issues independently. However, other requirements such as the requirement for all family-based carers to be approved under the *Child Protection Act 1999*, to have a Blue Card, and to meet the standards of care now also exist to improve accountability and the quality of care provided to children in out-of-home care. Many older children in more stable longer term placements may find this process intrusive.

There may be opportunities for improved efficiencies within the Community Visitor Program by targeting more regular visits to children with higher support needs or who are placed in particular types of placements. The introduction of a risk framework to assist the Commissioner to determine the frequency and regularity of visits to each child and limiting the Commissioner's discretion to provide a report about a visit to a visitable site or home to the department to when the Commissioner reasonably considers the report to raise a significant concern about the standard of care provided to a child or children in the placement.

27.0 Future directions for Queensland: Improving efficiency in the Community Visitor Program

The Community Visitor program provides an important mechanism for accountability and advocacy for children and young people in out-of-home care. There may be opportunities for improved efficiencies by targeting the Community Visitor Program and limiting reporting requirements.

This could be achieved by:

- 27.1 Targeting the Community Visitor Program by introducing a risk management framework to assist the Commissioner to determine the regularity and frequency of visits required to particular children in out-of-home care that provides for more regular visits to children with higher support needs or who are placed in particular types of out-of-home care placements.
- 27.2 Limiting the discretion of the Commissioner to provide a report to the department about a visit to a visitable site or home to a child in out-of-home care under the *Child Protection Act 1999* to circumstances where the Commissioner considers the report raises a significant concern about the standard of care provided to a child or children in the placement or collated information that may assist to identify trends and issues for support quality practice.

¹¹⁴ Section 89, *Commission for Children and Young People and Child Guardian Act 2000*

¹¹⁵ Section 92, *Commission for Children and Young People and Child Guardian Act 2000*

The child-related employment screening process

The *Commission for Children and Young People and Child Guardian Act 2000* establishes a regime in Queensland for the screening of a person's eligibility to work with children and young people employed in or carrying on businesses in particular types of work involving children¹¹⁶.

The intent of the system is to help to make certain environments for children and young people safer. The system includes Blue Card screening where for people in certain types of child related employment or carrying on certain child related business, must apply for a Blue Card. Certain information about a person's past behaviour including their criminal and disciplinary history is received and assessed to determine whether they are eligible to hold a Blue Card or exemption notice. Information can be received about a person's history from Queensland or from other States and Territories.

Only certain types of employment or businesses are covered by the regime. These aim to include services and activities that are essential to a child's development and wellbeing such as child care, school, and sport and people who work specifically and directly with children in certain types of employment. Applications for a Blue Card are made to the Commission for Children and Young People and Child Guardian.

People who are assessed as eligible receive a positive notice and a Blue Card. People who are not are issued with a negative notice and are not able to work with children in the types of employment or businesses covered by the Act.

Once a person has a Blue Card they are monitored regularly which means that if information about a person changes, the Commission can take certain steps about whether or not the person continues to work in child-related employment.

The Act also requires employers or people carrying on a business covered by the Act to have a risk management strategy in place. A risk management strategy must include certain types of information about the business operations of the organisation. Risk management strategies aim to require organisations to have a plan about how they will keep children who come into contact with them safe.

In 2011-12, the Commission processed 280,524 blue and exemption card applications and authorisations and monitored over half a million blue and exemption card holders and applicants¹¹⁷.

Opportunities to improve efficiency in the Blue Card employment screening process

The Blue Card system aims to help keep children safe by improving the safety of the environments children commonly participate in as part of the development and wellbeing. The system has undoubtedly improved awareness of parents, families and communities about the kinds of risks that there may be for children and young people outside of their family home and to prevent certain people from working with children.

The Commission for Children and Young People and Child Guardian has an ongoing program to improve operational efficiency within the Blue Card system. In recent times, this has included automating some of the Blue Card processes. However, given the issues already raised in this submission about the need for a greater balance of investment across the child protection system, there may be some opportunities to further improve efficiency within the system. This could

¹¹⁶ Chapter 8, *Commission for Children and Young People and Child Guardian Act 2000*

¹¹⁷ Commission for Children and Young People and Child Guardian, *Annual Report 2011-2012*, page 12

include, for example, extending the current period that a Blue Card can remain current for from 3 years to 5 years¹¹⁸.

28.0 Future directions for Queensland: Improving efficiency in the child-related employment screening process

The child related employment screening scheme plays an important role in raising community awareness about keeping children safe and protecting children and young people by ensuring that people who work with them in certain roles do not have a history that may place a child at risk. However, efficiencies could be achieved within the Blue Card scheme.

This could be achieved by:

- 28.1 Extending the period that a Blue Card or an exemption notice remains valid from three years to five years.

CLASSIFICATION CRITERIA – HUMAN SERVICES CONTINUUM

Appendix 2

PRIMARY		SECONDARY		TERTIARY	
PREVENTION		EARLY INTERVENTION		CONTINUING CARE	
Criteria		Criteria		Criteria	
<p>Target Client Group Universal or targeted to large population sub-groups (e.g. based on age, gender, culture, ethnicity, etc) across State or Region or multiple communities.</p> <p>Purpose of Intervention Reduce presence of social risk factors at community level before problems arise.</p> <p>Client Type Low risk and low need</p> <p>Service Type Low complexity and low intensity</p> <p>Service Investment (cost/client) Very low</p> <p>Return on Investment (lifetime benefit/client) Very high</p> <p>Benefit : Cost Ratio Very high (>>1)</p>		<p>Target Client Group Vulnerable small groups, families and individuals within communities.</p> <p>Purpose of Intervention Address risk factors, alleviate impacts and prevent recurrence. Divert affected groups, families and individuals from risky behaviours and environments.</p> <p>Client Type High risk but low need</p> <p>Service Type Low complexity but high intensity</p> <p>Service Investment (cost/client) Low</p> <p>Return on Investment (lifetime benefit/client) High</p> <p>Benefit : Cost Ratio High (>1)</p>		<p>Target Client Group Vulnerable families and individuals.</p> <p>Purpose of Intervention Address multiple self-reinforcing chronic problems. Optimise long-term wellbeing.</p> <p>Client Type Low risk but high need</p> <p>Service Type High complexity but low intensity</p> <p>Service Investment (cost/client) High</p> <p>Return on Investment (lifetime benefit/client) Low</p> <p>Benefit : Cost Ratio Low (<1)</p>	
<p>Target Client Group Vulnerable families and individuals.</p> <p>Purpose of Intervention Address acute problems immediately to minimise impact and reduce probability of continuation or escalation of harm.</p> <p>Client Type High risk and high need</p> <p>Service Type High complexity and high intensity</p> <p>Service Investment (cost/client) Very high</p> <p>Return on Investment (lifetime benefit/client) Very Low</p> <p>Benefit : Cost Ratio Very Low (<<1)</p>					
<p>Assessment based on complexity-intensity of</p> <ul style="list-style-type: none">• Presenting Conditions• Organisational Response• Service Coordination-Integration• Technical Support					

