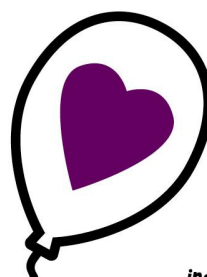


Submission to the
Queensland Child Protection Commission

Child Protection Inquiry:
Discussion Paper, Feb 2013



Bravehearts^{inc.}
Educate. Empower. Protect.

15th March 2013

About the Authors

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Hetty has been involved on many Boards and Committees including having been Chair of the Queensland Child Protection Week Committee for three years; Qld representative on the Board of NAPCAN (National Association for Prevention of Child Abuse and Neglect); held a position on the Board with ASCA (Advocates for Survivors of Child Abuse); Sat as Chair for the Endeavour Foundation's 'Abuse Prevention and Response Committee'; was a participant on the Federal Government's Working Party on a 'National Approach to Child Protection'; and currently sits on the Federal Governments working party on Cyber-Safety.

In 2005, Hetty was announced as a finalist for the 2006 Australian of the Year Awards and is the recipient of two Australian Lawyers Alliance Civil Justice Awards (2003, 2004). She was awarded a Paul Harris Fellowship in 2010 and is a Fellow of the Australian Institute of Community Practice and Governance (March 2010). In early 2009, Hetty was recognised as one of approximately 70 outstanding leaders throughout the world, receiving the prestigious annual Toastmasters International Communication and Leadership award.

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Table of Contents

ABOUT BRAVEHEARTS INC.	1
INTRODUCTION	2
1. REDUCING DEMAND ON THE TERTIARY SYSTEM	5
2. INVESTIGATING AND ASSESSING CHILD PROTECTION REPORTS	8
3. WORKING WITH CHILDREN IN CARE	11
4. YOUNG PEOPLE LEAVING CARE	15
5. ADDRESSING THE OVERREPRESENTATION OF ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN	16
6. WORKFORCE DEVELOPMENT	19
7. OVERSIGHT AND COMPLAINTS MECHANISMS	22
8. COURTS AND TRIBUNALS	25
9. FUNDING FOR THE CHILD PROTECTION SYSTEM	28
10. CONCLUSION	30
REFERENCES	32

About Bravehearts Inc.

Our **Mission** is to stop child sexual assault in our society.

Our **Vision** is to make Australia the safest place in the world to raise a child.

Our **Guiding Principles** are to at all times, do all things to serve our Mission without fear or favour and without compromise and to continually ensure that the best interests and protection of the child are placed before all other considerations.

Bravehearts has been actively contributing to the provision of child sexual assault services throughout the nation since 1997. As the first and largest registered charity specifically and holistically dedicated to addressing this issue in Australia, Bravehearts exists to protect Australian children against sexual harm. All activities fall under 'The 3 Piers' to Prevention; Educate, Empower, Protect – Solid Foundations to Make Australia the safest place in the world to raise a child. Our activities include but are not limited to:

EDUCATE

- ◆ Early childhood (aged 3-8) 'Ditto's Keep Safe Adventure' primary and pre-school based personal safety programs including cyber-safety.
- ◆ Personal Safety Programs for older children & young people and specific programs aimed at Indigenous children.

EMPOWER

- ◆ Community awareness raising campaigns (Online and Offline) including general media comment and specific campaigns such as our annual national White Balloon Day.
- ◆ Tiered Child sexual assault awareness, support and response training and risk management policy and procedure training and services for all sectors in the community.

PROTECT

- ◆ Specialist advocacy support services for survivors and victims of child sexual assault and their families including a specialist supported child sexual assault 1800 crisis line.
- ◆ Specialist child sexual assault counseling is available to all children, adults and their non-offending family support.
- ◆ Policy and Legislative Reform (Online and Offline) - collaboration with State Government departments and agencies.

Bravehearts Inc. is a National organisation, it is a registered Public Benevolent Institution, registered as a Deductible Gift Recipient, operates under a Board of Management and is assisted by State based Community Regional Committees, Executive Advisory Committees and a Professional Finance Committee.

Introduction

As specialists in the area of child sexual assault prevention and early intervention, Bravehearts Inc is providing this submission in relation to the current Queensland Child Protection Commission of Inquiry Discussion Paper (February 2013). We have provided our views on a number of the issues outlined in the discussion paper and would be happy to discuss these further.

Bravehearts long held belief and policy position that the issue of child sexual assault and those of child abuse and neglect are discernibly different and require discernibly different responses has finally been heard and upheld by the Council of Australian Governments (COAG) on 30th April, 2009.

In working with the Federal Governments Working Party in the development of a National Framework for the Protection of Australia's Children, and in what we believe is an International first, Bravehearts successfully lobbied to have child sexual assault recognised as distinct from child abuse and neglect and requiring of a distinct response and specific resourcing. The signing of the COAG Agreement means this distinction will now be echoed across child protection systems in every State and Territory around the Nation. "Protecting Children is Everyone's Business: National Framework for Protecting Australia's Children 2009-2020" (COAG, 2009) will form the basis of child protection agendas over the next decade. Outcome Six of this document outlines the way forward for finally dealing with child sexual assault. Governments across the country are now finally committed to recognising and responding to child sexual assault specifically.

Traditionally, child sexual assault has been 'lumped in the same pot' as child abuse and neglect. However, while all forms of abuse and assault are harmful to children it is important to take child sexual assault 'out of the 'pot' as the dynamics are fundamentally different. Recognising these differences is necessary to effectively address, respond to and prevent child sexual assault.

Some of the important differences include:

- Acts of **child abuse and neglect** are generally unplanned, re-active and are generally aligned with socio-economic and/or family dysfunction issues and are comparatively predominant in areas of social disadvantage.
Sexual assaults against children are almost always pre-meditated, involving predatory acts of grooming, manipulation, self-gratification and exploitation, and occur widely across the various socio-economic areas.
- **Child abuse and neglect** more commonly involve the infliction of pain, violence and aggressive force.
Child sexual assault more commonly involves manipulation, intimidation and sexual contact
- **Child abuse and neglect** are nearly always perpetrated by a parent or primary caregiver (in an estimated 90% of cases).

Child sexual assault is generally perpetrated by a male (in excess of 90% of cases) and more likely to be perpetrated by someone known to the child or their family (research varies but commonly finds between 85% and 95% of the time). Of those offenders known to the child most commonly the offender is not living with the child (approx 70%).

- **Child abuse and neglect** offences are almost always intra-familial.
- **Child sex assault** offences are commonly extra-familial as well as intra-familial.
- **Child sexual assault** always involves the three S's: **Shame; Silence; Secrecy**

Child sexual assault is a hidden but significant problem in every community in Australia.

Approximately one in five children will experience some form of sexual exploitation before the age of 18 (James, 2000; Center for Disease Control and Prevention, 2006). Experts estimate that less than one in ten of these children will tell. Research tells us that in 70-90% of the time offenders are known and trusted by the child and/or their families (National Child Protection Clearinghouse, 2005).

Experts estimate that less than one in ten of these children will tell.

Research clearly shows that individuals who are sexually assaulted as children are far more likely to experience psychological problems often lasting into adulthood, including: Post Traumatic Stress Disorder, depression, substance abuse and relationship problems. Child sexual assault does not discriminate along lines of region, race, creed, socio-economic status or gender; it crosses all boundaries to impact every community and every person in Australia.

Research suggests that many adults are unaware of effective steps they can take to protect children from sexual assault (Australian Childhood Foundation, 2010). Most do not know how to recognise signs of sexual assault and many do not know what to do when sexual assault is suspected or discovered.

While State and Territory Governments have statutory responsibilities for child protection generally the overwhelming bulk of funding is directed at tertiary statutory intervention responses. Statutory intervention will occur where the offender is living in the house with the child and where there is not a parent or carer willing and able to protect the child. Given most child sex offences are committed by people not living in the house with the child (70%), the need for statutory intervention for these victims is void and as such, the offences are not officially counted in prevalence reporting.

Reporting to child protection departments is further reduced because, even in cases where the offender is living in the house with the child, most often there is a parent or carer who does act protectively to expel the offender and protect the child. This action creates a desirable positive situation but again, no statutory intervention is required so no official recording of the offence occurs; unless the matter is subject to a criminal investigation. Importantly however, the child and family still require professional support.

As a result, child sexual assault prevalence statistics produced by departments of child protection generally report very low instances of child sexual assault in comparison to child abuse and neglect (see Table below). In addition, and as a result of these low statistical recordings, State and Territory Government child protection funding to this critical area is limited along with recognition, response and acknowledgement of the prevalence and social implications of child sexual assault.

Percentages of children subject to substantiated notifications
by Type of harm (2011-2012) (Australian Institute of Health and Welfare, 2013)

Type of Harm	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
Physical abuse	19.3	29.0	17.9	18.4	19.2	14.8	12.6	15.8
Emotional Abuse	31.3	54.4	35.2	30.8	27.4	48.2	38.9	28.3
Neglect	33.6	6.5	42.4	29.1	44.6	32.8	43.8	52.7
Sexual assault	15.7	10.0	4.6	21.7	8.9	4.2	4.8	3.1
Total	100	100	100	100	100	100	100	100

Research shows that there is a critical under-reporting of child sexual assault matters more generally. Smallbone and Wortley (2000) found that one in five parents who were aware that their child had been sexually assaulted, did not report. Over 50% of victims never report to anyone, and many who do report do not do so until adulthood (Queensland Crime Commission & Queensland Police Service, 2000).

Bravehearts receive most of its clients through police, other community agency referrals, self-referrals, and referrals from schools, and GP's. These statistics do not form part of any structured statistical count and as such, child sexual assault is not only grossly under-reported, it is grossly under-estimated and under-funded.

Bravehearts is proud that national recognition now exists to support our long held policy position that the offences of child abuse and neglect are different in nature, motivation and victimisation and that while child sexual assault and child abuse and neglect are both incredibly traumatic for children, their differences dictate that they should be addressed separately.

Our goal is to work to ensure that this distinction will result in improved statistical recording and improved responses and resourcing.

Inquiry



1. Reducing Demand on the Tertiary System

1. **What is the best way to get agencies working together to plan for secondary child protection services?**
2. **What is the best way to get agencies working together to deliver secondary services in the most cost effective way?**

Bravehearts has long recognised the importance of prevention and early intervention programs to ensure the wellbeing, safety and protection of children and young people.

As identified in the current Discussion Paper, there are three broad levels to prevention programs:

1. Tertiary level: strategies to reduce harm among those most severely affected.
2. Secondary level: designed to reverse or prevent the impact of known risk factors.
3. Primary level: designed to keep problems from emerging at all.

Programs at all three levels are crucial for an effective and holistic approach to child protection.

Bravehearts strongly believes that the public health model (as advocated for in “Protecting Children is Everyone’s Business: National Framework for Protecting Australia’s Children 2009-2020” (COAG, 2009)) has much to offer the Commission’s consideration of early intervention as it reinforces the need for a ‘whole of systems approach’ to primary, secondary and tertiary interventions to assist vulnerable families.

Increases in reporting to Child Safety have been identified as related to the lack of secondary services. In recent years we have seen that services aimed at early intervention and prevention are increasingly available only to those families who are already in crisis and that there is insufficient resources available to non-government organisations to meet the increasingly complex and urgent needs of families involved. There is a frustration in the sector that existing programs are available to too few families and often accessed too late to effectively provide support that will make a difference and prevent statutory intervention.

As suggested by Professor Dorothy Scott (Scott, 2006) the integration of programs at the primary, secondary and tertiary levels of service delivery would assist families who hover below and just above the threshold for tertiary intervention and provide a more consistent approach to prevention and early intervention.

As Scott points out, key levels for integration are: increasing collaborative outreach strategies involving child protection, health, education, and the non-government family support sectors: “The major thrust of a secondary prevention strategy needs to be firmly focussed on those services which are already connected to families such as: maternal and child health services; early childhood education and care; schools; adult mental health services and drug treatment services” (Scott, 2006).

Such an approach (along with expanding the mode of service delivery to include online access to services) could potentially assist in the lack of secondary level services in rural and regional areas.

Services that provide programs that integrate the three levels of service delivery have the potential for increasing community engagement in issues that affect children and families, raise community awareness that sexual harm, abuse and neglect are not acceptable and may increase confidence in the child protection system. The Strong Families program in Western Australia is a good example of a collaborative cross-sectoral program that can be seen to promote the wellbeing of children and young people and build the capacity of families and the community to keep them safe.

In addressing the under-investment in secondary services, we support the Queensland Law Society's call for increases of availability of education and therapeutic support for children and their support networks. We would add that in addition, we see a vital need for an increase in general awareness and training for those directly involved with children and their families (for example, schools, clubs, counsellors and support services), in relation to both child protection generally and the issue of child sexual assault more specifically.

Bravehearts advocates for the continuation and expansion of resourcing for prevention and early intervention programs (including RAI and HOF programs) that can play a vital role in empowering communities and reducing involvement in the child protection system. We would suggest that investing in prevention programs will reduce significantly the number of children and young people entering the child protection system.

In line with this we would caution government against its proposal to review and repurpose its suite of secondary and tertiary family support programs into one overarching child and family support program. While a case management approach is important and needs to be managed by a single entity, Bravehearts strongly believes that the varied and complex needs of families require specialised responses and we would be concerned that one overarching program could not effectively address the complexity of needs.

In addition, we see an overdue need for the mapping of currently available services to identify gaps in service provision in communities.

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

Bravehearts believes that the Option 2 (page 59 of current Discussion Paper) is the preferred model. However, we would caution that the model requires clear policies and procedures, inclusive of accountability and transparency measures to ensure that services are appropriately handling intake and referrals.

Resourcing is needed to make sure that services maintain qualified, knowledgeable and experienced staff and that provide organisations with the capacity to manage the demands on the service.

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

We believe that there is a need for an improved system for reporting sexual harm, abuse and neglect.

Mandatory reporting is supported as an important principle in the child protection system. It is our view that mandatory reporting remains an important strategy for promoting children’s rights to protection from sexual harm, abuse and neglect; and it is a fundamentally important strategy to identify children at risk and families in need of assistance and support.

As outlined in the current Discussion Paper, the Department of Education, Training and Employment and the Queensland Police Service contribute the “highest volumes of child concern reports received” (with 60% of all intakes coming from schools, health and police sectors) by the Department. This is not surprising given that these areas are at the front-end in identifying child protection concerns.

Bravehearts would support a similar approach to that implemented in New South Wales with the consideration of adopting a mandatory reporting guide, including criteria (that has embedded flexibility to deal with the complexity of concerns) and defined key concepts, to assist agencies/reporters in their decision-making around whether to report and to who.

2. Investigating and Assessing Child Protection Reports



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

Bravehearts thoroughly supports the role that SCAN plays in the current child protection system. We recognise the vital role and expertise that the core representatives of SCAN teams bring to the decision-making and assessment process.

We would also advocate for the routine involvement of individuals who have direct involvement with subject children and families. This would include participation and/or information gathering from, for example, schools, counselling services and support agencies who have contact and involvement with the family.

SCAN has a crucial role to play as it brings together a range of expertise and knowledge within an holistic management of cases and the routine inclusion of those who have direct knowledge of the family would provide invaluable information about the family circumstances and the children protection concerns that otherwise may not be available. We believe that this would provide an increase in effective assessment along with a level of transparency.

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

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

We recognise that there is a cohort of families who have complex and ongoing needs and as a consequence have repeated interactions with the child protection system.

It is crucial that the needs assessment of frequently encountered families is appropriately identifying the key areas of support for individual families. Bravehearts recognises that to make “sustainable [and positive] changes” in these families lives and to ensure the safety and protection of children and young people, these families require both a specialised response and intensive ongoing support, with a focus on needs.

We believe that an investment in secondary level services will assist in improving the systems response to high needs, frequently encountered families. A strong case management approach, that includes an all-of-government approach and engages specialist services (particularly including therapeutic and support case management), would provide opportunities to address the often complex and intergenerational needs of these families. We understand that the HOF initiative is showing promising success in the support of these families, providing for increased specialist and targeted support.

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

The identified aim of the Structural Decision Making tool is being able to provide appropriate response to child protection concerns. The objectives of Structured Decision Making are to:

- identify and structure critical decision points;
- increase consistency in decision-making;
- increase accuracy of decision-making;
- target resources to families most at risk; and
- use case level data to inform decisions throughout the agency.

However, it is crucial that the Structured Decision Making tool be utilised alongside, and as an aide to, professional clinical judgement. Child protection matters include complex cases and it is important to recognise that Structural Decision Making tools cannot be a replacement for professional expertise.

Bravehearts believes that it is absolutely vital that child protection workers are sufficiently trained in child protection issues, and specifically in relation to our area of concern, the dynamics and intricacy of child sexual assault matters (see response to Question 28). We believe that there is no replacement for specialised knowledge and expertise.

We would support the consideration of a model based on the Signs of Safety model, developed in Western Australia, which combines the assessment of risk with a “strengths-based family engagement”.

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

It is important that there is a differential response system that enables families to access support as early as possible as well as improving the capacity to address the needs of vulnerable and at-risk families.

We support the model as outlined in the current Discussion Paper as including:

- several different responses, including a response specifically for family violence...
- the capacity to undertake forensic investigations for the most serious cases of maltreatment, primarily physical abuse and sexual abuse, where court action is likely to be required or a criminal investigation is required
- the capacity to provide strengths-based intervention by community-based case management services for families where concerns relate to emotional harm and neglect

- services that aim to meet the immediate needs of the family to ensure the safety of the child, followed by working with the family to reduce the likelihood of future tertiary intervention.

3. Working with Children in Care

10. **At what point should the focus shift from parental rehabilitation and family preservation as the preferred goal to the placement of a child in a stable alternative arrangement?**
11. **Should the Child Protection Act be amended to include new provisions prescribing the services to be provided to a family by the chief executive before moving to longer-term alternative placements?**

Bravehearts recognises that the Queensland child protection system is based on the premise that the least intrusive viable intervention option is the preferred focus. While it is ideal that family preservation be a focal point of the system, it must be recognised that in some cases it is not in the best interest of the child's development, wellbeing and safety.

Where risk factors can be managed through intervention and parental rehabilitation and where family preservation or relevant family reunification is possible, the system should be structured to provide this intensive support. However, our position is that any decisions made must be primarily focussed on what is in the best interest of the child; the parents' rights should not outweigh the consideration of the best interest of the child principle.

In line with this, decisions around ensuring the safety and protection of the child in a stable and secure home must be timely.

It is noted that the New South Wales system proposes that timeframes be place on decisions being made regarding reunification/family preservation; where a decision about reunification for children less than two years of age must be made within 6 months and for children older than two years of age, within 12 months. While we would suggest that legislating timeframes for such decisions must not be too prescriptive, we recognise that there is a need for stability and security in a child's life and prolonged decision-making is only detrimental to the wellbeing of the child. To reiterate, the making of the decision to place a child into a stable and secure placement must be timely.

Likewise, we would suggest that the complex and varied needs of vulnerable children and families mean that these families must have access to targeted and intensive support before consideration of moving a child into long-term placement.

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

The major options to the granting of long-term guardianship to people other than the chief executive are:

- Lack of support for guardians

- Children and young people often have complex needs that guardians need to be supported in providing for
- Guardians are not in a position to provide and manage the support and assistance needed to families
- Lack of financial assistance.

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

As noted above, under Questions 10 & 11, Bravehearts recognises that while it is ideal that family preservation be a stated objective, it must be recognised that in some cases it is not in the best interest of the child’s development, wellbeing and safety.

Where it is clear that it is not in the best interests of the child to be reunified with their biological family, alternative permanent placement must be prioritised.

Research shows that attachment is key in the child’s early years. Problems with children being continually moved around placements (in some cases by the time children leave care they have had in excess of ten placements) have historically been reported. Moving of a child from placement to placement means that there is a lack of attachment for the child, not just with primary carers and family, but also with friends and schooling.

For children’s psychological, emotional and, in many cases, physical wellbeing it is important for children to have stability and security.

Bravehearts’ position is that there must be a range of options, as ‘one size does not fit all’. The timeliness of decisions around placement is crucial, as foremost must be the provision of a stable placement for the child.

One of the major advantages of permanent placement is that the carers have continued access to department support; however, disadvantages include lack of security (as the child may be moved), lack of carer rights in making decision about the child (including health care), and reduced connectiveness for carers and for the child to the family unit (knowing that the child maybe moved).

Bravehearts believes that adoption is an appropriate option for those children where it is clear that biological family preservation is not in the child’s best interests.

While the consent of the biological parent to the adoption would be ideal, we recognise that this is not always appropriate. Adoption as an option for placement of a child should be made by a specialised, expert multidisciplinary team, who have access to information about the child and their family’s history.

A major disadvantage for adoption would be the lack of support from the department for adoptive families. There is a need to recognise that adoption of children from care would more often than not involve adoption of a child with complex and high needs. If adoption is to be a placement option to enhance stability for children in long-term care,

Bravehearts believes that ongoing support for the adoptive family is necessary to provide the best possible outcomes for the child and family.

In addition, we believe it is equally important to provide continued support for the biological parents.

Bravehearts also considered the issue of future contact between the child and their biological parent/s. Our position is that such contact should be 'child driven' and within the context of safe, supervised access.

14. What are the potential benefits or disadvantages of the proposed multidisciplinary casework team approach?

Bravehearts believes that the benefits of a multidisciplinary casework team approach include:

- Access to a range of experts, experience and knowledge to assist in informing decisions
- Recognition of the complexity of the needs of children and families
- Siloing of responsibilities and difficulties for cooperative management of needs across agencies/sector
- Strengthening the chance for children and families to engage with organisations for support
- Increased departmental capacity to work with children and families.

Challenges include:

- May be resource intensive
- Need for time commitment for members
- Need to be coordinated to ensure consistency in approach
- Information sharing across sectors and agencies
- Competing priorities across individuals and agencies.

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?

The roles of investigative teams and casework teams are fundamentally different and require specific skills and training. While the separation of investigative teams from casework would assist in increasing the capacity to respond to families with different levels of risk and need, there would be an increased need for resourcing.

It is recognised that in investigating matters, a worker is also in a primary position to provide preventative or early intervention for the family to decrease the likelihood of future departmental involvement.

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

(See response to Questions 21 & 22)

The current Discussion Paper raises concerns that Aboriginal and Torres Strait Islander carers report finding current processes “intimidating” and have apprehensions about the assessment of kinship and Indigenous care placements. There is a necessity to ensure that the processes in place engage community members, are culturally appropriate and are relevant to Aboriginal and Torres Strait Islander carers, while ensuring that the best interests of the child are prioritised.

Bravehearts believes that it is vital that collaboration with Aboriginal and Torres Strait Islander peak bodies, agencies and communities occur to support the implementation of the child placement principle in a systematic and practical approach.

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

As identified in the Crime and Misconduct Commission (2004) *Protection Children* report (Recommendation 7.4) there is a group of children and young people “who do not benefit from placement in traditional foster care and require placements in residential facilities”.

While historically the model of group housing has been problematic, models of residential care that can best suit the needs of children and young people, that are fully and openly monitored and that have specifically trained and supported staff needs to be investigated and considered. Staff need to be trained in broad child protection issues, and specifically in the impact of sexual harm on children and young people.

It is true that simply removing children and young people from harmful circumstances does not in isolation lead to improved wellbeing for the child. The inclusion of a therapeutic approach is crucial for positive long-term outcomes. Any out of home care model must have a therapeutic component, including specialised services to ensure the best outcomes for children and young people.

Various models of residential care exist across Australia and internationally (for example the United States and United Kingdom approaches).

4. Young People Leaving Care

- 18. To what extent should young people continue to be provided with support on leaving the care system?**
- 19. In an environment of competing fiscal demands on all government agencies, how can support to young people leaving care be improved?**
- 20. Does Queensland have the capacity for the non-government sector to provide transition from care planning?**

Young people transitioning from out of home care are one of the most vulnerable and disadvantaged groups in society. They often experience multiple disadvantages as a result of their trauma and neglect prior to entering care, many suffer negative experiences in care, and the lack of formal and informal support provided to them. There is a need to acknowledge that young people in care have complex needs. With many being shifted from carer to carer throughout their childhood and adolescence, many young people leave care with little sense of security and often without a secure base to return to if needed.

Bravehearts advocates that like many other Australian jurisdictions, the Queensland child protection department has a responsibility to support young people up to 21 years of age, with flexibility for provision of further support if needed for the young person's transition to independence.

Options that should be included in supporting young people leaving care include:

- Mentoring for young people (commencing before they leave care);
- Ongoing support through the process of leaving care, such as access to a help line to ensure support in meeting fundamental needs (including personal identity, life skills, health and dental care, financial resources, housing, education, training and employment);
- Provisions for ongoing assessment, checking in with young person until they reach independence to provide post care support; and
- Support for non-government organisations (case management approach) to provide continued support for young people leaving care.

5. Addressing the Overrepresentation of Aboriginal and Torres Strait Islander Childrer



21. What would be the most efficient and cost-effective way to develop Aboriginal and Torres Strait Islander child and family wellbeing services across Queensland?
22. Could Aboriginal and Torres Strait Islander child and family wellbeing services be built into existing service infrastructure, such as Aboriginal and Torres Strait Islander Medical Services?

As a starting point, and as acknowledged in the current Discussion Paper, there is a need to map existing services and to identify service gaps and needs.

The over-representation of Indigenous children in Queensland’s child protection system is of particular concern. Indigenous children are over-represented in the Child Protection System (as well as in the juvenile justice system). In Queensland there are approximately 70,069 Aboriginal and Torres Strait Islander children aged between 0 and 17, representing an estimated 6.4% of all Queensland children (Commission for Children and Young People and the Child Guardian, 2012); yet, 24% of children subject to a substantiated child sexual assault notification are Indigenous.

Table 3: Children aged 0–17 who were the subject of a substantiation of a notification received during 2010–11, by type of abuse or neglect and Indigenous status in Queensland (Australian Institute of Health and Welfare, 2012)

Type of Harm	Indigenous	Non-Indigenous	Total (excludes children whose indigenous status was not known)
Physical	370 (30%)	868	1238
Sexual	86 (24%)	267	353
Emotional	643 (28%)	1667	2310
Neglect	632 (34%)	1230	1862
Total	1731 (30%)	4032	5763

Only 52.2% of Indigenous children were placed with a kinship or Indigenous carer or in an Indigenous residential service in the 2010-2011 period (Commission for Children and Young People and the Child Guardian, 2012).

Statistics released through the Commission for Children and Young People and the Child Guardian show that despite Indigenous children being more than six times as likely to be subject to a substantiated notification (Commission for Children and Young People and the Child Guardian, 2012), the proportion of Indigenous children placed with a kinship or Indigenous carer or in an Indigenous residential care service has been steadily declining (Commission for Children and Young People and the Child Guardian, 2012).

This raises serious questions around the adherence to s83 of the *Child Protection Act 1999*, focusing on the need to ensure Aboriginal and Torres Strait Islander children in care maintain a connection with their culture and community. The “Snapshot 2012” report by the Commission for Children and Young People and the Child Guardian shows the need for improvement in the assessment of compliance across the placement decision process (Commission for Children and Young People and the Child Guardian, 2012).

The *Protecting Children is Everyone’s Business: National Framework for Protecting Australia’s Children 2009-2020*, specifically addresses this concern under Outcome 5 (Indigenous children are supported and safe in their families and communities).

While it is Bravehearts position that rather than removing children who have been harmed or who are at risk of harm from their communities, it is the offender/s who should be removed, as the Framework states: “The best interests and safety of a child are paramount. Where Aboriginal and Torres Strait Islander children cannot remain safely in the care of their parents or community, timely and culturally appropriate responses for their care, protection and nurture are needed”.

It is absolutely essential that the Queensland Government invest resources and energy into consultation and the development of collaboration with Indigenous communities to ensure that as far as possible, Indigenous children are able to maintain essential links with family, community and culture.

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

An Aboriginal and Torres Strait Islander peak body would require resourcing to ensure it was able to assist in empowering families and communities, build capacity in agencies to respond to needs and reduce risk factors, as well as work with other peak bodies and organisations within the sector.

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

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

The roles and functions of Aboriginal and Torres Strait Islander agencies could primarily be to work alongside and in conjunction with the Department to ensure processes are in place to best meet the needs of Indigenous children, young people and families.

Aboriginal and Torres Strait Islander agencies could work with specialised agencies to increase the capacity for family and community participation in appropriate prevention and early intervention programs to address risk and vulnerabilities in Indigenous

communities. For example, the introduction of culturally appropriate personal safety programs to reduce the incidence and increase the response to child sexual assault.

6. Workforce Development

26. **Should child safety officers be required to hold tertiary qualifications in social work, psychology or human services?**
27. **Should there be an alternative Vocational Education and Training pathway for Aboriginal and Torres Strait Islander workers to progress towards a child safety officer role to increase the number of Aboriginal and Torres Strait Islander child safety officers in the workforce? Or should this pathway be available to all workers?**

Bravehearts believes that it is essential that child safety officers be required to hold minimum educational requirements, as well as participate in ongoing professional training (see Question 28).

While we recognise the worth for recruitment from a range of different disciplines to increase the pool and provide a range of relevant skills, we are concerned that key knowledge, skills and training will not be met.

We agree with the proposition in the current Discussion Paper that child safety officers should be required to hold tertiary level qualifications in social work, psychology or human services. These disciplines provide an appropriate entry-level qualification for child protection practice.

Our position is that Aboriginal and Torres Strait Islander child protection officers should be provided with support to access the appropriate minimum education requirements. It is just as important for Aboriginal and Torres Strait Islander child protection officers to have the knowledge, skills and training to equip them with the necessary proficiency to effectively investigate, assess and case manage child protection concerns. Ensuring a skilled child protection workforce is essential to support better outcomes for Indigenous children, families and communities.

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

We understand that initial training of new child safety workers is more thorough than it was prior to the 2004 *Protecting Children* Inquiry. However, there is also anecdotal evidence that new staff are ill-equipped to deal with the complex situations they face.

Across community services in Australia it is widely recognised that front line child protection staff require regular supervision and professional development opportunities.

Supervision should be comprised of three main parts: administration, case review and professional supervision/counselling. This supervision should occur monthly and should enable the caseworker to plan casework and administrative tasks, debrief and receive emotional support. External supervision is also a key component of providing for the self-care of workers and reducing exposure to vicarious trauma.

In addition to regular supervisory support, child protection workers need to undergo regular training and professional development. Key areas for professional development that should be considered include: legislative requirements, transfer of formal learning to workplace, skills in engaging and working with children and families, building capacity to respond to child protection issues and specific training based on practice and research.

Specifically, Bravehearts believes that child protection workers need to have an understanding of the dynamics of child sexual assault in order to effectively assess allegations and concern. This includes the indicators of sexual harm, barriers to speaking out (particularly when the perpetrator is a parent), grooming and the offending process, as well as the impact on the victim. Bravehearts training and professional development programs are well-established to provide this service.

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

Bravehearts can see this as a valuable resource for reducing workloads demands on child safety officers, but would suggest further investigation on how this approach would work.

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

As recommended in the *Protecting Children* report (Recommendations 5.6 through to 5.9) training and professional development of child protection staff, is a vital part of a commitment to effective system response to child sexual assault and child protection concerns more generally (see Question 28 above).

Other options for supporting staff working with clients and communities with complex needs, may be:

- Ensuring efficient and supportive internal supervision and debriefing opportunities;
- Providing child protection workers and team leaders/managers with external supervision and support;
- Creating a compulsory review mechanism for any child protection case that has been open and allocated to a caseworker for over 12 months. This review should include a case file review and a secondary risk of harm analysis to be completed by an external worker; and
- Reducing administration responsibilities of frontline child protection workers.

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

Bravehearts supports the targeted increase in Aboriginal and Torres Strait Islander employment opportunities in Queensland's child protection system, including the positions as outlined in the current Discussion Paper.

7. Oversight and Complaints Mechanisms

- 32. Are the department's oversight mechanisms – performance reporting, monitoring and complaints handling – sufficient and robust to provide accountability and public confidence? If not, why not?**
- 33. Do the quality standards and legislated licensing requirements, with independent external assessment, provide the right level of external checks on the standard of care provided by non-government organisations?**

There must be clear accountability and transparency at all levels, from decision-making to how complaints are dealt with, to ensure not only that the system is being run effectively and in line with child protection goals (including the best interests of the child) but also to assure public confidence in the system. As the 2004 Queensland Crime and Misconduct Inquiry into the former Department of Families shows, a lack of transparency equates to heightened risk of harm to children and subsequent cover-up.

A child protection department that is underpinned by a culture of quality and continuous improvement should include the establishment of key performance indicators and the monitoring and compliance against these standards to ensure that the department is accountable and effective. Annual self-assessments and external reviews would help to aid in not only the improvement of the service but the confidence the community has that the department is responding to needs

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

External oversight of the department has been the responsibility of the Commission for Children and Young People and the Child Guardian and should continue to be a clearly articulated responsibility of the Commission.

The role of the Commission for Children and Young People and the Child Guardian has been an integral component of the recommendations from the 2004 *Protecting Children* Inquiry. External oversight provides increased systemic transparency and accountability within Government.

In line with this, the role of the Commissioner for Children and Young People and the Child Guardian should be independent of government and include the capacity to speak out publicly on issues relating to children and young people in Queensland and provide advice to Government. Recent moves in Victoria to establish a Commission for Children, completely independent of government illustrates the importance of this. The independence and separation in oversight of the Department is fundamental in assuring the accountability and effectiveness of the child protection system in Queensland, maintaining public confidence in the child protection system and addressing complaints and concerns.

The 2004 *Protecting Children* Inquiry (prompted by the disclosure by a young person who had experienced 'sustained and serious' sexual assault and abuse while in the care of the Department) raised concerns that the then Department of Families had not been effectively responding to concerns and allegations raised in relation to the sexual assault, abuse and neglect of children in care. A key recommendation in the 2004 report relating to these concerns and the need for external accountability was the expansion of the Community Visitors Program to include children in foster care.

With Community Visitors seen as independent from the child protection department, the program provides children and young people with an external avenue for speaking out. The "Views of Young People" research conducted by Community Visitors is an invaluable avenue for the voices of children and young people to be heard and the program provides an avenue for young people to raise concerns. As reported in the Commission for Children and Young People and Child Guardian Annual Report 2011-2012:

During 2011-12, 4,017 site reports by CVs were generated which included 434 reports for disability services facilities and 144 reports for mental health facilities.

These site visits allow the CV to report on the quality of care being provided at these residential care facilities. During these visits, vulnerable children and young people who are not under statutory care are able to raise their concerns directly with the CV and have their issues included in the site visit report lodged by the CV.

This ensures the issues are addressed and also contributes to the Commission's unique database on factors affecting the safety and wellbeing of children and young people.

The information provided by CVs' site visit reports can generate early alerts for the Commission on service delivery issues for children and young people and informs the Commission's advocacy and information sharing on these issues.

The main types of issues of concern to children and young people in residential facilities were:

- placement arrangements (e.g. safe living environment, stability of placement, behaviour management by foster carer)
- contact (e.g. contact with family, siblings, Child Safety Officer)
- harm or risk of harm (e.g. physical harm, sexual abuse or exploitation, psychological or emotional harm, neglect)
- therapeutic care (e.g. grief counselling, drug or alcohol counselling, sexual health counselling)
- decision making, consents and information provision (e.g. bank accounts and financial management, education, medical and dental procedures, sporting and recreation).

While the Community Visitor Program ensures that children and young people in care have an independent person to support them, the relationship between Community

Visitors and the Commission with Department workers must be transparent and supportive.

- 35. Does the collection of oversight mechanisms of the child protection system provide accountability and transparency to generate public confidence?**
- 36. Do the current oversight mechanisms provide the right balance of scrutiny without unduly affecting the expertise and resources of those government and non-government service providers which offer child protection services?**

(see Questions 32, 33 & 34 above)

8. Courts and Tribunals

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

Bravehearts supports a judge-led case management process for child protection proceedings.

Key features of such a regime would include:

- Clarification around proceeding with child protection matters within the Childrens Court
- Less adversarial and a more child-focused process
- Processes that are focused on ensuring support to families involved
- Information gathering from all stakeholders, individuals and bodies who have contact with the child and their family. This would include information and reports provided, where available, from the child protection department, SCAN, Queensland Police Service, schools, child care centres, counselling services etc..
- Introduction of a Childrens Court Clinic (as outlined in the current Discussion paper) to provide specialised clinical assessments. As discussed throughout this submission, the children and families who interact with the child protection system are characterised by high and complex needs, specialised clinical approaches are needed to provide appropriate assessments
- Specialist training for magistrates and Childrens Court personnel (as well as lawyers). Specifically, Bravehearts believes that training is needed in the area of the dynamics of child sexual assault, including the indicators and the barriers to speaking out (specifically in relation to matters where a parent or family member is the perpetrator), grooming and offending patterns and the impact on the victim.

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

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

Bravehearts supports the increase of dedicated specialist Childrens Court magistrates to ensure that matters are dealt with in a timely manner.

We would also advocate the consideration of reform in line with the Public Law Outline as discussed in the current Discussion Paper. We are particularly interested in the option of a 'pre-proceedings checklist' to increase the timeliness and thoroughness of the Childrens Court process.

In addition, as outline above (see Question 37), we would support the introduction of a Childrens Court Clinic (as outlined in the current Discussion paper) to provide specialised clinical assessments for vulnerable children and families with complex needs.

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

While elevating certain applications for consideration by a Childrens Court Judge or a Justice of the Supreme Court may help stem the tide of applications, Bravehearts is concerned that key to the process is ensuring that applications are heard by those with a knowledge and experience with child protection matters.

As discussed under Question 37 there are key aspects that must be given precedence if matters are to be considered by a Childrens Court judge or Justice of the Supreme Court. .

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

Bravehearts supports the proposal that family group meetings should be independently facilitated to ensure transparency and impartiality in the process. Family group meetings could potentially be outsourced to a non-government organisation.

The child and the family both need to be part of the process, or where this is not possible (for example, due to the age of the child) be represented by a child advocate. We would stress the importance that the advocate role to be a support, therapeutic based position, not a legal advocate. The child needs representation by someone who understands child development and what is in the best interests of the psychological, emotional and physical wellbeing of the child.

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

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

As with family group meetings, the child and the family both need to be part of the court-ordered conference process, or where this is not possible (for example, due to the age of the child) be represented by child advocate. And again we would stress “the importance of the advocate role to be a support, therapeutic based position, not a legal advocate. The child needs representation by someone who understands child development and what is in the best interests of the psychological, emotional and physical wellbeing of the child”.

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

Bravehearts supports the proposal that the Childrens Court be empowered to deal with review applications about placement and contact rather by the Queensland Civil and Administrative Tribunal.

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

In addition to the recommendation above (Question 37) that information be gathered from all stakeholders, individuals and bodies who have contact with the child and their family, and the need to ensure training for magistrates, court personnel, lawyers and decision makers, Bravehearts also advocates for funding to provide competent legal representation for all parties in the process, including the parents and the child.



9. Funding for the Child Protection System

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

Bravehearts strongly believes in the need to invest in primary prevention programs to significantly reduce children and families entering the child protection system. An important recommendation out of the 2004 *Protecting Children* Inquiry (Recommendation 4.4 and 5.14) was that the government maintain a commitment to developing primary and secondary prevention programs, both aimed at *all* children as well as vulnerable, at risk children. Bravehearts believes that services providing early intervention and prevention around child protection are a fundamental key to achieving long-term reductions in child protection notifications and providing for the over-all safety and well-being of children.

Services need to be targeted not just towards children and families where there has been an identified problem, but also more universally introduced, at a community level, in the early years of a child's life. As outlined in the *Protection Children* recommendations (Recommendations 5.6, 5.7, 5.8, 5.9, 7.19, 7.20, 7.21, 7.22) A preventative approach to child protection must also be inclusive of training for professionals and adults working with children and young people, including child protection workers, parents and carers, those working in organisations that support children, and therapeutic practitioners.

The resourcing of early intervention and prevention is crucial and budgetary allocations need to be made to funding proven, effective programs that demonstrate best practice. Effective intervention early on is essential in better responding to child protection concerns and minimising the negative outcomes for children and families, as well as long term costs related to impact of childhood sexual assault, abuse and neglect.

As an agency that works specifically within the area of child sexual assault, Bravehearts recognises the incredible importance of general prevention and education in reducing prevalence of child sexual assault and child abuse in our communities. Research has incontrovertibly found that one of the greatest tools for reducing child sexual assault in our communities is awareness and education. This includes prevention programs targeted at children and programs for parents and communities.

Non-government agencies are perfectly situated to provide service response to meet the needs of children and families. It would be recommended that the Queensland Government actively engage with non-government agencies that are specialised in the fields of child protection in order to provide appropriate support to children and families in need. Collaborative working relationships between Government and non-government are essential for better delivery of targeted and specialised services.

In recognition of the differences between child sexual assault and other forms of abuse and neglect, and as evidenced by the separation of Outcome 6 in the *National Framework for the Protection of Australia's Children 2009-2020*, Bravehearts believes

that a separate and dedicated peak body is warranted to ensure that consistency and effectiveness of strategies and programs targeted at prevention and early intervention of child sexual assault. Agencies working in the sector need to be properly supported in their work. Absent in the area of child sexual assault is a dedicated peak body, specifically targeted at providing training, education and therapeutic support to the sector.

In addition, services providing counselling and support for children, young people and families are a fundamental key to achieving long-term reductions in child protection notifications and providing for the over-all safety and well-being of children and ultimate savings in child protection spending.

Services need to be targeted not just towards children and families where there has been an identified problem, but also more universally introduced, at a community level, in the early years of a child's life. The resourcing of early intervention and prevention is crucial and budgetary allocations need to be made to funding proven, effective programs that demonstrate best practice. Effective intervention early on is essential in better responding to child protection concerns and minimising the negative outcomes for children and families.

10. Conclusion

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

Family Law System Intersection

One area that is in desperate need for further investigation is the intersection between State child protection systems and the Federal system of Family Law.

Constitutionally neither Federal nor State governments have exclusive domain over family matters. Although marriage and divorce are dealt with at a Federal level, child protection and criminal matters are considered State concerns. When child protection issues arise from a Family Court proceeding, the Family Court has to rely on State authorities to conduct inquiries into child abuse notifications.

State child protection agencies will rarely intervene in Family Court cases as the assumption is that its orders will provide a more permanent welfare-based solution. This obviously creates possible risks for children. Historically there have been significant barriers to information sharing across the two entities. These fractured arrangements and lack of co-ordination between the Federal Family Court system and the State child protection systems potentially place children at significant risk.

Working With Children Check

Bravehearts advocates for the continuation and expansion of the *working with children* (blue card) employment screening system.

The Queensland working with children checks are more stringent and thorough than police-based criminal history checks, and are specifically focussed on ensuring that individuals who present as 'known' risks to children are not able to be employed or volunteer in organisations where they may have contact with children.

While the police criminal history checks contain information on convictions for criminal offences, the Queensland Commission for Children and Young People and the Child Guardian *working with children* check is far more comprehensive in including both disciplinary information from certain professions and information from police investigations relating to allegations of child-related sexual offences.

We do however recommend ongoing reviews of the process to ensure that the serious and disqualifying child abuse/neglect offences are appropriate and do not unintentionally disqualify those who do not pose a serious risk to children. For example, there have been concerns that kinship carers in dry Indigenous communities may be disqualified due to alcohol offences. It is our position that for these types of offences a review of the individual circumstances must be undertaken.

Another issue that Bravehearts continues to be concerned about is the exemption of parent volunteers. A recent matter in Western Australia exemplifies our concern. Darryl

James Osborne was working as a parent helper in a school when he was recently sentenced to 10 years jail after offending against seven boys while volunteering at the school. Osborne had previous offences relating to child exploitation (in Queensland) which would have been picked up by the school had he been required to undergo a working with children check.

The horrific consequences of the exemption for parent volunteers are clearly evident in this matter.

The question of whether or not a parent or carer's child is attending the school, sporting club etc. should be irrelevant to whether or not that parent or carer requires a working with children check. There is nothing in the offending literature to suggest that parents and carers do not offend against their children's peers. Being a parent, does not by default, make you a safe person. Research into offenders' modus operandi indicates that child sex offenders often use their children and their partner's children to access and groom victims.

The reality is that offenders are often also parents and many offenders do access victims through their own children:

“By and large, then, extra-familial and mixed-type offenders seek victims close to home - among the children of friends or other children with whom they already have some social relationship”. (Smallbone & Wortley, 2000).

In addition to parent volunteers, other exemptions such as seasonal workers in theme parks and those who work as Santa Clause must be addressed. We know that offenders often choose their occupation to provide them with contact with children. Sullivan and Beech's (2004) study of child sex offenders found that 15 percent chose their occupation exclusively so they could sexually assault children and a further 41.5 percent admitted that this was part of their motivation

Offenders in this study also identified volunteering to work in organisations that provide contact with children as a way of accessing victims (3.9% of intra-familial offenders used this strategy, 6.8% of extra-familial offenders and 13.4% of “mixed type”) (Smallbone & Wortley 2000).

Certainly, the *Working with Children* check is only able to tell us about known and suspected offenders and should be seen as part of a wide range of organisational child protection strategies. Education and training remain our best opportunity to prevent child sexual assault offences. But surely we should utilise the any tool we have to protect our children from known offenders.

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