Foster Care Queensland is pleased to provide feedback to the Queensland Child Protection Commission of Inquiry Discussion Paper. In providing this feedback FCQ has endeavoured to provide not only feedback but also suggestions that help the Inquiry come to some usable and affordable conclusions.

Chapter 4.

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

Response:
While many families have minimal exposure to the Queensland child protection system there are also many families who come to the attention of Child Safety regularly. Repeat users of the tertiary system have needs that are often complex in nature and as raised in the discussion paper, these parents often come with a multitude of issues including mental health, history of child hood abuse and neglect and criminal history, substance abuse issues and family violence. Furthermore when exploring their own childhood abuse and neglect, clear patterns of intergenerational abuse become very apparent at times. To put simply these parents have not experienced an alternative means of lifestyle and parenting, and whilst Secondary Prevention Services and even Tertiary services can provide intervention models, the parents need to recognise a need for change and be motivated to do so. Compelling uncooperative or repeat users of tertiary services to attend support programs is unlikely to achieve anything as if they are being compelled to attend, they will show little motivation for change and therefore their children will still be at risk.

FCQ would propose that the system's already existing have the ability to better engage with these families and at the same time make better use of intervention resources either available now or in the future, however there needs to be a point where the child protection system has to intervene in a more significant way. If we truly undertake a child centred approach then there is a point in time where resolution to a family's dysfunction is no longer viable and the children and young people within that family have the right to be protected from any further harm or exposure to possible significant harm.

Chapter 5.

Question 10.

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

Response:
Child Safety has clear guidelines in their Practice Manual outlining when long term out of home care placements should be pursued. These guidelines are not supported in legislation and therefore it is our experience that in practice, they hold no weight. It is not uncommon for FCQ to be working with Foster and Kinship Care families, where children are on their third 2 year order and where Child Safety are still pursuing reunification with the parents despite many failed attempts and therefore added trauma to the child. One particular case of recent times has seven year old twins with the same carer since birth still on short term custody order, which continues to focus on reunification when it is apparent that for whatever reason the family of origin are not going to change and the children's primary attachments are clearly with their Foster Family.

One of the Principals of the Child Protection Act 5b (n) states that '*a delay in making a decision in relation to a child should be avoided unless appropriate for the child*'. This principal needs to be strengthened and more child focused. The Child Protection Act needs to base decisions on the time frames of a child, not a parent. When putting this into context, if a toddler was placed with a carer at the age of one and Child Safety four years later were still attempting to reunify the child with the parent, by this time the child would be five years old and would have spent 80% of their life with their carer who they would have formed significant and most likely secure attachments to. To then remove this child from this stable and secure environment and place them back into a home where for four years they were unable to sustain change, is likely cause trauma to the child.

FCQ absolutely supports children and young people being safely reunified with their birth parents, wherever possible and safe, children and young people should be with their family of origin. However we must get the balance right and we must be able to make more timely decisions for children and young people so that they are not left in limbo for years wondering what tomorrow will bring. Children and Young People have a right to feel secure and stable, they have a right to know where they will wake up in the morning and the morning after that and that again. Years of failed reunification attempts can cause uncertainty, insecurity and trauma and this can be avoided for children who have already suffered trauma and harm.

The current guidelines as set out in Child Safety's Practice Manual should be supported in legislation through amendment to the Child Protection Act. This provides very clear messages to all parents, statutory workers and NGO's about timeframes in which parents have to meet their case plan goals in order to have their children safely returned to their care. Guidelines should also indicate clearly to the Children's Court that Long Term Guardianship for these children is a right and as such magistrates should also focus on the primary needs of the child.

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

Response:

It is FCQ's belief that there needs to be joint responsibility. Absolutely, parents need to be provided with the opportunities and resources to be able to meet the case plan requirements, however this is a joint responsibly and parents need to demonstrate motivation, interest and responsibility for meeting the case plan goals. Parents cannot become reliant on the Child Protection system to do everything for them, as this could lead to setting them up to fail once Child Safety exits out.

FCQ too often sees children going onto yet another Short Term order because Child Safety state that a Magistrate will not consider a Guardianship Order given that Child Safety have not assisted the parents to meet components of the case plan. Therefore it would seem already that Child Safety have a view that there are certain services they have to provide to a family prior to considering an LTG. The issue is how Child Safety puts this into practice. What seems to happen is that an order is applied for and granted, little or no follow up is done with the parents, and then right before the order is due to expire there seems to be a mad rush to increase contact and have parents complete case plan tasks. This is clearly not effective and sets parents up to fail, further orders are applied for and the cycle continues as the parents are able to argue in court that Child safety have not evidenced they can't parent or Child Safety have not provided them with the tools to meet the case plan requirements. Ultimately this leads to a child being left in drift as year by year goes by.

If provisions are going to be made in the act to ensure that Parents are provided with services prior to moving children to longer term placements, Child Safety need to review how this will work effectively and consistently for families, not at the last minute before court.

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

Response:

It appears that one of the biggest barriers is the culture within Child Safety Services that seems to believe that the Chief Executive should in the first instance have guardianship. The Child Protection Act Section 61 f (i), (ii) and (iii) is very clear as to the sequence and it is our opinion that it is always in the child's best interests to focus on stability by nominating another suitable person who is family of origin or another person, such as a Foster Carer if the child has stable, caring primary attachments. We come across time and time again carers approaching FCQ stating they had requested Long Term Guardianship and were told things such as:

- No, policy is that Child Safety have to have LTG for a year first (or two or three), then we can consider another person
- The parents won't consent, so we just have to go for LTG to Child Safety
- You don't get along with the family, so you can't have guardianship.

It seems there is little education among CSO's and Team Leaders as to Long Term Guardianship to another suitable person and we have come across it time and time again where they simply are not aware of the provision in the act where it states that in the first instance LTG should go to a suitable other. There also appears to be little knowledge around the assessment process to help determine suitability of a potential LTG, ad hoc decisions are being made around not pursuing LTG to others based on a perception from the CSO, Team Leader or Manager. However the proper LTG suitability assessment has often not been applied and therefore a proper process has not taken place in order to bring Child Safety to their conclusion.

Given that the only party that can apply to the Children's court for an LTG to another suitable person is Child Safety, if they themselves are not educated and/or informed on the practice of when such orders are appropriate, then it makes sense that we are seeing the very low numbers of LTG orders to others. It is suggested that either Child Safety or an NGO have workers skilled in the field of LTG whereby they can undertake the appropriate assessments on potential LTG to the point that a decision is made that a child will be going on an LTG order. This should be the case for every single LTG application as the act clearly states that only in the case where there is not a suitable person should LTG be granted to the Chief Executive. Child Safety should be able to confidently approach the children's court when applying for an LTG order to the Chief Executive and state that all other avenues have been explored and it has been properly assessed that there is not a suitable person to have guardianship.

Recent changes to legislation and policy around rights and responsibilities for Long Term Guardians, makes this order much more appealable to carers. However it is unclear as to whether the Sector has been made aware of these changes, this could be another barrier to LTG orders being granted to others.

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

Response:

With recent changes to Adoptions where Open adoptions are available in Queensland, this is certainly an option for some children in the Foster Care System. FCQ does not agree with children and young people being cut off from family of origin and we absolutely recognise and agree with the need for children and young people to be connected to their identity through ongoing contact with their family of origin. Open adoption allows for that ongoing contact and connectedness with birth families, whilst providing a very real permanent order for a child that takes them out of the Child Protection System.

Another way of achieving this could be through the granting of a Custody Order (Final) under the Family Law court. This would still mean that the child is removed from the Child Protection System, however would not involve forced adoption on a family which has the potential to cause serious conflict between the birth and adoptive parents and therefore would not promote ongoing connectedness.

The system needs to be very aware that where considering adoption there will more than likely be other siblings placed in the child protection system and as such there needs to be careful consideration as to whether an open adoption will continue to promote ongoing connection with siblings, which is vital to the child's emotional growth.

Foster Care Queensland does not favour the adoption of Aboriginal and Torres Strait Islander children or young people This is culturally inappropriate and may have the outcome that these children are disconnected with not only family but also culture.

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

Response:

Multi-disciplinary casework teams have the potential to create a very strong workforce in Child Protection. When we look at who the key stakeholders are within the Child Protection System and therefore who we rely on for advice, assessment and expertise, it is clear that there is a range of professionals, ranging from health, education, police, therapists and the list goes on. Therefore if we had teams of Child Protection workers within Child Safety whom bought with them a range of specialist skills this can only serve to enhance the skill and knowledge base in the workplace.

However, there also needs to be some consistency when all backgrounds are bought together. So whilst workers may bring with them particular areas of specialisation from their chosen field of practise, they must also have sound knowledge in respect to how this relates to Child Protection and how all the other fields apply also. For this reason, we would support the concept of a compulsory Certificate Four in Child Protection where workers are provided with training and knowledge on Child protection in Queensland.

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

Response:
There needs to be dedicated workers whose role is to develop genograms and ecomap a child's family. The proposal of separating investigation and assessment from casework may assist in this process as already identified in the discussion paper. However unfortunately there are also many casework activities in the early days of removing children that tend to take the focus off identifying family and more on the here and now crisis work. This includes having to work out contact arrangements with the family, health appointments for the children and all the practical things that come with bringing children into care such as Medicare cards, clothes, schooling and the list goes on.

It is suggested in the discussion paper that parents may be more willing to engage with workers who identify themselves as caseworkers, rather than I&A workers. To take this a step further, it is proposed that parents would be even more willing to work with someone who identified themselves from a Non-Government Organisation who was there to help bring the child back into the family by assisting the parents to identify appropriate family members that their child could be placed with. The NGO would then go on to complete the Kinship Care assessment also, therefore keeping this process completely separate from Child Safety other than the statutory requirements of the application and approval itself. The NGO would then go on to support the Kinship carer if approved to ensure appropriate support/monitoring and training is afforded to the kinship carer.

Question 17

What alternative out of home care model could be considered for older children with complex and high needs

Response:

Where family based care is not an option we already have residential care and therapeutic residential care however it is Foster Care Queensland's opinion that all residential placements should be therapeutic in nature. There are also any numbers of house parent models throughout the world, some of which work while others tend to struggle. Creating a placement fit for all children and young people is impossible as we are dealing with young people who have suffered significant trauma, are in adolescence and who are desperately trying to find their place in the world. Add to this the extra trauma of being separated and often forgotten by their family of origin then you have young people with complex needs that are very difficult to place and remain stable. It appears Child Safety have tended to focus on, where there is a bed there is a placement rather than responding to the young person individual needs and goals. More work needs to be undertaken to enhance residential services based on therapeutic needs and outcomes, which are helped by the input of the young person involved rather than the system telling young people what they need.

Chapter 6.

Question 18

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

Response:

FCQ supports the response provided in the Discussion Paper and also submit the following. The average age of young people leaving home is well over 18 in most situations. Care leavers are expected to leave care and cope as productive members of society at 18 years old. This fraught with difficulty and we as a society need to take our responsibility for these young people seriously.

FCQ believe that United Kingdom and USA models of educational support and financial backing up until age of 25 is much more realistic than 21. Queensland care leavers are not even guaranteed any support post 18, let alone to 21 or 25. We as a child protection system lag far behind all other Australian jurisdictions and behind much of the rest of the world.

Care leavers should not be punished for not engaging in services. Specifically, just because a young person 'fails', for example drops out of school or loses a tenancy, they must still be entitled to further after care services. Evidence is clear that young people do experiment and do 'fail', what they need is to know there are still services available for them and they can still seek support without being seen as a failure, or a drain on the environment of competing fiscal demands.

Many care leavers have family and social supports in place. Foster carers do support young people post 18. However a proportion of care leavers do not have the level of appropriate support they require. Priority access to the current services available for all Queenslanders would promote positive outcomes for care leavers.

To summarise Foster Care Queensland recognise there is not an unlimited pool of funds, however the child protection system needs to have a targeted approach to post care support. A set of minimum standards, TILA funding and a case plan is important, but we need to recognise many people will need significant support just to negotiate the post care systems. If we do not make accurate referrals and target need then an unnecessary number of care leaver will continue to slip through the gaps, will be homeless, abuse substances, the welfare system and themselves.

QUESTION 19

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

Response:

Foster Care Queensland is very supportive of any initiatives to improve foster and kinship carers' capacity to support transition to independence. We currently provide Transition to Independence training to carers and staff. However with only three case officers for all of Queensland our capacity is very limited. We strive to continuously improve our training, but a competency based and assessed training module would be highly desirable. We would be willing to promote and train this to foster and kinship carers.

Taking on a 'whole of village' perspective is essential. It is not just CSO's role to do transition support. Carers, residential staff, CSO's, local community centres, department of education, health and housing all need to commit to recognising and prioritising this need. Therefore strengthening memorandums of understanding would be useful.

Priority access to services, via specific referrals would be of benefit. For example, having a memorandum of understanding with the Department of Housing is useful, but there still needs to be a clear path for care leavers to access support as a priority case if this is their situation. Having a nominated support worker who assesses such cases, makes appropriate referrals, and even attends or facilitates initial meetings as a support would be of great benefit. We submit that having measures such as specifically trained after care workers would ultimately save resources and would better meet vulnerable young people's needs than the ad hoc system currently in place. An identification number or code could be utilised to ensure care leavers get recognised as being entitled to priority services. Centre link (Human Services) already have such an identifying code for children in care.

If we ignore the fact that supporting young people to successfully transition into adulthood costs money, we as a State are stuck. We should take our child welfare duties responsibly and allocate sufficient funding to this area. There is a plethora of international research to show money spent in supporting young carer leavers now saves enormous amounts of money in the future. We as a state cannot afford to ignore this any longer.

Question 20

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

Response:

Yes Foster Care Queensland believe the NGO sector could provide transition from care planning, and support services. It is important to note that planning needs to be a collaborative approach, with the young person at the centre of decision making and planning. Having Child Safety staff being involved in transition from care planning is essential, but they do not necessarily need to lead the planning.

Joint collaboration with NGO's who are specialised Transition to Independence agencies works well in many other countries. In the United Kingdom for example Barnardo's, an NGO, currently offers 24 different leaving care services for young people. They work collaboratively with the statutory child protection system but they do the vast majority of actual work with care leavers referred to them.

We believe there is ample evidence to demonstrate that having NGO staff involved in planning and service delivery allows for a much more flexible approach. Many care leavers need support, someone physically with them, outside of standard 9 – 5pm Child Safety work hours. We need a responsive system where staff can truly support the client. Anything less is a waste of resources.

Foster Care Queensland realise that there is a scarcity of resources and although a minimum dollar amount per child should be projected, the individual's costs and support needs will vary hugely. Therefore a strong referral system is needed. If an NGO was funded they would still need the authority to assess referrals and to prioritise case responses. Child Safety Service Centres would still need to do some support functions, via Support Services Cases possibly. We will never have enough money to do everything, and some carer leavers will need little more than the currently available Federal TILA funding, and a way of accessing this. Other young people will need extensive support to survive, let alone to thrive. Therefore an agreed referral form with mandatory key areas could be adopted by all.

Foster Care Queensland believes that having dedicated staff doing transition to independence is important. Knowledge of the resources in the local region, a strong skill set and child protection knowledge are all vital for a responsive service. Having staff who can make strong referrals and who can also work directly with other service providers and teenagers is important. We believe the bulk of after care services (which should start while a child is 15 and in care) could be provided by NGO's.

Chapter10.

Question 38.
Should the number of dedicated specialist Children's Court magistrates be increased, if so where should they be located

Response.

Given that Queensland only has one trained Children's Court Magistrate any increase means a significant improvement. It is FCQ's firm opinion that this is a must. Having magistrates, who have specialist knowledge in the field of Child Protection, can only improve outcomes for children and young people. At the current time it is our observation that the majority of magistrates do not either, understand the meaning of Section 105 or choose to ignore this section in practice with the result that magistrates treat children's matters more like a criminal matter rather than looking at the balance of probability. Every area in Queensland needs them because all children and young people have the right to have someone who has the right framework and knowledge base, making decisions about their future.

Question 39.
What sort of expert advice should the Children's court have access to and in what kinds of decisions should the court be seeking advice

Response:

The 'Children's Court Clinics' model in Victoria appears to fit. A similar system in Queensland would provide for an independent body (from the parties) providing specialist advice to the magistrate, that is consistent, non-bias and most importantly child centred. FCQ would strongly support such a clinic in Queensland that could be accessed for assessments such as:

- Parental capacity assessments
- Attachment assessments
- Risk assessments (risk of sexual harm and physical harm)
- Permanency Assessments

Churches of Christ Pathways already have "Assessment and Intervention" services in Queensland, which could be adapted and enhanced to meet this need. These services have been operating for many years however only on a minimal scale due to funding demand and without a broad scope of practice. These services have proven very efficient and if enhanced could meet the need required.

Such assessments could be requested in the following scenarios

- When Child Safety are applying for an initial Short Term order following a Court Assessment order if parents are contesting
- When a short term order is due to expire and Child Safety are wanting to apply for a further order due to case plan requirements not being met
- Where an application is being made for Long term guardianship to Child Safety or Suitable other and parents are contesting.

Question 40.
Should certain applications for child protection orders (such as those seeking guardianship or at the very least long term guardianship until a child is 18) be elevated for consideration by a Children's Court Judge or a Justice of the Supreme Court of Queensland

Response:
Foster Care Queensland does not agree with this statement at all as this would only increase the drift for children in care and would result in children and young people being held on short term orders year after year. Discussion has already taken place around the need for magistrates to be trained in the area of Child Protection. If Queensland was to have magistrates with specialist knowledge in Child Protection, they would be way better equipped to be making decisions in relation to LTG order than a Justice of the Supreme Court of Queensland. The more complicated we make a process, the more likely we are going to deter Child Safety from making decisions that are in the best interests of children. Already we see children and young people who are experiencing their 3rd or even 4th Short Term Orders, following several failed reunification attempts – making the process of

applying for Long term Guardianship for children and young people even harder. This will just result in applications not being made and not for the right reason.

Foster Care Queensland would support a panel of practice specialists who may recommend Child Safety undertake a submission to the Children's Court for a Long Term Guardianship order to another suitable person or to the Chief Executive.

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

Response:

At present it appears that the FGM model is too departmentally driven and owned. Families will not engage in a process they feel no ownership or control over. For FGM's to work as they were intended to there needs to be a whole change in mindset. Presently it would seem that FGM's are seen as just another 'tick box' task that a CSO has to complete in order to move on to the next phase. What makes an FGM successful is the work that goes into them, the preparation, the engaging of family in a meaningful way before the Conference, the insurance that all family have the opportunity to attend and have a say in the child/ren's ongoing safety and wellbeing and the need to allow family to take ownership of the concerns by coming up with their own plan to meet the safety and wellbeing of the child/ren. Whilst Child Safety must have bottom lines, it is the way in which these are communicated to the family which empowers them to come up with innovative ways about how they as a family can meet all of the child/ren's protective needs as a family.

Whilst it is acknowledged there are current fiscal restraints, the key to FGM's being successful comes back to appropriate resourcing, this not only includes the resourcing of an FGM Coordinator that is either independent of Child Safety or at least supervised independently of Child Safety, but also the resourcing of the actual FGM. This means bringing family together and this can be at a cost at times, however can result in a child being able to remain in their home as family come together to support the family or it could identify a family member to care for the child whilst his/her parents are not able or willing to. We need to remember the Principals of the Act

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(b) a child's family has the primary responsibility for the child's upbringing, protection and development

(c) the preferred way of enduring a child's safety and wellbeing is through supporting the child's family

(h) if a child is removed from the child's family, consideration should be given to placing the child as a first option in the care of kin

FGM's should be guided by the above principals and Queensland may then see better outcomes being achieved by them.

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

Response:

The following is an extract from FCQ's recent submission to the Queensland Civil and Administrative Tribunal Review

As a whole, FCQ has found the use of Compulsory Conferences extremely beneficial for carers. They allow for a mutual grounding where parties can put their views forward and in many cases FCQ has seen successful resolution bought about by the use of Compulsory Conferences. The CST model did not have a lot of focus on mediation and therefore it seemed to promote a 'win/lose' scenario which often bought about a very adversarial process where carers and departmental workers would almost be set up against one another. The results from this would often be relationship breakdowns which were sometimes unrepairable because of the very nature of hearings. It is great therefore to see the shift in thinking that Compulsory Conferences has bought. Where more and more both parties' seem to be thinking about compromising before the Compulsory Conference even begins.

However there will always be the cases where the views are so far apart that a Compulsory Conference will not achieve a mediated outcome. It has been the experience of FCQ that often when resolution is not achieved in the first Compulsory Conference that parties will be sent off to complete actions of some sought and further Compulsory Conference will be set down. There has been cases where we have seen four Compulsory Conferences, and whilst we support mediated outcomes, there also needs to be a line drawn as to how many times parties are sent down the track of Compulsory Conference, where it seems clear that neither party are prepared to negotiate. In these instances, a full hearing needs to be set down to prevent any further delays in proceedings.

It is FCQ's view that given the emphasis on Compulsory Conferences, that consideration be given by QCAT to holding some Compulsory Conferences in the area that the application has been lodged. It is accepted that this cannot be the case for all Compulsory Conferences, however in cases where both parties believe that holding a Compulsory Conference in person would be beneficial to the proceedings, submissions could be made to QCAT requesting this.

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

Response:

It is FCQ's firm view that placement and contact decisions need to remain as review decisions through QCAT. It has been FCQ's experience that the expertise sitting on QCAT Panel's reflect knowledge in all areas of Child Protection and therefore the decisions being made are fair and equitable. Placement and contact decisions reviewed through the court process will further burden the court systems and from FCQ's perspective carers will be less likely to seek review of decisions if having to face a magistrate given the very nature of court.

Further to this, FCQ is currently recognised as an Agent for carers within the QCAT system, this means that carers can be represented by FCQin QCAT in respect to placement decisions. If these matters were put into the court system, FCQ would not be in a position to represent carers, carers would then need to access lawyers, whom in most cases they would not be able to afford. This would create a system that would be less than fair and just as parents would still be able to access legal aid and Child Safety would have access to their Court Service and Crown Law.

To provide an example of where this would have a direct impact on carers. FCQ recently had a case where two grandparents were approved as kinship carers to have their grandchildren, however Child Safety then made the decision not to place. The Grandparents made contact with FCQ and with our assistance lodged an application to appeal the placement decision in QCAT (they had no knowledge prior to contact with us that they could even appeal this decision). As grandparents with little knowledge of the system, they were completely reliant on us for advice and assistance; we helped with the forms and lodgement of their application. Resolution was ultimately found outside of QCAT with the assistance of FCQ, however if placement decisions could only be reviewed by the courts, FCQ would not have had the same capacity, fill out forms, assist in lodging and negotiate with Child Safety – this role would have to sit with a lawyer who only looks at a legal framework.

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

Response:

It is evident in the Children's Court process that children and young people are the entity that is not afforded real consideration of their circumstances. Unlike the Family Court where Independent Children's Lawyers (ICL's) are provide upon request and most often granted it appears to be the exception rather than the rule that a child or young person is afforded an

independent Lawyer. If we are truly child centred then all children and young people subject to a Children's Court matter should be automatically provided with an Independent Lawyer as occurs in many other jurisdictions.

FCQ would like to acknowledge the valuable input into responses to the discussion paper provided by members of FCQ staff, Carissa Inglis and Mark Cotterill

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