



SUBMISSION TO QUEENSLAND CHILD PROTECTION COMMISSION OF INQUIRY

BY QUEENSLAND CATHOLIC EDUCATION COMMISSION

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Table of Contents

Executive Summary.....	1
1.0 Introduction	6
2.0 Governance of Child Protection Requirements for Non-State Schools.....	8
3.0 Alignment of Child Protection Legislation	11
(i) Legislative issues regarding reporting concerns of abuse and harm.....	11
(ii) Definitional issues	14
4.0 Unintended Consequences of “Immediate” Mandatory Reporting of Sexual Abuse.....	19
5.0 Decision-making Tools for Professional Reporters – Child Protection Guide.....	22
6.0 Intake and Referral Models	25
7.0 Structured Decision-Making Tools.....	30
8.0 The SCAN System	32
9.0 Secondary Services in Queensland	34
10.0 Transition through the Child Protection System	39
11.0 Conclusion.....	41

Appendix 1 - Section 10 of the *Education (Accreditation of Non-State Schools) Regulation 2001*

Executive Summary

Queensland Catholic Education Commission (QCEC) is the peak body at state level for twenty-two Catholic school employing authorities with 135 000 students and 16 000 employees across Queensland.

The QCEC submission is based on advice from the QCEC Student Protection Subcommittee, the members of which are senior child protection and legal practitioners from the Catholic school authorities who have a very close working knowledge of the implementation of current legislative requirements in Queensland Catholic schools.

QCEC wishes to preface this response by stating that Catholic school authorities are fully committed to ensuring the safety of children and young people in Catholic schools in Queensland. This means that Catholic school authorities are also committed to being fully compliant with all legislative and regulatory requirements. In particular, by complying with the accreditation requirements under the *Education (Non-State Schools Accreditation) Act 2001* and the *Education (Non-State Schools Accreditation) Regulation 2001*, Catholic schools in Queensland, along with other Queensland non-state school authorities, have extensive accountabilities which go beyond those of the state schooling sector in Queensland.

This submission contains a number of recommendations for consideration by the Commission of Inquiry, in terms of enhancing consistency across the Queensland education sector in the area of child protection, and affording a greater level of support to children, young people and families. QCEC has made specific comment regarding the legislation and decision-making processes governing mandatory reporting and the intake and assessment phase of the child protection system.

QCEC acknowledges the significant role of the secondary service system in addressing those young people and families at risk of statutory intervention, and this submission discusses how this system could be appropriately resourced and further developed to achieve high quality outcomes.

In addition, the submission notes how non-state schools can support young people engaged in the child protection system, including the involvement of education in SCAN (Suspected Child Abuse and Neglect) processes and assisting young people in care to achieve positive education outcomes through appropriate support planning.

The specific recommendations in the body of the submission are summarised as follows:

Recommendation 1.1:

QCEC recommends that the Commissioner note the scope of this submission set out in Section 1.0 and consider all following recommendations in that context.

Recommendation 2.1:

QCEC recommends that the Commissioner consider how the various government departments and authorities intersect around the governance of child protection requirements for state and non-state schools, and indeed other organisations working with children and young people, with the aim of improving consistency in oversight and implementation.

Recommendation 3.1:

It is recommended that the Commissioner examine the current child protection legislation which impacts on all sectors, both government and non-government, with the purpose of attempting to clarify and simplify child protection responsibilities across all professional disciplines and sectors as reflected in child protection legislation in other Australian State Jurisdictions. This would enhance consistency in implementation across key organisations working with children so as to ensure effective and consistent responses and subsequent best long term outcome for children and young people and their families.

Recommendation 4.1:

In the review of child protection legislation governing schools, it is proposed that further consideration be given to the use of the term “*immediately*” in the mandatory reporting of sexual abuse and likely sexual abuse of a student by any person. It is acknowledged that these issues should definitely be reported. However, the timeframe of having to report immediately can have significant unintended negative consequences for the child or young person involved when the child or young person is not in any immediate risk of harm.

Recommendation 5.1:

While QCEC acknowledges the potential benefits of decision-making guides/tools such as the proposed Child Protection Guide, it is recommended that implementation be deferred until all child protection legislation impacting on all sectors is aligned and a more robust state-wide secondary system is in place.

Recommendation 6.1:

QCEC recommends that delivery of intake services by the Department of Communities, Child Safety and Disability Services’ Regional Intake Service (RIS) remains in place and be enhanced, through a focus on consistency and working actively with the secondary service system to meet the needs of children and families.

Recommendation 7.1:

It is recommended that any changes to the Structured Decision-Making Tool be *evidence based*, noting the review and validation studies undertaken by the Wisconsin Research Center regarding the tool on which the Queensland SDM is based.

Recommendation 7.2:

As Queensland has implemented the decision-making tool since 2006 and has managed a significant number of intakes through the system over this period, there is the intrinsic ability to utilise this data and review the efficacy of the system in the Queensland context. Any changes to the system should be based on the findings of such a review.

Recommendation 8.1:

QCEC strongly supports the retention of the SCAN system and supports the proposal put forward by the Commission which is as follows:

“The Commission is exploring the option of providing a range of different responses to notifications which might involve the family, in certain cases, being provided with a family assessment and timely services without a formal determination or substantiation of child abuse or neglect.

If such a model is considered suitable for Queensland, a review of the current SCAN model may need to be undertaken to ensure that families receiving a response from a ‘differential pathway’ can be referred to SCAN. Such a review should include provisions for the inclusion, as core members of SCAN, of non-government agencies that are responsible for specific pathways.”

Recommendation 9.1:

It is recommended that the Commissioner further scope the availability and resourcing of secondary child protection services in Queensland, and explore how formalised and coordinated approaches to family intervention can mitigate the risks towards children and families failing to receive appropriate responses which subsequently place them at greater likelihood of involvement in the Child Protection system.

Recommendation 9.2:

It is recommended that an intensive targeted secondary service network be developed to address the growing gap that exists between families who voluntarily and willingly access

supports and families who are resistant or not able to access supports even when a facilitated referral process is activated.

Recommendation 10.1:

That the Commission formally acknowledge that schools play an important role in their connection with children and young people in the care of the State. It is proposed that schools be funded appropriately so they can better assist students in care of the State when they are at school, and also when they are transitioning out of the child protection system and educational environment.

1.0 Introduction

This submission attempts to comment on issues that are of particular relevance and importance to Catholic schools in Queensland. The Queensland Catholic Education Commission's (QCEC) response will focus on the following issues.

- Governance of child protection requirements for non-state schools
- Alignment of relevant child protection legislation
- Mandatory reporting issues
- Mechanisms to assist professionals report concerns about children
- Intake and Referral Models
- Structured Decision-Making Tools used by Child Safety Services
- The SCAN (Suspected Child Abuse and Neglect) system
- Secondary Services in Queensland
- Transition from the Statutory Child Protection System

QCEC respectfully acknowledges the historical and contemporary issues that impact upon Aboriginal and Torres Strait Islander communities, which both encompass and extend beyond the Queensland child protection system.

It is also noted that Catholic schools in Queensland do have Aboriginal and Torres Strait Islander children and young people enrolled who have been, or may be, involved with the child protection system in Queensland. Within these schools there are specific policies around the inclusion and education of Aboriginal and Torres Strait Islander children and young people and the schools' written procedures for student protection make reference to these children and young people.

This submission does not propose any detailed strategies for reducing the over-representation of Aboriginal and Torres Strait Islander children in the child protection system, though it is acknowledged that many of the issues identified in the submission are

relevant to Aboriginal and Torres Strait Islander communities. QCEC supports the significant work undertaken by a number of government and non-government agencies to address the over-representation of Aboriginal and Torres Strait Islander children in the child protection system and is committed to fulfilling its role in working collaboratively with these organisations.

Recommendation 1.1:

QCEC recommends that the Commissioner note the scope of this submission and consider all following recommendations in that context.

2.0 Governance of Child Protection Requirements for Non-State Schools

QCEC wishes to bring to the Inquiry's attention a question posed in the September 2012 Paper issued by the Commission entitled "*Queensland Child Protection Commission of Inquiry: emerging issues*". In this paper the Commission identified six key issues that had been considered over the first two months of the inquiries operation. The first issue listed was that of "*Mandatory Reporting*". Under this heading and at page 3 of the paper, the following paragraph can be found:

"In this context, questions for the Queensland Child Protection Commission of Inquiry include: do the Department of Communities, Child Safety and Disability and the Commission for Children and Young People and Child Guardian monitor and have input into the policies and practices of non-government schools and churches with regard to the handling of the suspected and alleged abuse of children? How is compliance with these policies and practices regulated and enforced? How is non-compliance dealt with? What external and internal mechanisms are in place for reviewing, standardising and improving them?"

It is intended that these questions raised by the Inquiry regarding non-state schools will be addressed in this QCEC submission from a Catholic schools' perspective, however the following is a brief reply to these questions:

Non-state schools are governed by three main Acts and Regulations which means that in responding to student protection concerns and meeting legislative and accreditation requirements, non-state schools are accountable to several government departments and authorities including:

- The Commission for Children and Young People and Child Guardian
- The Non-State Schools Accreditation Board (NSSAB)
- The Department of Communities, Child Safety Services

- Queensland Police

The Non-State Schools Accreditation Board (NSSAB) plays a significant role in the assessment of the policies and processes of non-state schools. This is undertaken through both scheduled and random auditing of schools and their policies and processes by the NSSAB. This includes the oversight of student protection policies and processes as prescribed by Section 10 of the *Education (Accreditation of Non-State schools) Regulation 2001*. (See Appendix 1) The requirements imposed under this legislation are for **non-state schools only**.

Sections 171 and 172 of the *Commission for Children and Young People and Child Guardian Act 2000* mandate that regulated businesses, (which includes both state and non-state schools) must have a risk management strategy that:

- (a) *“implements employment practices and procedures to promote the wellbeing of a child affected by the regulated employment and to protect the child from harm; and*
- (b) *includes the matters prescribed under a regulation.”*

Again, the legislation prescribes a penalty for failing to develop and implement a Risk Management Strategy, with Section 3 of the *Commission for Children and Young People and Child Guardian Regulation 2011* detailing the matters to be addressed in the Risk Management Strategy including:

- “policies and procedures for handling disclosures or suspicions of harm, including reporting guidelines”*

No specific requirements are contained within the *Commission for Children and Young People and Child Guardian Act or Regulation* for the mandatory reporting of disclosures or suspicion of harm, nor are the agencies required to receive such reports mandated.

There are varied compliance oversight mechanisms in place and presently undertaken by the Commission for Children and Young People of non-state schools. However, random

audits can be undertaken by the Commission at any time to verify that a Child Protection Risk Management Strategy which includes appropriate Blue Card registration is in place.

QCEC is also aware that Catholic schools in Queensland work to develop partnerships with relevant statutory authorities. For example, QCEC has developed agreed protocols with Queensland Police and Department of Communities - Child Safety and Disability Services regarding the attendance of these authorities at Catholic schools to interview children. A copy of these protocols can be made available to the Commission upon request. More detailed comment about the legislation governing Catholic schools in Queensland follows.

Recommendation 2.1:

QCEC recommends that the Commissioner consider how the various government departments and authorities intersect around the governance of child protection requirements for state and non-state schools, and indeed other organisations working with children and young people, with the aim of improving consistency in oversight and implementation.

3.0 Alignment of Child Protection Legislation

Comments follow regarding these issues relating to legislation and associated matters:

- (i) Legislative issues regarding reporting concerns of abuse and harm*
- (ii) Definitional issues in legislation*

(i) Legislative issues regarding reporting concerns of abuse and harm

In Queensland, state schools and non-state schools, including Catholic Schools, are required to meet a number of legislative and regulatory obligations regarding the safety and well-being of students.

All schools in Queensland have student protection reporting responsibilities as prescribed by ***the Education (General Provisions) Act and Regulation 2006***. These responsibilities relate to the mandatory reporting of sexual abuse and likely sexual abuse of a student under 18 years by another person.

Also, all schools in Queensland as regulated businesses must have a Child Protection Risk Management Strategy in place (as cited previously) which is prescribed under ***the Commission for Children and Young People and Child Guardian Act 2000 and Regulation***.

The differences between state schools and non-state schools student protection requirements is that non-state schools in Queensland are regulated by another Act and Regulation which does not apply to Queensland state schools.

The Education (Accreditation of Non-State Schools) Act and Regulation 2001

The Education (Accreditation of Non-State Schools) Act 2001 governs the accreditation of non-state schools in Queensland. Relevant parts of Section 10 of the *Education (Accreditation of Non-State Schools) Regulation 2001* (see Appendix 1 for copy of entire regulation) state that:

- The school must have written processes about the appropriate conduct of its staff and students
- The school must have a process for the reporting by students of staff behaviour which the students consider is inappropriate
- There must be two stated staff members to whom a student can report staff behaviour which the student considers inappropriate
- The school must have a process stating how the information reported to the staff member must be addressed
- The school must have processes for staff to report harm and sexual abuse and likely sexual abuse to students which includes reporting to the Principal or another person stated in the process, and a process which explains how to report to a relevant State authority
- The school must be able to demonstrate how their students and staff know about the processes
- The processes must be readily accessible by staff and students
- The school must be able to demonstrate how the processes are being followed

In this section, **relevant State authority** means: *“(a) the chief executive, or another officer, of the department in which the Child Protection Act 1999 is administered; (b) an authorised officer under the Child Protection Act 1999; or (c) a police officer.”*

Of particular relevance to this submission is the requirement under the regulation to have “*written processes*” regarding reporting harm or suspected harm from any source to the “*relevant State authority*”.

QCEC notes that the regulation does **not** stipulate that suspicions of harm must be reported to the relevant State authority as under a “*mandatory*” requirement but rather prescribes that a non-state school must have written processes describing how this would occur, and the school’s governing body must be able to demonstrate how the school is implementing the processes. No penalty is provided under the regulation for failing to meet these requirements; however the legislation governs the accreditation of non-state schools. Failure to meet the requirements under this legislation has very serious consequences which include the possibility of the school losing its accreditation from NSSAB.

Taking this into consideration it is important to note that consequently, under their policies, most Catholic schools in Queensland require that staff and Principals must *compulsorily* report to a relevant State authority to demonstrate the processes are being followed.

It is further noted that similar provisions do not apply to Queensland state schools, whose reporting processes around harm or suspected harm to students (other than sexual abuse or likely sexual abuse of a student by another person) are based on policy, rather than legislative requirements. This creates an inherent discrepancy between the state and non-state school systems. It also enables the state schools some discretion as to when a report is made and to whom the report is made.

(ii) Definitional issues

As previously discussed in section (i), there are three Acts and Regulations that specifically include child protection reporting requirements that apply to non-state schools in Queensland.

In addition, the *Child Protection Act 1999* provides for the protection of children and is the Act under which statutory authorities such as Child Safety Services enact their powers. Key definitions exist across these Acts, which pose a number of issues. For example:

Harm is defined in section 9 of the *Child Protection Act 1999* as:

“What is *harm*?

(1) **Harm**, to a child, is any detrimental effect of a significant nature on the child’s physical, psychological or emotional wellbeing.

(2) It is immaterial how the harm is caused.

(3) Harm can be caused by—

(a) physical, psychological or emotional abuse or neglect;

or

(b) sexual abuse or exploitation.

(4) Harm can be caused by—

(a) a single act, omission or circumstance; or

(b) a series or combination of acts, omissions or circumstances.”

QCEC notes that subsection (4) was introduced in 2011 to reflect the effect of cumulative harm on children. The *Child Protection Act 1999* then clarifies the definition of a child in need of protection as:

“10 Who is a *child in need of protection*?

A **child in need of protection** is a child who—

(a) has suffered harm, is suffering harm, or is at unacceptable risk of suffering harm; **and**

(b) does not have a parent able and willing to protect the child from the harm.”

A critical element to this section is that **both subsections (a) and (b) must be satisfied** before a child is deemed in need of protection and consequently, bring about an intervention by Department of Communities - Child Safety Services.

Section 3 of the *Education (Accreditation of Non-State Schools) Regulation 2001* defines harm to a student in similar terms:

“3 What is *harm* caused to a student under 18

(1) Harm, caused to a student under 18 years, is any detrimental effect of a significant nature on the student’s physical, psychological or emotional wellbeing.

(2) It is immaterial how the harm is caused.

(3) Harm can be caused by—

(a) physical, psychological or emotional abuse or neglect;

or

(b) sexual abuse or exploitation.”

QCEC notes that the regulation has not been amended to reflect the effects of cumulative harm in line with the *Child Protection Act 1999*.

A further significant issue arises through the use of specific language from the *Child Protection Act 1999* in section 3 of the regulation, specifically subsection (2) which states that it is *“immaterial how the harm is caused”*.

Of particular relevance in the broader context of mandatory reporting requirements, QCEC understands that doctors and registered nurses are required to report harm to children as defined under the provisions of the *Public Health Act 2005*. It is noted that the definition of harm under this Act differs yet again from the *Child Protection Act 1999* and the *Education (Accreditation of Non-State Schools) Regulation 2001*, and specifically **does not** include the wording that it is *“immaterial how the harm is caused”*.

Whilst under the definition of harm in the *Education (Accreditation of Non-State Schools) Regulation 2001* it is immaterial how the harm is caused, for a child to be deemed in need of protection (and therefore to be brought to the attention of the Department of Communities Child Safety and Disability Services), “a child must not have a parent **able and willing** to protect them from harm”.

The absence of this qualifying section in the regulation, and the fact that Section 10 of the regulation does not prescribe the source of harm in relation to the written reporting processes, means that where there is a reasonable suspicion of harm to a student (immaterial how the harm is caused), non-state schools are required to act in accordance with their written processes, regardless of the source of harm and regardless of whether there is a parent able and willing to protect the student from harm.

This compels non-state schools to report issues of harm where the person responsible is, for example, another student, a staff member, a person not associated with the school and who is not a household member. Such cases would generally involve a report of harm to Queensland Police as the relevant State authority, and would be appropriate in terms of ensuring a student’s safety.

This creates a particular issue in the area of student **self-harm**. The provision “*immaterial how the harm is caused*” within the definition of harm, means that self-harm must be reported to the “*relevant State authority*” (which does not include Child & Youth Mental Health) if the harm is significant and detrimental to the student. For non-state schools, this reporting requirement exists **even where** a parent is willing and able to act protectively. QCEC understands that state schools are not bound by this issue as they are not subject to Section 10 of the *Education (Accreditation of Non-State Schools) Regulation 2001*. In cases regarding student self-harm, state school Principals have discretion to assess the protectiveness or otherwise of a parent, and therefore whether or not to report to a State authority.

To demonstrate a self-harm reporting situation in a non-state schools the following case scenario 1 is noted:

Case Study 1

A 14 year old student at non-state school is experiencing anxiety and depression, and has been engaging in self-harming behaviour. The student has been referred by their parents to a private psychologist and is undergoing regular counselling. The student's parents are highly supportive of their child, and have taken all reasonable steps to ensure the student's safety, including the development of a safety plan in collaboration with the school.

A staff member at the school observes that the student has recently engaged in significant self-harming behaviour, evidenced by sighting deep cuts on the student's arms that have received medical attention. The student discloses that his parents took him to hospital the previous night in response to this self-injury.

The staff member forms the suspicion, based on this direct observation and disclosure from the student, that the student has experienced significant self-harm. Under the requirements of the school's written processes as prescribed by the Education (Accreditation of Non-State Schools) Regulation 2001, the staff member must report this suspicion to the Principal, and the Principal must report this suspicion to the relevant state authority - either Child Safety Services or Queensland Police.

Issues identified:

This issue does not involve the commission of a crime, therefore would not be necessarily reported to Police. The concern would therefore be reported to Child Safety Services, despite not meeting Child Safety's threshold of a "child in need of protection". Our understanding is that Child Safety services would be required to use their already strained resources to record the notification, but under its own mandate would not be able to intervene with this family.

This example illustrates three primary concerns:

1. The definition of harm under the *Education (Accreditation of Non-State Schools) Regulation 2001* results in the requirement for non-state schools to report all instances of self-harm to the relevant State authority, even where the student is not a "child in need of protection", therefore contributing to the workload of Child Safety Services and the volume of reports that do not meet their authority threshold for action.
2. The regulation does not prescribe a "relevant State authority" beyond Child Safety Services and Queensland Police, neither of which, in the case of self-harm, would necessarily be the appropriate agency to provide the necessary intervention if it is assessed there is a parent willing and able to protect the child.

3. The example also has unintended consequences such as protective parents having their names permanently registered on a statutory child protection data base and loss of trust between parent, student and school.

Recommendation 3.1:

It is recommended that the Commissioner examine the current child protection legislation which impacts on all sectors, both government and non-government, with the purpose of attempting to clarify and simplify child protection responsibilities across all professional disciplines and sectors as reflected in child protection legislation in other Australian State Jurisdictions. This would enhance consistency in implementation across key organisations working with children so as to ensure effective and consistent responses and subsequent best long term outcome for children and young people and their families.

4.0 Unintended Consequences of “Immediate” Mandatory Reporting of Sexual Abuse

The *Education (General Provisions) Act 2006*, sections 365 and 366 & s.365A & s.366A place an obligation on all Queensland school staff to “*immediately*” report to police if they reasonably suspect a student has been sexually abused or is likely to be sexually abused by any person.

The fact that the legislation stresses the time frame for reporting as “*immediately*” often creates significant practice issues for school staff, especially school counsellors. For example:

In the case of when a student discloses past sexual abuse and has no contact with the person allegedly responsible for the sexual abuse, under the current legislation the school has to immediately report the matter to police, even if the student refuses to discuss this with others including their own parents. This raises the issues of the right of a young person to work through this trauma at his/her pace, to enable the counsellor to focus on the student’s therapeutic needs/emotional wellbeing and to assist the student to inform his/her parents etc.

To demonstrate this issue, please see the following Case Study 2:

(Comment is not available in relation to the provisions of s.365A & s.366A of the Education (General Provisions) Act 2006 as these provisions only commenced operation on 29 January 2013, however, it could be assumed that the immediate mandatory reporting of likely sexual abuse could have similar unintended consequences).

Case Study 2

A year 12 student (17 years old) has been on the 'radar' for last three years due to:

- high level of parent – adolescent conflict with her mum (single parent, no contact with biological father)
- her decision to leave home
- her non engagement at school
- regular unexplained absences from school etc.

Since moving out of home and living with her boyfriend and his family, the student is observed to be more settled, higher levels of engagement with school noticed and relationship with her family started to improve with the student initiating regular positive contact with mother and siblings.

During this time the student disclosed to the Guidance Counsellor at school that she had been sexually abused by her father (i.e. inappropriate touching and sexual intercourse) several years ago. The student reported that she has not seen her father for over three years. The student reported that her siblings do not have contact with her father either.

The Guidance Counsellor informed the student of mandatory reporting requirements. The student was upset by the staff member's need to report the matter immediately to QPS via the Principal as she was not ready emotionally to 'deal' with this and had not told her mother. A report to Queensland Police was made on the same day and the mother notified. The student refused to speak with police and refused to speak with the Guidance Counsellor again.

Issues identified:

Balancing the student's wellbeing and compliance requirements. Due to fear of being prosecuted for failing to report, compliance takes precedence.

While the intent of the legislation is to protect the student and other children who may come in contact with the alleged perpetrator, the unintended consequence of being prescriptive about the timeframe in which this report has to be made is often problematic for the wellbeing of the student.

It is acknowledged that a report to police should be made however, the ability to use professional judgement about timely reporting to police would be more appropriate.

Recommendation 4.1:

In the review of child protection legislation governing schools, it is proposed that further consideration be given to the use of the term "*immediately*" in the mandatory reporting of sexual abuse and likely sexual abuse of a student by any person. It is acknowledged that these issues should definitely be reported. However, the timeframe of having to report immediately can have significant unintended negative consequences for the child

or young person involved when the child or young person is not in any immediate risk of harm.

5.0 Decision-making Tools for Professional Reporters – Child Protection Guide

QCEC notes that the implementation of decision-making tools, such as the Child Protection Guide trialled in South East Queensland, has the potential to enhance consistency across a range of professionals in determining when a report of concerns about a child should be made. In addition, such tools and guides may increase the knowledge and awareness of professionals regarding when and how to make a report.

However, these potential benefits are mitigated by the existence of divergent child protection reporting requirements across professionals.

As discussed previously, the specific regulatory requirements for non-state schools to have written procedures around reporting harm necessitate reports being made regardless of whether there is a “*child in need of protection*” as defined by the *Child Protection Act 1999*. Such requirements may conflict with tools that are designed to guide when it is appropriate to report child protection concerns. Ultimately professionals, including non-state school staff members, must default to their respective legislative and policy requirements. It is noted that the Department of Education, Training and Employment has provided similar feedback as noted in the discussion paper:

“Feedback from regional employees of the Department of Education, Training and Employment also indicates that Principals and guidance officers have found the guide to be useful, although it does not replace their professional judgement or their policy obligations.”

Therefore, for a reporting guide to be successful across the key organisations currently required to report child protection concerns, consistency must first be achieved around legislative and policy based reporting requirements.

The discussion paper notes that the trial of the child protection guide offered an alternative pathway to reporting child protection concerns to Child Safety Services, where in appropriate circumstances a referral could be made to a secondary service. When

considering the state-wide implementation of a tool such as the Child Protection Guide, the availability and accessibility of secondary services is critical to the success of this option. Key consideration must be given to a number of issues that impact upon service availability, including:

- the known impacts of Queensland geography on service delivery
- the particular and divergent demands of distinct communities
- the capacity of non-government agencies to meet service demand

Without the consistent availability of a robust secondary service system, the efficacy of this referral option will be significantly impacted. Again, the Department of Education, Training and Employment has commented on this as referenced in the discussion paper:

“The Department of Education, Training and Employment also noted that referrals to intensive family support services (rather than reports to Child Safety) depend on the availability of those services in each location.”

In addition, consideration must be given to how professionals, including staff within the non-state school system, would access the secondary system – would this be undertaken through a secondary “intake” process, which would afford a consistent referral base, or would this be through direct referral from the professional?

Careful consideration must be given to how such a decision-making tool would be implemented in a state-wide capacity, including key issues such as:

- Training of professionals in the use of the tool – would this be undertaken by Child Safety Services, or left to mandatory reporting bodies to coordinate in their respective organisations? A disparate approach to training and guidance may result in inconsistency in the application of the tool, and potentially undermines its efficacy
- Monitoring of the use of any decision-making tool – how will the use of a tool such as the Child Protection Guide be monitored during state-wide implementation? Will there be opportunity to review the tool and address any concerns or areas for development?

The discussion paper notes that the trial of the Child Protection Guide has not as yet yielded conclusive data as to the efficacy of the guide in terms of reducing unnecessary demand on the tertiary child protection system and subsequent outcomes for children and young people and families. It is the view of QCEC that such a review is critical prior to state-wide implementation of this or a similar tool.

Recommendation 5.1:

While QCEC acknowledges the potential benefits of decision-making guides/tools such as the proposed Child Protection Guide, it is recommended that implementation be deferred until all child protection legislation impacting on all sectors is aligned and a more robust state-wide secondary system is in place.

6.0 Intake and Referral Models

QCEC notes that the QCPCI's discussion paper presents a number of options for reforming the intake and referral system in Queensland, including the use of non-government service providers to manage potentially significant aspects of the intake process.

The intake stage where reports of suspected child abuse are initially received plays a critical role in determining the supports available to a child or young person to address their safety and wellbeing as it is at the point of intake where decisions are made about what happens (or does not happen) in response to a report about child protection concerns.

QCEC has reservations about the proposal to move intake services to a community based service. These concerns are detailed below.

Access to information to facilitate a full assessment of concerns

QCEC is aware that the Department of Communities - Child Safety Services currently utilises the *Integrated Client Management System (ICMS)* as the primary intake and case management tool for the recording of child protection information. This system affords access to key information on a state-wide basis by the appropriate authorised officers, and in particular provides the ability to access records regarding previous intakes involving a child or family. In addition, the system allows case notes, case plan and court order information to be recorded so that officers have a current, up to date view of the particular circumstances involving a child or family, such as the progress of an investigation.

Through ICMS authorised officers are able to identify family links which are particularly useful with respect to families with complex family structures, where intergenerational abuse is present and also for highly mobile families. ICMS also assists authorised officers to identify persons allegedly responsible for harm, who move from family to family therefore posing a risk to children.

Therefore, there are concerns that without access to historical tertiary child protection records, a community based intake service will be unable to make a full assessment of the concerns to facilitate a professional judgement about harm/likely harm, particularly cumulative harm.

Ability to conduct pre-notification checks to assist in the assessment of concerns

It is understood that pre-notification checks are undertaken when further information is needed to determine if a notification response is required. Information for a pre-notification check can be obtained from the following specific external sources that can provide relevant information about the family:

- another professional from within the Department of Communities, Child Safety and Disability Services (for example, Disability Services and Community Care Services)
- an external agency, including both government and non-government agencies, including health professionals, such as a general practitioner
- an interstate or international child protection jurisdiction

There is a concern that a community based intake service (proposed in Option 1 in the Discussion Paper) will not have the authority to conduct pre-notification checks thus compromising their ability to make a full assessment of the reported concerns. Should a community based intake service be given the same authority to conduct pre-notifications checks (as proposed in option 2), significant and potentially costly changes would need to occur across government and non-government agencies and with interstate or international child protection jurisdictions. It is likely that information exchange between professionals would be made more difficult due to the concerns about breaching privacy and confidentiality provisions.

Issues of confidentiality and privacy should a community based intake service be given access to historical tertiary child protection records

The proposal to give a community based intake service the same statutory authority to access tertiary child protection history poses significant issues around confidentiality and privacy. This would be a costly and complicated process given the sensitive nature of such information. Issues such as changes to legislation, development of information

guidelines/protocols to manage the access, storage and exchange of information would also need to be considered.

Potential loss of a central repository of child protection information

As well the proposal to introduce non-government service provision into the intake phase of managing reported child protection concerns could potentially result in the loss a central repository of child protection information. It is likely that any community based intake service and the Department of Communities, Child Safety and Disability Services would develop their own information and case management systems.

Where Government and non-government services' access to information or ability to exchange information around a particular child and family is made more difficult or complicated, there is a significant risk of harm/likely harm not being identified.

Financial costs and Information technology issues

The financial cost associated with establishing a new intake system would be considerable given the need to resolve the above mentioned issues relating to accessing, sharing, exchanging and storing information. Legislative amendments would be potentially required; protocols would need to be developed; changes would need to be made to practice manuals, policies, procedures and guidelines of all entities, including the Department of Communities, Child Safety and Disability Services.

Additionally, issues regarding information technology platforms between government and non-government systems cannot be underestimated, and may present significant financial costs to resolve.

It is proposed that resources (monetary as well as staff expertise and time) would be better spent elsewhere, particular in developing a more robust secondary child protection system and alignment /streamlining of child protection process across all entities.

Practical benefits of changing current intake model and implications for other entities

Even if the issues raised above were addressed through legislative amendments, information access protocols, and a system developed enabling a community intake service to operate from the same information and assessment model as the tertiary system, the question remains – what practical effects arise from introducing a community based system as opposed to maintaining the current intake model?

For instance, the efficacy and success of the dual track model is contingent on the reporting body undertaking the decision-making process around determining to whom the report should be made, based on the circumstances of the concern and the relevant contextual information. Essentially, a layer of decision-making is potentially shifted from the current tertiary intake system onto the reporting body. For many non-state schools the dual track system proposed by the Commission (option 2) is in fact a "triple track" system as consideration about a report to Queensland Police is still required.

A significant change to intake service provision would require the development and implementation of an extensive communication and change management strategy for all professional reporters as well as the general community.

Taking all of these issues into consideration, it is proposed that the current intake model, that is, delivery of intake services by the Department of Communities, Child Safety and Disability Services' Regional Intake Service (RIS), remain in place. It is further suggested that the RIS be enhanced in the following ways:

- equipping all five RIS with a state-wide online resource directory of all primary and secondary services provided and funded by government (federal/ state/local) as well as support services provided by non-government sector (religious organisations, businesses)
- re-emphasise that the focus of RIS is on safety and wellbeing of children rather than gate keeping
- re-emphasise the importance of connecting families to support services and providing initial advice on how to respond to current crisis/situation

- ensuring consistency across RIS teams with respect to informing non-state schools of intake decisions to enable decision-making about actions non-state schools can take to support the child and his/her family
- actively making referrals to secondary child protection services, where appropriate, and informing partner entities that this has occurred so that other entities, such as schools, can assist by encouraging or facilitating access to identified services

It is proposed that there are many benefits in retaining the current intake model, including:

- RIS staff already have the knowledge, skills & tools (SDM) to conduct assessments at intake phase to determine an appropriate response
- RIS staff already have statutory authority to conduct pre-notification checks and access child protection history stored on ICMS
- RIS staff can continue to record information on ICMS which is a central repository of key information which facilitates comprehensive assessment of harm/likely harm and informs decisions about appropriate interventions
- Focus and funding can remain on building an effective, accessible secondary child protection system
- Minimal disruption to other entities – Queensland Police, Schools, Health etc.

Recommendation 6.1:

QCEC recommends that delivery of intake services by the Department of Communities, Child Safety and Disability Services' Regional Intake Service (RIS) remains in place and be enhanced, through a focus on consistency and working actively with the secondary service system to meet the needs of children and families.

7.0 Structured Decision-Making Tools

The discussion paper highlights a number of issues regarding the Structured Decision-Making Tool, noting a range of feedback both positive and negative from various bodies regarding its effectiveness in supporting decision-making by Department of Communities – Child Safety and Disability Services.

Use of decision-making tools, such as the Child Safety Practice Manual and the Structured Decision-Making Tool as a resource to provide guidance to Child Safety Officers in making key decisions around the safety and wellbeing of children is supported. Without the use of tools, judgement is left to the knowledge and experience of the practitioner and their team, which has historically resulted in significant variance in how child protection concerns are managed within the tertiary system.

However, it is noted that the use of these tools is to *guide* decision-making as opposed to stipulating the outcome, and cannot be used in isolation without informed professional judgement. In particular, decision-making processes are frequently based on managing risk, as opposed to developing strengths, and it is vital to engage in decision-making that identifies key strengths and protective factors for children and families.

Other comments are noted in the discussion paper regarding decision-making tools being “*incident based*” and therefore not reflecting issues of cumulative harm or other broader contextual factors. This frequently presents as an issue for Catholic School authorities, who may report a number of concerns to Child Safety Services over a period of time regarding a student or family without any intervention by Child Safety Services. It is critical that decision-making is undertaken holistically, rather than solely on the reported concern at that time.

Recommendation 7.1:

It is recommended that any changes to the Structured Decision-Making Tool be *evidence based*, noting the review and validation studies undertaken by the Wisconsin Research Center regarding the tool on which the Queensland SDM is based.

Recommendation 7.2:

As Queensland has implemented the decision-making tool since 2006 and has managed a significant number of intakes through the system over this period, there is the intrinsic ability to utilise this data and review the efficacy of the system in the Queensland context. Any changes to the system should be based on the findings of such a review.

8.0 The SCAN System

QCEC acknowledges the role the SCAN system plays in protecting Queensland children.

A SCAN team's ability to focus, through interdisciplinary collaboration and consultation, on the holistic management of cases, to effectively share information between agencies, and oversee and coordinate the management of child protection concerns, greatly enhances the ability of all concerned agencies to protect children in their care or other children and young people with whom they come into contact.

SCAN is a system that has great potential and ability to work towards best outcomes for children, young people and families if used effectively.

SCAN could be used as a forum to enable discussion and planning of intervention for families with complex needs who **do not** reach the threshold for a formal determination or substantiation of child abuse or neglect.

For example SCAN could be used:

- in cases of chronic absenteeism and with parents who struggle to provide a stable, secure and predictable environment for their children
- to facilitate coordination of information (cumulative harm)
- in the identification of appropriate secondary support services and ongoing role of primary/universal services e.g. schools etc.
- to discuss active/facilitated referral
- undertake a case management role to review to point of successful engagement with a service.

SCAN processes such as these would be particularly useful for "frequently encountered families". SCAN processes also highlight the need for timely and effective information sharing between agencies where a child may be in need of protection. This is particularly relevant in cases of mobile families where young people move between school systems, and

extended absenteeism or other child protection concerns may not be readily identified in a timely manner resulting in potentially significant harm to a child.

Recommendation 8.1:

QCEC strongly supports the retention of the SCAN system and supports the proposal put forward by the Commission which is as follows:

“The Commission is exploring the option of providing a range of different responses to notifications which might involve the family, in certain cases, being provided with a family assessment and timely services without a formal determination or substantiation of child abuse or neglect.

If such a model is considered suitable for Queensland, a review of the current SCAN model may need to be undertaken to ensure that families receiving a response from a ‘differential pathway’ can be referred to SCAN. Such a review should include provisions for the inclusion, as core members of SCAN, of non-government agencies that are responsible for specific pathways.”

9.0 Secondary Services in Queensland

Owing to the high threshold required by Child Safety Services for their statutory intervention, schools are often left supporting at-risk children and their families with no statutory backing, limited funding support or access to primary and secondary support and therapeutic services.

Strong support is given to the building of a coordinated and robust secondary child protection service system for Queensland. To be effective this system must provide state-wide coverage and actively facilitate families' engagement with existing primary/universal services.

Planning for secondary support services

The following ideas are offered on ways in which agencies can work collaboratively to plan a coordinated and robust secondary child protection service system:

- It is proposed that planning of secondary services occur at local level as each community will have different needs and dynamics. Additionally “ownership” at local level is the key to success in both the planning and implementation phase
- Any planning process needs to involve relevant local, state, federal government departments; community based primary, secondary and tertiary services, as well as religious based organisations or business
- A designated person or lead agency to drive the process is critical and the mandate to do so must come from the community. Whilst a “driver” is important, a team approach is required to share responsibility of coordinating and facilitating planning/consultation processes
- Resources need to be allocated for the planning process as many government and non-government agencies would not have the capacity to assume this responsibility as they are already overstretched and have experienced significant cost cutting

- As a starting point, preliminary mapping of stakeholders and services within the community would be beneficial, acknowledging the many local programs and services that have been developed at a regional level to address particular needs.
- Furthermore a shared language about what is meant by primary, secondary and tertiary services is important as is establishing a shared understanding about the vision and identification of possible constraints to the process

Collaborative responses

It is proposed that a stronger focus on collaboration between child protection agencies and the participation of schools in this collaboration process, with an emphasis on strengthening families to protect their children at all points of the child protection continuum, is the key to a more effective child protection system in Queensland.

Currently there are no formal structures in place to facilitate a collaborative response to vulnerable families. Consequently each system (education, health, non-government support services, police) tend to have a reactive rather than a proactive response to these families who keep “bouncing back” into contact with these systems until the situation escalates to the point where a report to statutory authorities is initiated or required.

It is suggested that some positive initiatives such as the move towards establishing a Family Support Alliance (Beenleigh, Inala, Ipswich, Toowoomba areas), though still in its infancy, perhaps may be an avenue to facilitate a collaborative response to vulnerable families.

Services such as a Family Support Alliance’s role could include:

- mapping of existing local support services, establishing a local database/resource directory of services and keeping this up to date and accessible to government and non-government services in the area
- establishing working groups/reference groups that focus on systems, structures and advocacy at all points of the CP Continuum – Prevention, Early Intervention and Tertiary responses

- being operationally focussed i.e. enable discussions about vulnerable families, identify what each system can contribute towards strengthening the family, sharing ideas on how to engage the family and how to track progress/successes

Without this type of integrated child protection response, children can fall through the gap. See the following Case study 3 involving school non-attendance as an example of children falling through the gap:

Case study 3.
A student is 7 years of age and is in year 2. The school is concerned about the student's non-attendance at school over a period of a year and a half. When attending prep, the student's attendance was inconsistent however as this was non-compulsory, the school did not push the matter, though did discuss with parents the importance of regular attendance.

At the commencement of year 1, a pre-enrolment meeting was held with the parents to discuss the importance of regular school attendance, discuss potential difficulties the family may be experiencing in getting the child to school and to discuss strategies the school can put in place to encourage the student's attendance. The parents gave a commitment to ensuring regular school attendance. This was successful for a period of time however by the end of the student's Year 1, the student had been absent for more than 50 days and in the student's Year 2, between January and May, the student was absent for over 70 days and then stopped attending entirely.

All communication by the school to the parents (phone calls to mobile and landline, letters etc.) was ignored by the parents.

The school made a report to Child Safety Services and Queensland Police, however both stated it was not a child protection issue and that no further action would be taken. Child Safety Services requested the school stop making reports about non-attendance. A report was made to the Office of Non-State Schools and to date this student cannot be tracked.

Key issues/Concerns identified
Chronic absenteeism is a form of neglect and has significant impact on a child's academic, social and emotional development. Non-attendance impacts on a child's life opportunities and has life-long implications yet this does not 'screen in' for Child Safety Services risk assessment tool (SDM).

In this case, the student's learning was being impacted on and he was already starting to experience difficulties in reading, writing and maths. His non-attendance was starting to affect his language development i.e. his ability to listen, understand and express himself. In the long term it is likely that he would experience learning and developmental delays thus reducing his educational and job opportunities.

A lack of response from all systems and lack of community supports in the area has led to this student's educational, social and emotional needs not being met. Additionally, as the student is not at school, there is no capacity for external agencies to monitor the student's safety and wellbeing.

Access to an Early Intervention Service such as Helping Out Families (HOF) or Referral for Active Intervention (RAI) may have been useful at some stage for this family given these services often

outreach to families. However, there does not appear to be any such service in the geographical location in which this family lives.

There had been no opportunity to discuss the case at a SCAN Information Coordination Meeting (ICM) which non-state schools are excluded from. The SCAN process may have been one avenue to identify other possible options for the family, to check on the wellbeing of the student and/or to reinforce to parents the importance and obligation to send their child to school.

As is highlighted in the submission of Lynette McKenzie, Deputy Director-General of the Department of Education, Training and Employment, to the Queensland Child Protection Commission of Inquiry, schools represent a significant proportion of all referrals into the Queensland Child Protection system, with only a small proportion of the reports made resulting in the commencement of a statutory investigation and assessment. Owing to this lack of statutory response, and importantly a significant lack of early intervention and preventative services and resources in Queensland as highlighted in case study 3, schools are increasingly required under their broad duty of care to support at-risk students and families, working with no statutory authority backing and limited funding and support.

Development of an intensive targeted secondary service

It is apparent that Queensland requires a secondary system that addresses the growing gap that exists between families who voluntarily and willingly access supports and families who are resistant or not able to access supports even when a facilitated referral process is activated.

Within the secondary system there needs to be intensive targeted intervention services. While intensive targeted secondary services could be coordinated and case managed through the non-government sector, statutory oversight at least initially would be beneficial to keep these families linked into these services to address protective needs. The goal would be to transition these families into voluntary secondary systems (similar to RAI) and ultimately 'step them down' into primary/universal support services.

To be effective it is clear that responsibility for the safety and wellbeing of "at risk" families should be shared across tertiary, secondary and primary services. This can be achieved by continuing to provide ongoing access to services for children and families through active

involvement in case planning processes, taking on responsibility for specific tasks, sharing information/concerns, monitoring and participating in reviews. This approach would avoid any duplication of services thus delivering more efficient/cost effective services and leveraging knowledge, skills, relationship and influence the agency may have.

Recommendation 9.1:

It is recommended that the Commissioner further scope the availability and resourcing of secondary child protection services in Queensland, and explore how formalised and coordinated approaches to family intervention can mitigate the risks towards children and families failing to receive appropriate responses which subsequently place them at greater likelihood of involvement in the Child Protection system.

Recommendation 9.2:

It is recommended that an intensive targeted secondary service network be developed to address the growing gap that exists between families who voluntarily and willingly access supports and families who are resistant or not able to access supports even when a facilitated referral process is activated.

10.0 Transition through the Child Protection System

Students in care of the state, both in state and non-state schools in Queensland, receive limited Education Support Funding supplied through the school from the Queensland Government. Under this funding scheme, all students in care are required to have an individual Education Support Plan (ESP) developed and reviewed each year while they are at school. QCEC notes that whilst there are many successes through ESPs, there are a number of issues impacting upon the efficacy of the planning process, including the high turnover of Child Safety Officers affecting consistency in implementation.

The relationship between Child Safety Services and schools is critical in terms of both the integration of children in care into a new school, and the transition process upon leaving school. Timely, planned and individualised processes are important to the success of any integration or transition of a student in care, combined with comprehensive information sharing protocols.

Again, the known workload and prioritisation issues affecting Child Safety Officers frequently impacts upon attendance of Child Safety personnel at the relevant school based planning or management meetings, and the consequent success of any individual plan.

Schools play a significant role in not only educating young people to prepare them for their future, but also in the social and emotional support of these young people. Consequently, schools are uniquely positioned to be engaged and funded in some way to better support the transitioning of children through the child protection system and also assist them when they are exiting the system when their schooling is completed. Such funding may include the following services and resources:

- Increased access to specialist and therapeutic services, including Advisory Visiting Teachers, Occupational Therapists, Speech Pathologists and specialist counselling, or allocated youth/social work support to help the transition into school
- Provision for informed training for all professionals (such as youth workers, kinship carers and teacher aides) and time allocated for liaison between agencies and

professionals, to promote greater collaboration and understanding of their contribution to the support system wrapped around the young person.

- Implementation of specific needs-based training for schools in order to meet the needs of young people in care, for example responding to trauma.
- Creating a dedicated position for Education within the Department of Communities, to have oversight in key areas including: quality assurance of Education Support Planning, monitoring of educational needs, and liaison between the department and schools.
- Access to specialist assessments in a timely manner, particularly relevant to the Educational Support Planning process, in order that plans are informed by all parties supporting the young person.
- Development of systems to allow the regularly evaluation and monitoring of policy, planning and intervention processes for young people in care.

Recommendation 10.1:

That the Commission formally acknowledge that schools play an important role in their connection with children and young people in the care of the State. It is proposed that schools be funded appropriately so they can better assist students in care of the State when they are at school, and also when they are transitioning out of the child protection system and educational environment.

11.0 Conclusion

QCEC reaffirms the commitment of Catholic Schools within the non-state school sector to ensuring the safety and well-being of students, through the provision of safe school environments and working with the appropriate authorities to respond to concerns of harm and abuse. Catholic schools are committed to meeting all legislative and regulatory requirements and look forward to the findings of this Inquiry.

In addition to the concerns and challenges highlighted in this submission, the child protection system in Queensland presents a number of opportunities to enhance the lives of children and families. It is hoped that this Inquiry will highlight these opportunities, and consideration be given to ways in which all relevant agencies and departments working with, or responsible for children and young people, can work in collaborative partnerships to meet the child protection needs of Queensland children.

APPENDIX 1

Education (Accreditation of Non-State Schools) Act 2001

Education (Accreditation of Non-State Schools) Regulation 2001

Current as at 29 January 2013

Part 2 Accreditation criteria

10 Health, safety and conduct of staff and students

(1) A school must have written processes about the health and safety of its staff and students, that accord with relevant workplace health and safety legislation.

(2) Also, the school must have written processes about the appropriate conduct of its staff and students, that accord with legislation applying in the State about the care or protection of children.

(3) Without limiting subsection (2), the processes must include—

(a) a process for the reporting by a student to a stated staff member of behaviour of another staff member that the student considers is inappropriate; and

(b) a process for how the information reported to the stated staff member must be dealt with by the stated staff member.

(4) For the process mentioned in subsection (3)(a), there must be stated at least 2 staff members to whom a student may report the behaviour.

(5) Also, without limiting subsection (2), the processes must include the following—

(a) a process for reporting—

(i) sexual abuse or suspected sexual abuse in compliance with the *Education (General Provisions) Act 2006*, section 366; and

(ii) a suspicion of likely sexual abuse in compliance with the *Education (General Provisions) Act 2006*, section 366A;

(b) a process for—

(i) the reporting by a staff member, to the school's principal or another person nominated in the process, of harm that—

(A) the staff member is aware or reasonably suspects has been caused to a student who, when the harm was caused or is suspected to have been caused, was under 18 years; and

(B) is not harm to which the process mentioned in paragraph (a) applies; and

(ii) the reporting by the principal or other person, to a relevant State authority, of the harm or suspected harm if the principal or other person also is aware or reasonably suspects the harm has been caused.

(6) The processes must—

(a) be readily accessible by the staff and students; and

(b) provide for how the staff and students are to be made aware of the processes.

(7) The school's governing body must be able to demonstrate how the school is implementing the processes.

(8) In this section—

relevant State authority means—

(a) the chief executive, or another officer, of the department in which the *Child Protection Act 1999* is administered;

or

(b) an authorised officer under the *Child Protection Act 1999*; or

(c) a police officer.