FIN values children, families, community and culture

FIN assists parents, grandparents and significant others involved in the Child Safety system

Response to the
Carmody Inquiry into Child Protection in Queensland
Discussion Paper released February 2013

From

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In addition to the work of FIN Qld Townsville Inc committee members, we acknowledge invaluable contributions from many other FIN family and supporting members.

The Family Inclusion Network, Queensland (Townsville) Inc [FIN in Townsville] is very pleased to have the opportunity to respond to the Carmody Discussion paper.

Our Response begins by explaining who we are as this is important to understanding our perspectives. We then make some general comments on the Discussion paper as a whole and in doing so we identify some ideas for changes not canvassed in the Discussion paper. This is in response to the final question of the Discussion paper (Q 47). We then proceed to respond to all of the Key Questions raised in the Discussion paper.

Please NOTE *that this submission is based on consistently expressed views, experiences and concerns of parents and grandparents caught up with the child protection system, and has been approved by parent members and their supporters from the FIN QLD Townsville Inc committee as a true representation of the opinions of parents, grandparents and significant others.*

Introduction

FIN in Townsville is an incorporated service users' organisation which is a registered charity, as yet unfunded. Our aim is to assist **parents, grandparents and significant others who are involved in the child protection system.** FIN (Townsville) operates with active involvement from other people, including professionals and academics, who support our Objectives. However, FIN (Townsville) is not an organisation run only or mainly by professionals; rather it is "parents" action by parents, for parents, with the help of supportive others".

FIN in Townsville firmly asserts that parents are the most important stakeholders in a child's life, including in the lives of children in care. We are convinced that children in care – short or long term - need knowledge and understanding of, and contact with, their parents' as real people with strengths as well as weaknesses, and with the capacity to change. Thus, in FIN Townsville we aim to support **ALL** parents in their interactions now and in the future with Child Safety. In this way FIN is an inclusive organisation and we do not judge parents as "deserving" or "undeserving". Regardless, FIN upholds and respects the human dignity and worth of all parents, even though we recognise that for a few parents their involvement in their children's lives in care may, at times, need to be constrained.

In FIN we provide a safe space for the "voice" of parents who, as stakeholders, are invariably devalued to be expressed and heard by those who are willing to listen without judgement. This safe space is an essential part of our healing process from trauma and loss in our lives, leading to hope, growth, personal change and, in time, collective action - such as this, our Response to the Carmody Discussion paper

General comments on the Discussion paper leading to responses to Q47: *What other changes might improve the Effectiveness of the Qld CP system?*

47.1 We have felt a need to state our values and philosophy in the Introduction as we are dismayed to read no such clear exposition of the value and importance of parents in the Discussion paper. We heard the Commissioner, Tim Carmody say in an ABC radio interview on 19th February 2013 that the Inquiry is about "our children; their future", presumably meaning our Queensland community's children. We value the community's commitment to

our children but, as parents and grandparents caught up with the child protection system, we wish to ask that you recognise that the Inquiry is about OUR children, OUR flesh and blood, and that we are OUR children's original family and want to be their "family for life", from womb to tomb. Many of us may need support at times to fulfil our parental role in "good enough" ways (some of us for longer periods during our children's childhoods), but **the significance of our place as the biological/natural family of our children in the Australian culture should, we believe, be articulated explicitly in the final Recommendations** of the Carmody Inquiry. Many young people gravitate back to their biological families when they exit care. This works best when they have been able to have good ongoing relationships with family members during their time in care.

47.2 Having espoused this principle, we argue that endorsement of the central importance of parents and family in the lives of children and young people should be reflected in a profound cultural change across the child protection system in Queensland, whereby the stereotyping of parents as "the Baddies" by Child Safety personnel should be outlawed, and **respect for our dignity and worth should be endorsed**. We should always be perceived as important even at times when we may have fallen short of society's standards of "good enough" care for our children.

47.3 Thirdly, following the lead taken in Mental Health Services, the Family Inclusion Network Queensland (Townsville) Inc considers that consumer representation of service users should be built in to all levels of policy development, program planning and practice implementation in the Queensland child protection system. This principle, we believe, should also apply to children and young people in care. However, since our focus in FIN is for the voice of families – parents, grandparents and significant others – to be heard, we wish to emphasise the importance of **direct parent and wider family participation**, and not simply mediated through the involvement of supportive professionals and agencies, as hitherto has happened in the Department of Child Safety. We are adult citizens of Queensland; we vote; we are concerned for the well-being of OUR children; we should have a voice; and our parent representatives should sit at the table with professionals as equals. Ours is an invaluable perspective of which most professionals do not have "lived experience" as parents with children in care – some not even as parents. Ideally, this requirement for parents' participation as service users should be included in legislation.

47.4 Related to the proposal in 47.3 above, it is clear that there is a need for there to be a **network of Family Inclusion Network groups/organisations across the state**. This would facilitate the involvement of parent/grandparent representatives in every region's planning and coordination structures. At present FIN parent/grandparent reps could be found immediately in Townsville, Mackay, the Gold Coast, Toowoomba, and Brisbane, leaving large regions of the state in which FIN needs to be developed as a matter of urgency. Outside of Brisbane, Family Inclusion Network groups are run largely with committed but volunteer labour. While Brisbane FIN has received some funding spasmodically from Child Safety, parents and grandparent members in FIN Queensland (Townsville) Inc have not sought and do not wish to receive funding from Child Safety, fearing that this would constrain the exercise of our support and advocacy activities. Nonetheless, the issue of funding for

FINs around the state is one which should be given serious consideration particularly in relation to our Recommendation outlined in 47.5 below.

47.5 In the experience of FIN in Townsville, parents and grandparents benefit enormously from the availability of **support with court proceedings** (when legal representation is not possible) **and in meetings with Child Safety staff**, including at FGMs. Without this support many of us feel disempowered to the point of giving up or becoming unhelpfully angry. In Townsville we have FIN volunteers who introduce themselves and offer support to parents waiting to appear in the Children's Court each Wednesday morning. This is greatly appreciated by us parents/grandparents, especially when we have been unable to obtain legal representation. We strongly believe that Legal Aid resources for child protection matters should be more readily accessible but, meanwhile, we affirm that FIN court support is an effective way of supporting families caught up in the child protection system. In our view, FIN type volunteers should be available outside every Children's court in the state and allowed into the court by Magistrates in order to support parents (emotionally and by reminding them of matters they wish to raise) in what is experienced by us parents as a formidably unfamiliar environment. We suggest that funding for provision of this service could be sought from the Department of Justice.

47.6 Our sixth recommendation for change to improve child protection in Queensland relates to our disappointment that the Inquiry Discussion paper falls short of fully addressing the principles of the National Framework for protecting children in Australia. This is evident particularly in relation to there being no recommendations to increase the provision of more services and resources at the primary level of prevention. FIN in Townsville would like to suggest that the establishment of **neighbourhood family centres**, open to all families, would be a welcome inclusion in the sort of "services" to be considered at the local/regional level of planning and coordination, particularly in neighbourhoods with a high number of vulnerable families. Moreover, from our experience of **using community development models** of grass roots processes within FIN Townsville, we would like to recommend that, rather than being top-down service provision with control very much in the hands of professionals, the work at neighbourhood family centres could more effectively utilise models of community development which involve power sharing with local families, and which gradually build confidence in previously down-trodden people. FIN in Townsville is becoming recognised as an example of good community development practice, and we parent and family members are increasingly taking-on action roles in the organisation. Indeed, we know from our own personal experience that it **is** empowering and strengthening when "*non-parents/professionals are prepared to vacate the role of gatekeepers and sit with us at the table as equals"* [adapted from Lorraine Muller 2010[1]]. Some of us parents in FIN in Townsville are moving on to train for and obtain work in the Human Services as a result of the healing and growth we have experienced in FIN. We believe that our own experience of adversity (appropriately self-managed in learned professional ways) will be a great asset in our future work.

47.7 The seventh general comment from FIN Qld Townsville is directed at the need for a reformed child protection system to **re-shape the focus of public discourse**.

Sensationalist attention in the media to extreme cases of child maltreatment create a climate in which the majority of families who simply need a helping hand from time to time are stigmatised and deemed unworthy of compassion and support. This is harmful, especially to the children and young people in such families, who have to then struggle with the effects of shame on their sometimes already vulnerable sense of well-being. Most often the best way to help children is to support their families, not to denigrate them.

47.8 Finally, at the level of general comments on the Discussion paper, we have to express our disappointment that the proposed changes fall short of a truly radical transformation of the Queensland child safety system. Our preference would be for the Queensland system to resemble more the "welfare of the child in the family" systems in Scandinavian and continental European countries (excluding the UK) - both in substance and through a name change more attuned with promoting family wellbeing rather than an essentially narrow focus on child safety. Such a less forensic approach is much more compatible with the UN *Convention on the Rights of the Child* (especially Articles 5, 8, 9, and 10)[2]. It is also far more humane.

Instead, we find the proposals are focussed on what one of our members has called "tinkering" with the present system, albeit along lines which we parents in FIN welcome as significant improvements, particularly in terms of honouring more faithfully the spirit and intentions of the 1999 Child Protection Act. FIN Qld Townsville also supports the recommendation for an increased investment in research in the child protection field in order to enhance evidence-based/research-informed service provision and practice and, in doing so, to ensure greater cost effectiveness in government expenditures.

We will proceed now to comment on the remaining 46 questions about the changes proposed in the Discussion paper.

Chapter 3. Reducing Demand on the tertiary system: expanding the secondary family support and early intervention system

The Family Inclusion Network Qld (Townsville) endorses the direction of the recommendations in chapter 3 and supports the growth in secondary services, with "hump" funding, over the next 5-10 years. FIN Townsville supports expansion of both intensive services and of early *support* (our preferred alternative term to *intervention*) for vulnerable families (the language used is very telling! Please consider referring to us as "vulnerable" rather than "dysfunctional"). In our view, multiple access pathways, including self-referral/voluntary involvement is essential. There is a place for community development approaches (as mentioned in 47.6 above) and there needs to be some re-thinking about always insisting on professionals completing "disciplined case plans and pre and post assessments". Families could be involved in developing their own plans and in self-evaluation and assessment. This means that in family support services there is a need for professionals to work alongside families and to share power. This would be an essential part of the therapeutic accomplishments in family support services.

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

1.1 Clearly the application of "competition policy", which at times in the last decade or so has led to creating barriers against NGOs working together to plan service development, needs to be re-thought in the human and community services field. Cooperation and coordination should be the new (old) order in the community services sector.

1.2 As foreshadowed in 47.3 FIN in Townsville argues strongly for the inclusion of parent/family representation in planning forums for secondary services. Professionals and service providers don't always know best, and insights from the lived experience of families would be invaluable. Moreover, it is OUR children who are the object of concern so it is only right that our voice is heard at the planning table. Please work ***with*** us rather than imposing on us services which may be less than best in responding to our needs.

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

2.1. The emphasis here, in the view of FIN Townsville, should be on the word ***effective*.** Cost cutting should not lead to planning which sells short the investment in secondary services and down the track leads to increased costs at the tertiary level. As Tomison (2001) argues, for every dollar spent on prevention, $7 is saved in intervention[3]. Again, community development approaches can be extremely cost effective in terms of building the strengths of parents, families, and of informal community support networks which, as Tim Carmody has commented, may have declined in recent times with the (neo-liberal) ascent of "individualism". In FIN Townsville supporting members play roles of "resourceful friends" and actively engage in "fostering families", building community within what we refer to as the "FIN family". This works well.

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

FIN Qld Townsville strongly supports the establishment of a regional community based non-government intake and referral service and, on balance, would prefer a dual referral pathway since our primary concern is for a system which might encourage self-referral without fear of automatic child safety involvement, and without stigma. The disadvantage of a single referral pathway is that such a service would receive referrals for 'all' and may be experienced by families and the community generally as the same as what already exists.

The Department's past and present track record has not been conducive to parents' requests for help – *I asked for help and ended up losing my children.* Because the Department's reputation is viewed as punitive, parents would never ask help from the Department in fear of having their children removed. Once a trust has been broken it is difficult to trust the same person who broke it. It may take a long time for the Department's reputation to fade in the victims' minds and to be replaced with a positive culture.

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

FIN Qld Townsville supports the use of any mechanism and tools which prevent the unnecessary drawing attention of families to the tertiary system and which reduce the possibility of families being labelled inappropriately as "frequently encountered" while, of course, ensuring the needs of vulnerable and "at risk" children are addressed appropriately and effectively.

Any new system of Mandatory Notification, should focus on ***evidence*** of possible harm, not just suspicion of possible harm, as is the case in other states of Australia and other countries around the world.

Chapter 4. Investigating and assessing child protection reports

Q 5. *What role should SCAN play in a reformed CP system?*

To be honest, to us parents and grandparents, SCAN is a largely unknown entity. We are never told that our family situation has been discussed at a SCAN meeting. We don't have a clue what it is, what it does, who is present at meetings, and what power SCAN has. None of us has ever been given a copy of the information leaflet about SCAN which we have only discovered now, in researching our response to this question.

SCAN is shrouded in secret, like a *Star Chamber*[4], and we're not directly informed of the decisions and outcomes about OUR children. We only get to learn these things if/when we access our records under RTI, and even then only partially and long after the event. The only way we can get to see the full records from SCAN, including the department's plans for OUR child and the tactics they intend to pursue, is if/when our lawyers subpoena the records for the court. So much for transparency!

At the moment it feels as though SCAN Teams are accountable to nobody, and they cannot be called to appear before a Court. This does not sit well with our supposedly democratic society where all elected and appointed officials are ultimately accountable. Nor, by excluding parents, does it sit well as a process whose intention should be in the best interests of the children involved. Parents are ***the*** key stakeholders in our children's lives.

Supporting members of FIN Qld Townsville who have attended SCAN meetings (as professionals) describe the proceedings as sometimes amounting to a "witch hunt", with some participants demonstrating a lack of good understanding of the impact of structural disadvantage on families and a tendency to focus on narrow personal pathology explanations, speaking of parents in bigoted and derogatory ways.

We understand that in Scotland they have a somewhat similar system: a team or panel of local 'experts' (paediatricians, social workers, etc) who are given cases and recommendations from the Department to endorse. However, we understand that in Scotland parents are entitled to appear before the panel (with a solicitor or support person)

and be subjected to questioning by them and the panel is likewise able to be questioned by the parent(s). A panel "hearing" we understand replaces the Children's court.

We parents in FIN Townsville would urge that any review of the SCAN system should give serious consideration to family involvement in SCAN meetings, with the attendance and participation also of a parent support person or supporting solicitor and, perhaps, run more along the lines of the New Zealand Family Group Conferencing with far more power-sharing with the family in identifying workable solutions.

On reflection we realise that this would make SCAN meetings more like FGMs (but with a broader purpose) and this could make the whole SCAN process redundant. Indeed, in our view SCAN is a potential area to axe and save money, as at present it involves many well paid professionals looking at paperwork and making decisions without the beneficial presence of parents or child/parent advocates.

In any replacement for SCAN, decision-making must be transparent, open to the possibility of challenge, and accountable. The Courts provide the venue for challenge. SCAN Teams should no longer be allowed to operate like a secret decision-making panel or 'Star Chamber'.

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

Some families may need support throughout their children's childhood, and some at irregular or occasional times of parental ill-health or crisis. This should not be seen as sufficient reason for removal of children into care. The family is where children belong and, if the children are not being harmed in a very serious way, then keeping them at home is far more cost effective.

No negative judgements should be made about this. Interdependency is what all humans need and, where some families cannot access wider family support, then support from community services should be available to take on this role, for short or longer time periods.

The Hackney model which consists of a multi-disciplinary team approach, already cited by FIN in their 10 key Issues submission (pp 51-52)[5], would encourage families to make plans, meet goals and achieve them. There should be no time limit on how much assistance a family requires, as all families are unique, and where some families need less assistance others may need more. The theories created when working with families is invaluable knowledge which informs practice. For example: personal (intuition, common sense, cultural knowledges); empirical (research, data, documents); procedural (organisational, legislative and policy); professional (theory, research and experience guiding practice); and practice wisdom (knowledge from cases or similar issues that can be used in current situations) (Chenoweth, L. & McAuliffe, D (2005)[6].

The most important thing to note when working with families is that they are the ones who make the decisions and should be allowed to critically reflect on what has worked and what

has not. Families should also be encouraged to celebrate achievement of their goals. These families' journeys, experiences and results would be the pinnacle for future families to emulate and improve. Some of these family members would understand fairly well the predicaments of other families, and should be encouraged to remain within the multi-disciplinary team or their Policy and Planning Board. In essence the multi-disciplinary team's goals are to discover why it is that they frequently encounter families and what needs to be done to ensure the families are given the assistance they need to be able to help themselves.

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

7.1 See response to Q6 in relation to "repeat users" of tertiary services. A multi-disciplinary approach may assist in turning around uncooperative or repeat users of tertiary services.

7.2 In regard to so-called "uncooperative" users of tertiary services, FIN Townsville wishes to make two points:

7.2.1 The onus is on professional staff to use advanced professional skills – as outlined in Key Issue 7 of the FIN Townsville Submission[5] to the Carmody Inquiry – to establish quality relationships with so-called "uncooperative" parents and families; relationships which facilitate working together to resolve issues.

7.2.2 Compulsion to attend a support program as a pre-condition for keeping a child at home is already standard practice in Child Safety and, in FIN's view, there is no need to make this an inflexible legislated requirement. Instead, there is a need to ensure that the support programs which parents are required to attend are relevant and will be beneficial, rather than simply a means for exercising power and control over parents and making them demonstrate compliance. We think more work needs to be done by the Department to look beyond what they identify as "the issue" and they need to ask parents what they think the issues are, what they think needs to change and how the future might look if things were different. FIN asks:

- why make parents attend budgeting classes – just because they exist - when their budgeting in poverty is actually rather better than most professionals could manage?
- Why say to a parent "and when you've completed this course we'll think of something else we'll require you to do"? Surely this is an outrageous delaying tactic with no clear therapeutic value?
- Why insist a parent attend a DV perpetrators' course when (1) they have not had a partner for many years, (2) have no intention of gaining a new partner, (3) the DV which occurred many years ago was reciprocal rather than one-sided, and (4) what they really need is a course on parenting without using physical punishment?
- How is it that when there is a transfer to a new CSO parents can be compelled to redo programs they have already done with no reasons given?

This capricious changing of the CSO mind about goals and requirements brings Child Safety decision making into disrepute - and messes with our minds as parents striving to get our children rehabilitated into our care.

Q 8. *What changes, if any, should be made to the SDM tools to ensure they work effectively?*

Structural decision making (SDM) is classificatory **not** predictive, and classifies cases as low, medium and high risk. Given this fact, children should neither be removed from nor returned to parental care based on an SDM reading. Indeed, reliance on a tool like SDM is likely to result in too many 'false positives' i.e. child removal when the child should have remained in parental care. Given the harm that removal from the family is known to do, this is not a decision that should be taken lightly

FIN Townsville is convinced that the *Signs of Safety* tools MUST be integrated into use of the SDM. This would encourage an assessment of the strengths in any family situation, mitigating against risk of harm and giving an indication of the sorts of supports which need to be put in place to reinforce the strengths.

One supporting member of FIN has written **"***I agree wholeheartedly with incorporating* ***Signs of Safety*** *into child protection work. I have done training with Andrew Turnell and whilst a team leader in the Department I would use some of the SOS tools to make sure workers were identifying strengths and weaknesses/challenges in families. Using this approach we managed to keep a baby who had suffered broken bones at home with family and supported by a strong network for over 12 months until he was of an age where the risks were reduced and then the Department involvement ceased. No orders were ever applied for and at no time was removal of the child from his parents contemplated. Family, community and department workers developed a strong working partnership and it was a fabulous outcome for all involved.*"

Even with the use of ***Signs of Safety*** FIN Townsville also is strongly of the view that there MUST be recognition that any tools are used to assist, and NOT to determine, the assessment processes, and that the use of communication and interpersonal skills in relationship with parents must form the basis of practice wisdom.

Additionally an Intake Officer's initial decision making needs to be supervised, critically reflected upon and reviewed before a decision is made to intrude into a family's life. Reflective practice should be encouraged in CSOs through independent professional supervision.

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

In our view some alternative responses will follow naturally if a dual referral pathway is introduced. In addition we like the proposed four-pronged model of different responses for

1. Family Violence
2. Forensic investigation (presumably of physical and sexual abuse)
3. Strengths based intervention - Family services assessment (presumably re emotional abuse)
4. Child welfare response to immediate needs and ongoing support (presumably in cases of neglect)

These four alternatives are, in our view, far better than the less discriminating two pronged versions trialled in both Qld and NSW. However, we must insist that *Strengths* based approaches should be used in ALL response modes. When the *Signs of Safety* model is incorporated into use with the SDM then *Strengths* based approaches would become integral to all modes of response.

FIN Qld Townsville would like to identify that the key issues which often underlie a parent's difficulties may be related to poverty, mental ill health, problematic substance use, and/or domestic and family violence. And for children and young people the key concerns typically will relate to the effects of trauma, attachment issues, and child development.

FIN Townsville is also interested to learn more about the pros and cons of establishing forensic investigation teams located in Child Advocacy Centres or something similar (page 97), and the creation of a separate entity to undertake legal proceedings (page 98).

At present FIN is uncertain whether these would improve the situation for parents and families and is concerned they might increase, rather than decrease, risk-averse decision making, with a concomitant increase in the number of child protection Orders taken out unnecessarily.

Against this, however, one FIN Townsville member writes:

> *Child Advocacy Centres would be appropriate when dealing with children and assisting them in telling their story. It is imperative that all team members are trained appropriately to deal with these children, including further academic study and attending workshops. The prompt attention by Child Advocacy Centres when interviewing children would greatly assist in discovering if the child has been harmed or not, and if the child has not been harmed, to be returned to the parents who are willing and able to protect the child.*

Overall, FIN Townsville strongly advocates that if these initiatives are trialled in Queensland then families subject to investigation should have access to supportive advocacy and should have a right to participate, with support, in SCAN or whatever might replace SCAN.

Above all FIN Townsville recommends a non-judgemental, non-combative, concerned, inquiring conversation with the family, offering support instead of criticism, not just as part of an "alternative referral pathway", but as part of the "mainstream referral policy".

See also FIN's response to Q 15

Chapter 5. Working with Children in Care

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

The view of FIN Townsville is that family preservation and rehabilitation should remain the stated and practical goal throughout. If a child must be removed then 1, 3, and 6 month orders should be used with a view to rapid rehabilitation and family reunification ASAP.

Indeed, FIN Townsville asserts strongly that the focus on family rehabilitation should NOT shift until **strenuous** efforts, fully documented, have been made to facilitate rehabilitation. At present, in our experience, two year orders are made with a view to working towards rehabilitation but nothing much happens and after two years Child Safety move to take out long term orders. This is NOT good enough. As one supporting member of FIN has commented "*This (2 year order) is merely a timeframe which they hold where they believe they can return to court and state that nothing has changed in a situation and therefore a more intensive and long term order is needed. Workers do not attempt to engage with families/parents in this time – parents are told what to do and left to their own devices at times to make sure this happens. The Department's stance is that the child is their client and parents need to make changes on their own to show their commitment to their children."*

There is plenty of research evidence about what works well in achieving rehabilitation, and teams working with children on short term custody orders **should be required to energetically seek to achieve rehabilitation**. Perhaps one year orders in the first instance might concentrate the focus and ensure more purposive work towards rehabilitation.

FIN is of the view that if the department cannot demonstrate to the court what efforts to achieve rehabilitation have been implemented then long term orders should not be made. Additionally FIN Townsville is of the view that long term orders should be made only on the death or long term incarceration of all available family members.

Even if/when a long term order is made, there is a place for concurrent planning – achieving a stable placement while, at the same time, continuing to work towards rehabilitation. Concurrent planning is a good step which provides stability for the children, while not denying the rights of the family.

There is scope to recruit, train and support foster carers to practise "shared care" and "fostering families" with a view to children/young people spending increasing time back with their natural family. Research by Heather Lovatt has demonstrated the willingness of many current foster carers to take on this role. Carers in the research study spoke of difficulties encountered by them, parents and children with 'one size fits all' foster placements. The opportunity for flexible and shared care arrangements they saw as offering better planned, collaborative arrangements which "*would be good; the kids could have the best of both worlds without feeling there's a tug of war – we'd all win because it would suit everyone if it was a 'tailor made' arrangement"* (Lovatt in preparation).[7]

Q 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***?

FIN supports this recommendation but in a broad sense only, in that it would be good if the Child Protection Act is amended to include a requirement that vigorous efforts are made to achieve rehabilitation.

It is crucial that the suggested range of possible services is not prescribed in an absolute fashion but allows for professional discretionary decision making in discussion with each family as to what might work best in their unique situation and context. Families are unique and this uniqueness should be respected at all costs.

Q 12. ***What are the barriers to granting of long term Guardianship to people other than the chief executive?***

FIN is concerned that when long term Guardianship Orders are made the reduced involvement by the Department can mean that arrangements for continuing contact with natural parents and extended family may lapse, whether gradually or precipitously. Grandparents as well as parents, and indeed any significant others in a child or young person's life, are equally concerned about ill effects of any move to Guardianship to people other than the chief executive.

FIN is of the view that children and young people in care benefit from having a wide support network to take into adult life. Long term guardianship may or may not lead to enduring support for life; the natural family of a child/young person in care has, in many cases, good potential to be and become a *family for life.*

Like adoption, LTGs to individuals, (or the CE), work best with the cooperation of the birth family. Proposed Guardians should be willing to sign an agreement that guarantees family members will continue to have access and input into the child's life. To not do so will not only harm the child and their family, but also the child's relationship with the guardian family.

Legislation should be amended so that carers and parents know their rights and responsibilities. It would be beneficial also to incorporate an appropriate appeals process for parents to have their concerns adjudicated. In FIN Townsville's view this could be the Children's Court rather than QCAT, as raised in Question 44.

Q 13. ***Should adoption or some other permanent placement option, be more readily available to enhance placement stability for children in Long Term care***?

13.1 FIN Townsville is totally opposed to both closed adoption and to the forced termination of parental rights with a view to securing adoption.

13.2 Furthermore, FIN Townsville is opposed to the use of open adoption except in circumstances when it is the birth parents' first preference, when their parental consent is given freely, and when grandparents' support is also forthcoming. Adoption only works well if it is truly "voluntary".

13.3 In the FIN *10 Key Issues* submission to the Inquiry[5] we outline the long term harmful effects of removal of children into care for parents and families. These harmful effects are similar to those experienced in the past by women who were forced to relinquish their children for adoption, for which the Queensland government made a formal apology in November 2012. FIN Townsville is concerned that if the Commission recommends increased use of adoption, it is highly likely demands for another apology will gather momentum over the coming years.

13.4 FIN Townsville is not necessarily opposed to the introduction of an alternative permanent placement for those children in care who need a stable long term placement. However, FIN Townsville is adamant that this should always be a culturally appropriate, open arrangement with ongoing contact with parents, extended family, community, culture and country. Furthermore, FIN Townsville is concerned that those who advocate for adoptive style arrangements are proposing a solution they wish to impose on the majority based on their knowledge only of the needs of the minority – at most 10% - of extreme cases. Amongst the vast majority of children and young people currently in care, many should not have been taken into care in the first place and many others could be rehabilitated home to their families if sufficient effort were put into making rehabilitation happen.

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

Although FIN Townsville didn't explicitly refer to the multi-disciplinary teams in the Hackney model in its submissions, it did actually recommend the Hackney model in Key Issue Nine of its 10 key issues submission[5]. Thus it is incumbent on FIN Townsville to endorse the potential benefits of multi-disciplinary teamwork. However, FIN argues that this must be adequately resourced and supported and that such teams must embrace a commitment to (1) seeing a child's family in positive terms, (2) on using a strengths perspective, (3) a clear uniform and agreed goal of maintaining family unity where ever possible and reunification at the earliest opportunity, when removal is required, and (4) undertaking good professional practice as outlined in Issue Seven of the FIN 10 Key Issues submission[5].

An acceptable working environment within a multi-disciplinary casework team would be dictated by a uniform Code of Conduct, organisational policies and procedures. Regardless of this, positives and negatives may occur at intervals.

Disadvantages are:

a. Confidentiality issues
b. Professionals' power gets in the way
c. Professionals at war with each other

d. Unacceptable professional conduct affects the families they work with

Benefits include:

- Many professionals working for the same cause
- Understanding each other's professional values and principles and respecting same
- Understanding the problems they are faced with and work collectively to achieve the best result
- Identifying the problems and implementing referral as needed
- Working in a happy and respectful environment is conducive to positive outcomes for the families they support and work with

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

15.1 FIN Townsville thinks our answer to the first part of the question is "probably yes", although we have expressed some concerns in our response to Q 9. These are:

> *uncertainty whether the proposed measures would improve the situation for parents and families or whether they might increase, rather than decrease, risk-averse decision making, with a concomitant increase in the number of child protection Orders taken out unnecessarily.*

FIN is aware that it is a great challenge for parents to have to work with the same person who has removed their child and that the separating of these functions is conducive to better working relationships and better outcomes for children and families. FIN has experience of many families whose children have remained in care much longer than necessary because of the difficulties in the working relationship between the CSO and parents. A value cannot be placed on the importance of meaningful relationships in practice and we are hopeful that the inquiry will find a way to enable this to happen.

15.2 FIN Townsville is not confident we have the expertise to make a comment on the second part of this question apart from querying whether this separation would cost anything further, given these roles are already undertaken currently.

Q 16. *How could caseworkers be supported to implement the child placement principle in a more systematic way*?

FIN Qld Townsville is deeply concerned at the relatively low number of culturally appropriate placements in Queensland and is dismayed to hear that Child Safety staff are not regularly consulting with the Recognised Entity in identifying appropriate placements.

There is a sense that child safety staff, including team leaders and Service Centre managers as well as CSOs, are not adequately trained, have power and authority beyond their

experience and expertise, and do not have a good knowledge of the legislation. Additionally, senior practitioners with child protection expertise are thin on the ground.

Burnout and staff turnover are significant problems and an office culture of working WITH the Recognised Entity in Placement Services has either not been established or is regularly dissipated.

There needs to be committed leadership at all levels in the Department to adhere to and implement the Child Placement Principle.

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

The Family Inclusion Network Qld Townsville (FIN) supports an expanded role for residential care (linked with intensive support services) on the continuum of Out Of Home Care options (OOHC).

A number of factors are driving demand for residential care and group care to meet rising demand for services that can't be met in the foster/kinship care systems that go beyond simply meeting accommodation and housing needs of high-needs children.

This compels the need to move to an integrated national framework for OOHC to develop an evidence base for best practice in models of residential care to meet the demand for improved therapeutic and social outcomes that are also cost effective.

FIN Townsville is convinced that this issue is serious in the current Queensland context and thus we have prepared a longer analysis which is included as **Attachment One** to this submission (see pages 32-37).

Chapter 6. Young People Leaving care

Q 18 *To what extent should young people continue to be offered support on leaving the care system?*

Full support should be given to help them connect with their birth family where ever possible. Also ongoing support should be available to them for some years (at least until 21, preferably 25) particularly in regard to health care, housing, education, employment and of cause any involvement with the Justice system. There needs to be a sense of responsibility to and for these young people who have so often been let down by the system that was supposed to care for them.

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

Firstly, by recognizing that the money saved in the short term, will be much less than the money spent in the long term to overcome the problems experienced by these young people.

Secondly, by involving the young people themselves, well before they actually leave care.

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

Absolutely, but it needs to grow, possibly with the help and input of those young adults who have recently left the system, who could be formally trained to assist other young people to avoid some of the pitfalls and make a smoother transition than usually occurs at present.

Chapter 7. Addressing the overrepresentation of Aboriginal and Torres Strait Islander Children

FIN Qld Townsville Inc is pleased to read and endorse the intentions articulated in Chapter 7.

In some ways FIN Townsville is of the view that it would be most appropriate to leave responses to questions in Chapter 7 to Aboriginal and Torres Strait Islander agencies and communities. However, after conferring with some local Aboriginal and Torres Strait Islander organisations, FIN Townsville is happy to make some comments on each of the questions,

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

The obvious response to this question is to make use of, and strengthen, existing well-established Aboriginal and Torres Strait Islander organisations rather than to establish new agencies, with all the associated establishment costs.

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

The simple response in FIN's view is: Yes

Q 23 How would an expanded PEAK body be structured and what functions should it have?

It has been suggested to FIN Townsville that there should be Regional Peak bodies, since north and far north Queensland feel not well represented by Brisbane-based Peak bodies.

Such Peak bodies could advise with the development of family well-being services across the region and with the transfer of child protection responsibilities to Aboriginal and Torres Strait Islander organisations.

Peak bodies would also play an important role in facilitating training not only for Aboriginal and Torres Strait Island staff but also for Child Safety and NGO staff and for foster carers, in some cases compulsorily so. This is essential in order to ensure the child placement principle is adhered to fully and also to underpin a real, rather than token, commitment to in-depth cultural understanding and a commitment to reducing the over-representation of Aboriginal and Torres Strait Islander children in care.

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

Over time FIN can see no reason why all of the child protection roles could not be included in a trialled delegation of functions to Aboriginal and Torres Strait Islander organisations. This said, however, if separate investigation teams and separate legal proceedings teams are established there might be a case for these remaining universal unless (heaven forbid!) they develop in excessively risk-averse ways.

Certainly there is a need for casework roles to be carried out within Aboriginal and Torres Strait Islander organisations as, at present, the Recognised Entity has a sorely limited role. The RE workers need greater independence from the Department of Child Safety, and need greater power to advocate for the child and the family. At present RE workers can only support parents if they are “allowed” to do so by the Department and, even worse they may actively side with the Department. As one FIN grandparent writes, *“From what I observed, our RE seemed to be very much "in bed" with the CSO. She didn't seem supportive of the children’s mother (my daughter) at all and made ill-informed and judgemental statements about her in her reports. I wondered if this was a way of ensuring that she kept her job*”.

The RE workers need to have the power to give **independent** support and advice to parents, in a way similar to that we use in FIN Townsville. Similarly, the Recognised Entity workers need to have more power in court. At present, when the RE actually is on side with parents, the Department’s views can over-ride those of the RE. This defeats the whole purpose of having the Recognised Entity.

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

As with any similar organization, with good management practices and positive outcome data, ie children remaining within their own "supported" family environment, and any removal

being short lived with ongoing family involvement. This should be (but at present is not) the standard of success or failure of any organization working with families in child protection.

Chapter 8. Workforce Development

Q 26. Should Child Safety officers be required to hold tertiary qualifications in social work or psychology or human services?

A child safety officer holding tertiary qualifications is essential. Whilst the lived experience of many workers assists in their workload (the value of personal parenting and caring experience should never be ignored), nonetheless it is deeper involvement of theoretical practice and the understanding of systems that give greater insight into the work at hand.

Tertiary qualifications in social work or human services are the most desirable on account of the integrated knowledge of societal as well as individual perspectives. However, there would be a place in multi-disciplinary casework teams for workers with Psychology degrees, since understanding the effects of trauma, attachment disruptions and mental ill-health may be crucial in working effectively with children, young people, and their parents.

It has to be said, however, that ensuring that a Child Safety Officer has tertiary qualifications does not necessarily mean that they will do the best job. As one supporting FIN member has commented

"*it is not merely a matter of holding a tertiary qualification, it is also about a person's values and beliefs system, ability to think for themselves and more than anything their interpersonal skills to be able to engage and work with families in a respectful way that recognises the importance of parents/families in a child's life. Training for new CSOs needs to be more than just procedures and policies – they need to do training around things such as engaging with parents, engaging with children, understanding the impact of issues such as mental health, substance misuse and disabilities on parenting. Whilst I certainly believe that social work and psychology degrees are a good grounding for workers, there are other issues to consider. At the moment I believe that as long as workers are able to follow the steps outlined in procedure manuals they are deemed good workers (from within) but the issue of their ability to engage with families, work alongside them and treat them with respect never enters into the equation.* ***It is still sad that the number of parents who are able to state they felt listened to by department workers is an extremely low minority****."*

Examples readily spring to mind of two students studying at university, doing the same subjects yet entering the workforce with different sets of values and principles. One may find it easy to work with families and the other does not. Supervising and mentoring Child Safety Officers' conduct is important for positive outcomes. It may be that second Child Safety Officer is not suitable to working with families and needs to find employment elsewhere. A performance agreement may also be of value.

Q 27. Should there be an alternative vocational Education and training pathway for Aboriginal and Torres Strait Islander workers to progress towards a CSO to increase the number of Aboriginal and Torres Strait Islander CSOs in the workforce? Or should this pathway be available to all workers?

FIN Qld Townsville considers it to be vital that there is an alternative pathway For Aboriginal and Torres Strait Islander workers to progress towards becoming a CSO. We are not convinced that this pathway should be available to all workers, provided sufficient numbers of professionally educated staff can be attracted to work in the reformed child protection system in Queensland.

This said, however, there is no doubt that if non-Indigenous prospective workers were trained alongside Aboriginal and Torres Strait Islander workers they might emerge with a stronger commitment to working in culturally appropriate ways and implementing the Child Placement Principle more vigorously.

In the best interest of equity any alternate learning pathway, and the possible advantages it could provide, must be made available to all those who might benefit from this opportunity and at present could not aspire to degree level study. It should be remembered that many non-indigenous people have experienced similar disadvantage in their lives and, despite having limited education opportunities, and/or mild intellectual impairment/learning difficulties, they would make great CSOs.

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

As well as having appropriate qualifications in place, a person who works with families will need to have ongoing training in their practice. Specific tools, such as the FIN DVD gives a great insight into the feelings and trauma that parents have experienced at the hands of past and present CSO's. The Department's past and present thinking style may take a long time to turn around, but with good processes of training and professional supervision in place this can be achievable. Child Safety Officers need to be committed to wanting to make a change in the lives of the people they work with.

In FIN Townsville's view there is a need for basic and ongoing training for workers in the following areas:

- The true spirit of the 1999 Child Protection Act
- Humanitarian values
- Emotional intelligence
- Basic and advanced interpersonal communication skills, used with respect
- awareness of POWER dynamics in working relationships
- working with domestic and family violence
- mental illness
- problematic substance use
- in-depth cross cultural understanding
- the challenges of working with some men
- working with angry service users

- the lived experiences of families living in poverty
- working with parents with limited literacy
- child aware understanding
- child development
- attachment theory
- the harm caused by the disruption of removal into care
- the effects of trauma, including the trauma of removal
- strengths based and empowerment work - as the tendency to slip into deficit practice may be entrenched and hard to resist.
- Critical reflexivity
- Using professional supervision to develop and strengthen advanced professional practice

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

FIN Queensland Townsville is not best placed to express a view on this matter apart from commenting that any moves to reduce workload should (we would hope) lead to improved quality of work, greater success in working towards rehabilitation and/or maintaining stable placements for children/young people in long term care. These improvements in the quality of work would result in greater cost benefit effectiveness across child safety services.

Q30. How can child safety improve the support for staff working directly with clients and communities with complex needs?

- Professional supervision separated from operational supervision. As one supporting member of FIN has said

  "In my experience supervision in the Department is all about checking to make sure things are done rather than allowing workers to talk about what they are doing, how they are intervening with families and what could be done differently. In fact, workers aren't encouraged to believe there is more than one way to work with children and families. I currently provide external supervision to a worker from the Department, where this person is able to talk openly about the challenges to personal and professional frameworks when working in the Department and to be challenged on alternative ways of working with families. This worker has to pay for their own supervision though and I'm not even sure if the worker has felt able to let the Department know this is happening. If the Department is committed to ensuring they support their workers fully they need to pay for external supervision as I think even if they tried to separate the professional and operational roles in-house due to time constraints and workload issues they will always focus on operational more than professional."

- Team building and building a culture of mutual support
- Validating strengths
- Reduction in the Blame culture in service centre offices
- Celebrating successes eg rehabilitation of children home from care

Q 31. In line with other jurisdictions in Australia and Closing the gap initiatives should there be an increase in Aboriginal and Torres Strait Islander employment targets within the Qld CP sector?

FIN Qld Townsville endorses this proposal strongly.

Chapter 9. Oversight and Complaints Mechanisms

Q 32. *Are the Department's oversight mechanisms sufficient and robust to provide accountability and public confidence? If not, why not?*

We parents in FIN Qld Townsville experience a good deal of frustration and dissatisfaction in regard to the internal consideration of any complaints which we might make. We feel that at whatever level the complaint is dealt with, the matter is considered internally and there is a built-in tendency for the actions of the departmental workers to be supported. Self-interest and self-preservation seem to be the order of the day. *"They investigate themselves"* is a frequent comment and we parents would dearly like our issues to be considered by an independent, neutral external panel with sound attention to principles of Natural Justice and a concerted attempt to "*walk in our shoes*" and to see the world through our eyes. If there is truly nothing to hide then this should not be seen as an intrusion or an inconvenience of any kind.

The Department has become very one eyed in its focus on the interests of the child so that an ability to look at *the welfare of the child in the family* is not on the agenda of most CSOs and team leaders. This does not engender public confidence in the Department and many of us parents now resignedly expect to not be treated with respect, to be "told" what to do, to be talked over, and generally to emerge from meetings with Departmental staff feeling we've been given a dressing down by a school principal or even a prison officer. We also do not like the fact that our support people are also spoken to in a controlling way and told to be silent. This is against the 1999 Act which states that support people can attend *and participate.*

In light of our comments in the paragraph above, we believe that the **power** dynamics of working relations between CSOs and families need to be scrutinised constantly. This needs to be developed as part of departmental culture and professional supervision, as current oversight mechanisms aren't designed to deal with issues at this micro level, yet they have an important impact on the effectiveness of the work of the Department.

At a broader level, FIN in Townsville would like to urge that **records** are kept and are reported publically on the number of children and young people who are rehabilitated home

to their families. It is astonishing that this information is not currently available. As members of the public, parents and families would be reassured to know that the Department takes this responsibility seriously and collection of this data might just focus the attention of departmental staff on the fact that working to achieve rehabilitation is a core responsibility.

One further issue re R**eporting**, concerns the way no data is collected on whether or not actual harm has occurred or whether action is taken by the Department solely on an estimation of a risk of future harm. As outlined in the FIN Townsville 10 Key Issues submission[5], this matter is of serious concern to parents and families, who experience a sense of grave injustice when they are treated by the department, and regarded by the public at large, as having actually harmed their child/ren. In this regard justice needs to be seen to be done, and the collation and publication of differentiated statistics would not only educate the public but also be of great value to researchers in the child protection field.

Parents and children who come into contact with the Department need to be given appropriate **information** in the form of a manual to help them navigate the Department's system. For some parents this may be difficult because of limited literacy skills and it would be beneficial if Departmental workers were trained to deliver this information to parents and to revisit this information giving in an ongoing manner, as it is difficult to take in the volume of information particularly during times of emotional distress. Regularly checking in with parents to see if they understand and are clear about their rights and responsibilities is a fundamental aspect of a good working relationship

All parents' rights and responsibilities, as depicted in The Child Protection Act 1999, complaints processes and others should be detailed in full in a **Parent Manual.** This manual would greatly enhance parent autonomy and parents would be in a position to know what to do and how to do it, for example, in a complaints process, which will save time and money in the long run, if something is dealt with speedily rather than the case dragging on for a number of years and causing unnecessary stress to the family concerned. This may be viewed by families as the beginning to the start of a newly reformed Department which works **with** people and not against them.

Q33. *Do the quality standards and legislated licensing requirements, with independent external assessment, provide the right level of external checks on the standard of care provided by non-government organisations?*

FIN Townsville is not confident we have sufficient knowledge to make well informed comments on this question although one FIN member has commented that **"***This is another area in which a degree of oversight and monitoring by an independent organization like the UN or Red Cross could be invaluable*".

Q34. *Are external oversight mechanisms operating effectively? If not what changes would be appropriate?*

With regard to **child deaths**, the death of any child, whether in care or not, is a huge grievance. For some parents who have lost their child to the Department this is experienced as the first death, and if the child dies in care this then is a second death for them. A

parent's animosity may be exacerbated by the fact that their calls for help were ignored when they attempted to make complaints concerning the care of their child whilst in the care of the Department, as discussed in FIN Submission 2 (2012, pp 11-13)[8]. Given that aggrieved parents would be inconsolable at the loss of their child, it would be inappropriate for the Tier 1 reviews to be conducted by the Child Death Case Review Unit on account of a parent's understandable mistrust of the Department. Any investigation done by Child Safety would be perceived as unjust, unethical, biased, and not done with the accountability that is expected in the public interest.

When a child dies in foster care, all investigation thereafter should be headed by the Commissioner for Children and Young People and Child Guardian. And if the child died, despite the Commissioner for Children and Young People and Child Guardian's provision of the 5 oversights of the child protection system (as listed in the Discussion Paper on page 232-3), this may mean that these provisions are not working as well as they should. It would be in the interest of the public and the Department's accountability that the same mistakes would not be allowed to be repeated. If mistakes are repeated then criminal charges should be laid.

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

By the nature of child protection work the system is open to public criticism both for not removing children soon enough and returning them to families, OR the opposite: far too ready removals and far too slow rehabilitation. This tension will never be solved by oversight mechanisms as it is based on conflicting understandings of the nature of problematic child and family situations and the best way to improve them.

Attention needs to turn, rather, to transforming the public discourse about child protection matters and, in particular, countering sensationalist media accounts of the harmful effects of child safety inaction or action.

Attention also needs to be focussed on transforming the child safety departmental culture away from the current overly narrow focus on the child in isolation from the family, to a more supportive objective of supporting the well-being of the child *in the family* and engaging parents and extended family as partners in family support work – as strengths and resources to be strengthened, rather than dismissed as the "baddies".

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

All of these agencies have a degree of self-interest, and self-preservation which means they are not truly neutral and independent. There needs to be a separate Appeals and Advocacy organisation that can balance and monitor any discrepancies and complaints.

Overall, however, FIN Townsville thinks that most new efforts should be on cultural change and energising the system rather than getting it bogged down in more red tape.

Chapter 10. Courts and Tribunals

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

In FIN's view this would be a positive move. There should be scope for parents to speak directly with the judge/magistrate, particularly if they have not secured legal representation, but additionally also when they do have legal representation. In the experience of FIN Townsville parents, Legal Aid lawyers often do not allow parents themselves to speak in court yet do not put energetic effort into representing their clients. We sense that the amount they are paid by Legal Aid is quite small and discourages vigorous action on behalf of parents, with Legal Aid Lawyers often encouraging parents to accept what Child safety is proposing when parents actually wish to contest it.

This seems contradictory. Why spend Legal Aid money if the lawyer is not going to act on the parent's instructions? Token representation is actually more detrimental to parents than none at all

In our view the best legal representation comes from the various Aboriginal and Torres Strait Islander Legal Services where lawyers are salaried and committed. For non-Indigenous parents FIN Townsville would like to recommend that a child protection specialist lawyer position is created at community legal services, as per the south west Brisbane CLS.

Q 38. *Should the number of dedicated children's court magistrates be increased? If so where should they be located?*

FIN Townsville parents are inclined to think that this would be a good development. In the Family Court arena it is recognised that expertise and experience is required in Family Court judges as they are dealing with issues pertaining to families and children. The same should apply in the children's court arena.

FIN Townsville also thinks that those appointed should be provided in the areas of greatest need, with the least amount of travel and expense being imposed on families. If families must travel to attend court a reimbursement of travel and accommodation costs should be available as it is when patients must travel to receive health care not available in their local area.

Q 39. ***What sort of expert advice should the children's court have access to, and in what kind of decisions should the court be seeking advice?***

The Children's Court should be notified well in advance when parents do not have legal representation or legal aid has been denied them. This instantly puts the parents in a disadvantaged state. All efforts should be made by the Children's Court to assist these parents to be properly represented. The reality that parents may be fearful of their situation, especially having never been inside a court room should be acknowledged.

The Family Inclusion Network (Queensland) Townsville Inc. offers court support to parents in a volunteer capacity. Children's Court magistrates should be made aware of this organisation and allow their presence in court to assist parents in dealing with the court process. FIN supporters work alongside and with parents as much as possible. FIN supporters should be allowed to speak in the children's court, when parents are unable to do so. An appropriate protocol of Children's Court proceedings may be made available to FIN so that they understand the court language and be able to assist parents to help themselves and learn through role modelling. This conduct would be far more acceptable to the Children's Court magistrate, than having an emotional or mute parent who is unable to speak in the court, and which may be in breach of The Child Protection Act 1999.

FIN in Townsville has recently started assisting us parents who don't have Legal Aid to write our own Affidavits to the court. We believe this is an empowering process and enables us to tell our story to the court and respond to claims made in the Department's Affidavits, which often are a misinterpretation of our circumstances, motivations and behaviour. We parents believe that help for parents in compiling Affidavits would be an invaluable service to be more widely available throughout the state.

In Queensland, it would be preferable to have a Children's Court Judge in residence to oversee the process of child protection matters. There may be a need to have more of these specialist judges installed to make informed decisions concerning children and parent's futures. Prompt assessments and deliberations should be the order of these courts, as children and families suffer greatly during this process. As already discussed under Question 9, a separate and unbiased entity may greatly enhance the decision making prior to the court proceedings.

A multi-disciplinary team attached to the court which is versed in drug and alcohol issues may also be of benefit. The Family Drug and Alcohol Court pilot programme has had tremendous success in helping to support many families to stop misusing drugs/alcohol and work towards rehabilitation of their children home.

FIN Townsville also thinks that all children should be represented in child protection matters if they are of an age and developmental level where their views can be considered. We know that Separate Representatives are appointed in some matters but these are usually ones where the Department has been involved for a lengthy period of time and usually pertains to situations where long term orders are being sought. Separate Reps rarely actually meet with children, they get social workers or psychologists to undertake social assessment reports for them, but it would be appropriate also for them to meet the child, talk to them about the court processes and also ensure they understand fully what is going on. A

system where there is a duty list for solicitors to be appointed when matters first go to court to represent children would be a wonderful move forward.

Q 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 Qld?***

Parents in FIN Townsville agree strongly with this proposition. We feel such decisions, which have such far reaching consequences for a family, should be taken to the highest level.

It is without a doubt that a Justice of the Supreme Court of Queensland would look at child protection Orders, such as Guardianship or Long Term Guardianship with fresh eyes. Having had extensive knowledge, experience and practice in most areas of law, they would be best suited to make decisions concerning such Orders. If a Justice of the Supreme Court of Queensland is not available, perhaps a Family Court Judge may be considered

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

Parents in FIN Townsville think that Family Group Meetings should be conducted in the way they were intended – with a spirit of inclusion. Many people who could, and often would, offer support to parents at FGMs are deliberately excluded, for example Family Doctors, Foster Carers, the Clergy and Employers.

Moreover, in reality in our experience as parents, workers are time poor, **power** hungry, and manipulate us into agreeing with things we would rather not agree to. We feel powerless because Child Safety have our child.

However, although we do find that an FGM works better when there is a truly independent chairperson, nonetheless we feel strongly that our FIN support workers should be allowed to speak in FGM's. There is presently no appropriate explanation why this is not allowed to occur, especially given that in the Act it clearly says that support people can attend and participate.. For example, a FIN support person recently wrote that

> *"In a recent FGM meeting as a support person, my voice was silenced at the very beginning of the meeting by the convenor. I am not sure if the convenor was a Departmental worker or not. Throughout the course of the meeting much discussion generated around pick and drop off points for the children involved. Because I was silenced at the beginning of the meeting I could not voice my volunteering to do this task for the parties involved. The only time that I could actually do this was when we were off speaker phone,*

which was then relayed to the meeting by the spokesperson in our group. When the convenor thanked me for volunteering to do this, again I could not respond. I found this to be very demeaning as a professional person, and I thought that all of my qualifications count for nothing in an FGM."

It is essential that the protocols of FGM are followed correctly and that parents, children and their families be given the opportunity to voice their concerns. The power imbalance that has been allowed to thrive in past FGM's needs to be outlawed forthwith.

Parents would greatly benefit from having FGM protocol booklet given to them when coming into contact with the Department. Parents need to have information about FGMs i.e. their purpose, their role; and their right to have a support person present who can "attend AND participate" as specified in the Act,

Additionally, as the FGM is focussed on case planning for the next 6 months for the child there is a desperate need for another meeting beforehand with parents to discuss the broader picture re orders, rehabilitation goals etc, focussing on casework with the parents in the interests of the child. It is exceedingly frustrating to be told these issues aren't for discussion at the FGM yet no other discussion time is made possible. Such a meeting could – in our view should - be an alternative to the current SCAN meetings.

Q 42. *What, if any, changes should be made to the Court Ordered Conference to ensure it is an effective mechanism for discussing possible settlement in Child Protection litigation?*

Our experience as parents in FIN Townsville of Court Ordered Conferences is limited. However, we certainly think that court ordered conferences should be truly independent and that our FIN support people should be allowed to speak, provided they do it in a professional way - as, we are confident, support people in FIN Townsville would. We believe the attempt by Departmental staff to silence our support people is against the spirit of the 1999 Act

One way of achieving a truly independent mediator for a COC could be to involve a representative from an internationally recognized humanitarian organization like the UN or Red Cross.

Q43. *What, if any, changes should be made to the compulsory conference process to ensure that it is an effective dispute resolution process in QCAT proceedings*

All that we have said about court ordered conferences and FGMs should apply to QCAT proceedings. Unfortunately most of us parents, grandparents and significant others in FIN Townsville are unable to comment in depth on this question since we are always advised, when we seek legal assistance, to drop our case as the department will find ways to wriggle

out of addressing our concerns and shift the goal posts, and it will cost us a fortune which we will lose.

This in itself is an indictment of the way the dice are loaded in favour of the Department in every avenue for dispute resolution which is available to parents and families.

One FIN Townsville member adds the following comments:

> *Firstly, these disputes need to be dealt with in a timely manner, and no Government department is or should be above the law, or able to control, intimidate, stagnate or manipulate the QCAT (or any other legal process) process in any way.*
>
> *The clear intended objective of using the strategies of Delay, Deter and Deceive to overwhelm and render powerless any and all intending litigants must be exposed, challenged and brought to an end.*
>
> *It should no longer be tolerated that any litigants, often with limited education, money, recourses and access to expert independent legal assistance can be defamed, vilified or in any other way disadvantaged by Departmental cover up and corruption.*
>
> *The Symbiotic relationship between the Department, the QPS, the DPP, and the Legal Aid System must be stopped, with a policy of zero tolerance for any individual or interdepartmental support for unjustified or inappropriate behaviour, or disparaging, critical or disrespectful language, actions or attitudes to the families and litigants in any dispute.*
>
> *Full support in word and in action, must be offered and given to any employee of any government Department or NGO, with the courage and integrity to come forward and expose injustice or express their concerns with regard to fellow workers in this very important and sensitive area of our community.*
>
> *All compulsory conferences should be preceded by a number of mediation or conciliation sessions, convened by specially trained Mediators/Conciliators, in order to properly identify the areas of dispute and/or agreement. As in all legal disputes, the litigants would have the right to demand and expect full disclosure of any and all evidence to support the accusations and concerns raised against them.*
>
> *Fully funded Expert legal assistance must be made available to all litigants regardless of their personal and financial situation, so as to show and provide a full commitment to justice and equity for all concerned. As explained by Julian Burnside, QC, in his book, Watching Brief, page 218, "The reality is that only the very rich and the very poor can afford litigation".*[9] *As he points out in this chapter titled "Access to Justice", even he could not afford to employ someone like himself, to represent him should the need ever arrive.*
>
> *Regardless of where these disputes arise, proper independent and unthreatening facilities must be made available for all compulsory conferences, in a neutral and welcoming environment, where litigants can be fully supported so as to feel safe and that their concerns will be taken seriously, in a professional, calm and unhurried manner.*

Q 44. Should the children's court be empowered to deal with review applications about placement and contact instead of the QCAT, and without reference to the tribunal where there are ongoing proceedings in the Children's court to which the review decisions relates?

The present culture of Queensland Civil and Administrative Tribunal proceedings is laced with oppression and intimidation for the parents involved. Parents should have legal representation when presenting at these Tribunals. If the parents are dissatisfied with the outcome, this should be made known to the Children's Court. The Discussion Paper on page 278 states that "…the Children's Court has the ability to appoint a person having specialist knowledge or skills pursuant to s 107 of the Act to replicate what happens at the Tribunal…" which usually consists of three people. A combination of QCAT and the Children's Court specialist may be in accordance with a more positive and just outcome being delivered.

While we FIN parents think that the Children's court might provide more speedy review of placement and contact issues, we are not convinced that it would be best to remove the possibility of applications to QCAT and just stick to the Children's Court Judge. We don't think that either is really sufficient on its own merits.

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

As identified in the Discussion Paper on page 277, the present culture surrounding the Queensland Civil and Administrative Tribunal does not support the best interests of the parents, in that they are "...disadvantaged clients very little opportunity to consider what is often 'voluminous or complex material…" even though provision is made in s 158 of the QCAT Act that parents require 28 day notice before a conference is heard. It would appear from this that the QCAT needs to be taken to task, and the members of this Tribunal need to be well versed in the QCAT Act, The Child Protection Act 1999 and understand the correct protocol that is accorded to parents in the interests of natural justice and procedural fairness. If QCAT is not forthcoming in these improvements it may necessary to engage another separate entity or have the Children Court Specialist Judge deal with the matters at hand.

Chapter 11 Funding for the CP system

Q 46. *Where in the Child Protection system can savings or efficiencies be identified?*

We parents, grandparents and significant others in FIN Townsville have generated a substantial list of where we think efficiencies can be identified:

- Giving families greater support at the time of need.

- Equipping families with support for skills training
- Assisting families in need now will allow them to take control of their lives and save money in the long run
- Assisting families to take control of their lives assists in alleviating mental health issues and criminal activity
- not taking so many children into care unnecessarily
- dealing with neglect and emotional harm through means of family support not removal of children
- cutting back on investigations on perceived risk but no actual harm
- working more energetically, purposefully and supportively for reunification to be a reality so that children spend less time in care
- listening to the wishes of children and young people who long to return to their parents' care and supporting them to do so
- Abolishing SCAN and replacing it with a revised form of FGM type meeting, with a broader mandate, at which parents, children, family members, and their support people are present and can actively and genuinely participate
- Greater accountability re implementing the spirit of the Act would actually lead to savings, as better practice would lead to fewer placement breakdowns, fewer young people in care getting caught up in in the youth justice system, etc
- Meet the requirements of the Act by having approved volunteer contact supervisors other than CSSOs – eg family members, FIN representatives
- Allowing more unsupervised contact where there are no serious risks
- Listening to, and taking seriously, the concerns of Foster Carers may reduce long term harm and the cost of fixing it.
- Less mental and physical ill health of both children and parents would reduce the overall short and long term health costs.
- By being less combative and more compassionate, the system could be "Fixing" as opposed to "Fighting" the family, then we would save money on the need to have the children in out of home care, and the cost of trying to "Fix" the children later.
- Support after reunification in order to reduce the risk of re-entry into out-of-home care

Chapter 12. Conclusions – next steps in the work of the Commission

Q 47. What other changes might improve the effectiveness of the Qld CP system?

Please re-read the beginning of this FIN Townsville's submission for our responses to this final question (see pages 1-4). FIN Qld Townsville's eight responses to Q 47 may make even more sense after reading our responses to all the other questions. As T S Eliot wrote:

> *We shall not cease from exploration, and the end of all our exploring will be to arrive where we started and know the place for the first time.*
>
> *T. S. Eliot [1943] Four Quartets*

Notes

1. Lorraine Muller (2010) *Indigenous Australian Social-Health Theory.* PhD thesis, School of Arts and Social Sciences, James Cook University

2. United Nations (1989) *Convention on the Rights of the Child* retrieved March 2013 from http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx

3. Tomison. A. (2001). A History of Child Protection: Back to the Future. *Family Matters*. No. 60, Spring/Summer. Australian Institute of Family Studies.

4. The **Star Chamber** was an English court of law that sat at the royal Palace of Westminster until 1641. Court sessions were held in secret, with no indictments, and no witnesses. Over time it was seen as a symbol of the misuse and abuse of power by the English monarchy and courts. In modern usage, legal or administrative bodies with strict, arbitrary rulings and secretive proceedings are sometimes called, metaphorically or poetically, *star chambers*, casting doubt on the legitimacy of the proceedings [http://en.wikipedia.org/wiki/Star_Chamber accessed on 2.3.13].

5. FIN Queensland Townsville Inc (2012) *10 Key Issues* *http://www.childprotectioninquiry.qld.gov.au/__data/assets/pdf_file/0020/163433/Family_Inclusion_Network_Qld_Townsville_Inc_Thorpe__Rosamund_1st_Submission.PDF*

6. Chenoweth, L. & McAuliffe, D. (2005) *The Road to Social Work & Human Service Practice. An Introductory Text.* Thomson. Melbourne, Australia

7. Lovatt H. (in preparation) *Is Anyone Listening? Moving from foster caring to caring for children and families.* PhD thesis to be submitted in September 2013, School of Arts and Social Sciences, James Cook University

8. FIN Queensland Townsville Inc (2012) *Supporting Families and Stronger Futures* http://www.childprotectioninquiry.qld.gov.au/__data/assets/pdf_file/0003/163434/Family_Inclusion_Network_Qld_Townsville_Inc_Thorpe__Rosamund_2nd_Submission.PDF

9. Julian Burnside (2008) *Watching Brief: Reflections on Human Rights, Law and Justice.* Carlton, Victoria: Scribe Publications Pty Limited

Attachment One

Extended response to Question 17.

Q17. *The Family Inclusion Network* (FIN) supports an expanded role for residential care (linked with intensive support services) on the continuum of Out Of Home Care options (OOHC). In line with national trends and accompanying de-institutionalisation, the provision of residential care has declined, however, in the past couple of decades to about 8% of OOHC placements in Queensland (Carmody, 2013). A core belief prevails that foster care approximates biological family care and is preferable to residential care; but the research of Delfabro and Osborn (2005), Delfabro, Osborn and Barber (2005), Raymond and Heseltine, 2009), Flyn et al (2005) and Bath (2008) support the view that conventional home-based care is not suitable for some children with complex behavioural problems and high levels of placement instability.

At the same time demographic changes (ageing population), changes in the structure of families (more single parent families), social change (more women in paid work), organisational constraints (blue card impacts on kinship care for Indigenous families) have combined to reduce the capacity of the foster care and kinship care systems. Grandparents are virtually disregarded as an OOHC option.

Additionally, there is an increasing perception that untrained non-professional foster carers cannot meet the therapeutic and developmental needs of a significant proportion of OOHC children with complex needs and challenging behaviours. Bath (2008, p.5) suggest that the proportion of children with complex needs could be higher than 20% in the foster care system, while the proportion of young people in residential care with complex needs is close to 100% if mental health issues are included (2008, pp. 6 & 7). **Such factors are driving demand for residential care and group care to fill the gap and to meet rising demand for services that can't be met in the foster/kinship care systems that go beyond simply meeting accommodation and housing needs of high-needs children.**

There is, however, a paucity of research in Australia on 'what works/what doesn't work' to guide the future development of residential models of care (Bromfield and Osborn, 2007) given the perceived weaknesses, failures, and high costs associated with residential care e.g. $100,000-$350.000 per child per annum, according to Carmody (2013, p. 133). **This compels the need to move to an integrated national framework for OOHC to develop an evidence base for best practice in models of residential care to meet the demand for improved therapeutic and social outcomes that are also cost effective.**

Historical considerations

Historical social experiments do however provide evidence of **'what doesn't work'** in residential and group care. The large-scale institutional arrangements for rescuing abused and neglected children in the latter half of the 19th and the first half of the 20th centuries **(boarding schools, reform schools, dormitories, large group homes) have been thoroughly discredited because of pervasive human rights abuses. By their organisational nature, such hierarchical power arrangements are counter-therapeutic and harmful because they disempower and remove agency from young people on the cusp of becoming adults and exclude them from participating in decisions about their**

own lives. Addressing such abuses underpinned the development on the United Nation's *Convention on the Rights of the Child.*

In the second half of the 20th century, similar care arrangements and campus-style accommodation have been discredited by the lessons of the **Stolen Generations**. It is difficult to envision how cultural safety or the more general rights of a child under the *Convention* could ever be met by large-scale group-care arrangements, especially for children with complex needs. A parent member of FIN has disclosed being a victim of regular systematic sexual abuse of children living on a large-scale residential campus in Perth in the 1970's by high-profile privileged and powerful members of Perth society. **This FIN member described an amusement park atmosphere and fairground opportunities for sexual abuse of children and is understandably of the opinion that such campus-style arrangements "don't work" and "won't work".**

In the 21st Century, a number of Inquiries and Reports in a number of international jurisdictions reinforce the risk of abuse associated with large-scale institutional care e.g. the failure of institutions involved in the care of children to respond to allegations of sexual abuse (Rout, 2013; Beckett, 2011).

A return to large-scale institutional care would be a radical pendulum swing between child rescue and family support (Lamont and Bromfield, 2010; Tilbury et al, 2007). The historical evidence from such social experiments in large-scale institutional care reinforces Tomison's observations (2002, p. 19) that reform should be incremental rather than radical swings which risk repeating the mistakes of the past. The evidence is that a radical swing back to large-scale institutional care would be mistake.

Current models of residential care and reform

Researchers such as Tomison (2002, p. 4) and Scott (2006, p.9) argue for reform because **current statutory approaches to child protection are unsustainable, potentially harmful (Bruskas 2008) and that the forensic approach has "no realistic hope of meaningful treatment or family support" or preventing the occurrence and re-occurrence of child abuse and maltreatment**. Such remarks apply equally to potentially abusive residential care in Queensland, which is generally provided through small units of 4-5 residents, but is run-down and struggling to cope (Bath, 2008).

A number of general frameworks for reform which reflect a strong consensus have been proposed (ACOSS, 2008; Bromfield and Holzer, 2008; Bromfield and Osborn, 2007; Crime and Misconduct Commission, 2004; FaHCSIA, 2008; Forde Inquiry, 2001; Lamont and Bromfield, 2010; Lonne, 2012; Tomison, 2002) and such frameworks for reform apply equally to the reform of **the general positioning, shape and focus of residential care.** Lonne (2012) proposes:

- **Structural arrangements for a Public Health approach** (Bromfield and Holzer, 2008) to primary, secondary and tertiary prevention e.g. a reduced role for tertiary intervention and surveillance in residential care and an enhanced emphasis on the role of the community sector.
- **Legislative, policy and procedural change** (Russ, Lonne, Darlington, 2009; Lonne Harries and Lantz, 2012) e.g. the principles of the United Nation's *Convention on the Rights*

of the Child need to be clearly articulated and implemented in residential care in a way that Lonne (2012, p. 12) advises "clearly locates children rights within a framework of family cultural and community heritage and responsibility, and does not in a dualistic way pit these against parental rights.

- **Incorporating relationships based practice and introducing an ethical framework** for practice e.g. workers need to be skilled in working in an empowering and respectful way with children and parents/extended family (FIN, 2008). Lonne concludes that respectful relationship-based work can be powerfully transformative for children and their families (2012, p. 13).
- **Indigenising the residential care workforce** e.g. this would help to re-align residential care for Indigenous children with the Indigenous Child Placement Principle. Bromfield and Osborn (2007, p. 27) warn that using [white] concepts such as bonding and attachment to assess the wellbeing of Aboriginal and Torres Strait Island children is inconsistent with Indigenous values of relatedness and childrearing practices. Given the over-representation of Indigenous children in OOHC, non-Indigenous workers need to be skilled in culturally safe and sensitive practice.
- **Enhanced accountability**. FIN's experience in supporting parents of children in residential care is that care provider agencies can be very defensive in their interactions with parents and are too dependent on the legalistic dictates of the Department of Child Safety. This is counter-therapeutic: stigma attached to the parent by workers disparaging parent participation shames the child and is inconsistent with the policy rhetoric of child and family participation and consumer participation/accountability discourses that are central to service delivery in the 21st century.
- **Workforce development**. Lonne (2012, p. 17) claims that the oft-failed reforms of the past point to the false promises of straight-forward systemic, legislative and procedural reforms and point to the need for a properly trained work force with qualifications in human services, psychology and social work. An alternative pathway into the workforce should be provided for Indigenous residential workers.
- **Rebuilding strong communities**. Models of residential care can contribute to building strong communities by working in partnership with the parents and families of children in care, by active cross-sectoral collaboration, and multi-agency collaboration and partnerships which avoid duplication of support services and which encourage natural helping networks in the community, rather than replacing them. Community Development/Public Health approaches are vital here: these approaches can impact on micro decision-making as well, and have the potential to replicate in the residential care sector the impressive successes of the principles of **Harm Minimization** and **Harm Reduction** in the health and mental health sectors in Australia.

Bath (2008, p. 8) suggests that current models of residential care often fail to address the complex needs of young people. Services are generally provided by unskilled or semi-skilled workers; conceptual and theoretical articulation is primitive; and policy development is based on traditional social welfare work models and values, and based on rights/ responsibilities, social inequality and political action.

New models of residential care need to **move beyond a legal/forensic approach** and somewhat **punitive behaviour-management approaches** for providing care, housing, and accommodation services to…

- providing **therapeutic services** with a **treatment focus** based on the **needs** of the children.
- adopting treatment models that have an evidence base for **positive outcomes**.
- employ **staff trained and qualified** in identifying and treating **substance abuse, personality disorders, anti-social behaviours, and mental health problems** and **working with pain-based behaviours**.
- **collaborative** services that **integrate workers' perspectives from different professional backgrounds.**
- Services that are **goal directed, holistically planned, accountable**, and can **demonstrate positive outcomes.**

This FIN submission to the Inquiry has reflected on historical models of residential and group care and has rejected a radical pendulum swing back to large-scale residential and group care because of the historical risks of further harm and abuse. Current models of residential care have been assessed as not meeting the complex needs of young people in residential care. The submission has considered the positioning and place of residential care on the care continuum for protecting children who have experienced harm or abuse, and the future shape and focus of residential care. The submission concludes that further research into **key themes and issues** (Bath, 2008) and **internal transactional processes** (Raymond and Heseltine, 2009) is required to develop new models of care that meet the complex therapeutic and social needs of children in residential care in effective and cost efficient ways.

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