PeakCare
Queensland Inc.

Preliminary Submission
to
Queensland Child Protection Commission of Inquiry

October 2012

Content

ABOUT THIS SUBMISSION

PeakCare Queensland Inc. (PeakCare) is pleased to make this preliminary submission to the Queensland Child Protection Commission of Inquiry. Our intentions in making this submission are three-fold, namely to:

1. commend the positive aspects of the Inquiry and highlight key matters that it is recommended the Commissioner consider in conducting this inquiry

2. provide an overview of issues impacting on the effectiveness and functioning of Queensland's child protection system and offer opinion about matters that should be considered in constructively addressing these issues , and

3. offer the Commission the opportunity to leverage off information-gathering and consultation activities being conducted by PeakCare with community-based organisations to facilitate the Commission's collection and testing of opinions and ideas for the future.

The submission is introduced with background information about PeakCare's history, purpose, values and objectives. These confirm that PeakCare is well placed to make submissions to an inquiry into Queensland's child protection system, and we are doing so with the imprimatur of our member agencies and supporters. In many instances, this submission complements submissions made by member agencies.

The range of opinions, ideas and proposals presented in this submission are ones that have been considered by PeakCare members, supporters and other interested parties who participated in roundtable discussions convened in Brisbane during January and July 2012. The content was subsequently refined for further consideration by members and supporters, particularly those located in regional areas of the State who were unable to attend the Brisbane-based forums.

For each element identified as critical to a more effective child protection system and reflective of the Inquiry's terms of reference, our submission:

*   identifies relevant recommendations of the 1999 *Commission of Inquiry into the Abuse of Children in Queensland Institutions* (Forde Inquiry) and the 2004 Queensland Crime and Misconduct Commission's *Inquiry into the Abuse of Children in Foster Care* (CMC Inquiry) and identifies the progress made in implementing responses to those recommendations

*   analyses whether outcomes (in the broadest sense) have improved for Queensland children [1] and families and if the intent of the relevant recommendations of these previous inquiries have been realised

*   based on research, members' experiences and analysis of relevant issues, identifies key matters which remain unaddressed or problematic for children, families, service providers and / or the system as a whole, and

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[1] We use the term 'children' to refer to children and young people.

- recommends matters to be attended to in developing a 'road map' for the future of the child protection system in Queensland.

Building on previous submissions and reports

This submission refers to and builds on a number of key reports, discussion papers, submissions and other documents produced or commissioned by PeakCare in recent years, copies of which have already been submitted to the Commission during August 2012 in the form of a *Catalogue of key reports, submissions and other documents 2001-2012*.

As noted in the foreword of that catalogue, in gathering the documents together, it was interesting yet quite concerning to see that key messages promoted by PeakCare about the 'problems' and the 'solutions' have been remarkably similar over the last decade. While we might now tinker with some of the views expressed in the documents, the consistency with which a number of key themes have been addressed provide a stark reminder that child protection is a complex area with which countries across the world are struggling in getting the balance right. This struggle is driven by prevailing ideologies and understandings being gained about sound child protection policy and practice as well as more pragmatic, yet nevertheless legitimate considerations of governments about the targeting of their financial investment in ways that make the best use of available resources in producing improved outcomes for children, families and society generally.

A catalyst for further discussion and debate

PeakCare perceives that our preliminary submission may usefully serve as a catalyst for further discussions and debate amongst our member agencies, supporters and interest groups. This includes, in particular, further panel-led discussions that will occur during a series of Child Protection Expos being hosted by PeakCare in various locations across the State during 2012 including Logan City (Griffith University, Logan Campus, Meadowbrook) on 30th October, Toowoomba (Highfields Cultural Centre) on 7th November, Caboolture (Brisbane North Institute of TAFE) on 15th November, Townsville (James Cook University) on 27th November and Rockhampton at a date to be determined. Representatives of the Commission are welcome to attend the Expos and PeakCare will be pleased to report on key themes of the discussions.

PeakCare is also pleased to have hosted a 'Practitioners' Group' in association with the Australian Association of Social Workers (AASW). It is understood that this Group will be also presenting the Commissioner with a submission addressing matters of importance.

About PeakCare Queensland Inc.

Our history: PeakCare was established in 1999 having evolved from the Child Adolescent and Family Welfare Association of Queensland (CAFWAQ) and prior to that, the Board of Governing Authorities for residential care.

Formation of the Board of Governing Authorities was an active expression of the interest held by non-government providers of residential services for children in creating an independent organisation that could impartially represent their shared interests and concerns.

The shift to CAFWAQ occurred in response to a growing awareness of not only other forms of out-of-home care being provided by non-government organisations for children, but also the increasing range of child, youth and family support services that were seen as integral to an effective child protection system. The providers of these services also wished to have their voices properly represented and heard.

Who we are today: Staying true to the original intentions of providing an independent and impartial voice able to represent and promote matters of interest to the non-government sector, PeakCare remains a not-for-profit organisation with a membership base comprising around seventy non-government organisations involved in providing the full range of prevention, early intervention, child protection, out-of-home care and related services across Queensland.   A network of around ten supporters made up of individuals or other entities with an interest in child protection also subscribe to PeakCare.

Whilst primarily funded by successive Queensland governments that have recognised the value of having an independent peak body with which to negotiate and liaise, PeakCare is also financially assisted in meeting our objectives through membership fees and the sale of some services.

We work collaboratively with other peak bodies including, in particular, the Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSCIPP), CREATE Foundation and Foster Care Queensland (FCQ) and are involved in national advocacy efforts through our memberships of the Child and Family Welfare Association of Australia (CAFWAA) and Families Australia.

In keeping with our Constitution, the strategic directions and governance of our organisation are guided and monitored by a Board comprised of elected representatives and a small number of co-opted members from non-government organisations.

Our vision:

Safe and healthy children, young people and families who are strongly connected to community and have equitable access to life opportunities.

Our purpose:

To lead in partnership with others:

- the pursuit of excellence in the development of child protection policies, programs and practice

- improvements to the integration and functioning of the child protection system, and

- the social action needed to promote the safety, well-being and life opportunities of children, young people and their families.

Our beliefs and values:

- Leadership, integrity and courage

- Respect and valuing of diversity

- Partnerships and collaboration

- Reconciliation and the honouring of the First Peoples of the Land

- Confidence and optimism.

Our 2012/ 2015 strategic objectives

- Improving the integration, quality and range of child protection responses, programs and services for children, young people and families

- Building the infrastructure, means and processes essential to the effective governance, management and administration of a high quality child protection system

- Promoting a social environment that is supportive of the values and goals of a contemporary child protection system

- Strengthening PeakCare's organisational capacity to exercise our leadership role.

The 'backdrop' against which our submission has been developed

PeakCare wishes to commend key features of this inquiry that we perceive as positives and flag our reservations about how other child protection inquiries have been conducted and the conclusions reached.

This Commission of Inquiry was established to enact an election commitment of the Queensland Government to review the progress made in implementing recommendations of the 1999 Forde Inquiry and 2004 CMC Inquiry.

Unlike other inquiries into the abuse and neglect of children, this inquiry may be regarded as one that has not been 'crisis-driven' nor one that has been prompted by the scandalous treatment of any individual children or families. Rather, its stated rationale is to deliver a 'road map' for child protection over the next decade.

Having said this however, there is no question that Queensland's child protection system may nevertheless be described as being in 'crisis'.

Indicators of a system that is struggling

Overwhelmingly, the evidence suggests that Queensland's child protection system is struggling.

The CMC Inquiry led to significant increases in funding to and for government and non-government services. Despite this, or even because of it, 'demand' for statutory and non-statutory services has increased, while 'supply' is outstripped, for example, notifications assessed as high priority continue to not be promptly investigated and less-than-suitable placements in out-of-home care often occur.

Notwithstanding a small decrease in the number of notifications of child abuse and neglect in 2009/10 to 21,655, this number remains high and the estimated actual number for 2011/12 featured in recently released State Budget papers notes an increase to 25,150.

In 2010/11, over 2,300 children had more than one notification recorded and were therefore subject to more than one investigation. Over 17% of children were substantiated in 2009/10 and re-substantiated within 12 months, raising serious questions about the interventions provided to families where there was a substantiation. When considering that the reported cost of each investigation amounts to $13,634, a substantiation rate that was less than 40% in 2010/11 also raises serious concerns about the effectiveness of the current assessment process in screening in reports that do not warrant such a costly, but more importantly, intrusive investigation.

The number of children under an order and the number in out-of-home care increased from 2009/10 to 2010/11. From the large number of Queensland children about whom a report is made to the Department, a relatively small number become entrenched in the child protection system. The representation of Aboriginal and Torres Strait Islander children remains alarmingly disproportionate and increasingly disproportionate the further they progress into the system.

Children are staying longer in care than they did a decade ago. Over 75% of children who exited care in 2001/02 had been in continuous out-of-home care for two or less years. This compares with 60% who exited care in 2010/11. In respect to the age of children exiting care, 30% were aged 0 to 4 years in 2001/02, compared with 23.5% in 2010/11. In 2001/02, 20% of young people leaving care were aged 15 to 17 years, compared with 32.4% in 2010/11. These data indicate that fewer children are being successfully reunified with their families in their formative years and young people are now more likely to 'age out of care'.

In the absence of evaluation, research and planning, the 'right' number of children to be reported, substantiated or placed under a short or long term order is not known. Nor is it known whether children and families are receiving the services and interventions they need. Little is known about the nature and effectiveness of the interventions and services that children receive where the Department does not intervene or takes no further action or whether children and families who access services receive what they need or simply what a service provider has available.

A perception that the situation is intractable

The Child Safety Services' Performance Statement that appears within the 2012/13 State Budget papers suggest that a perception is held within government that the situation is intractable, at least in the short-term, and is not being sufficiently impacted by current approaches and recent initiatives such as Helping Out Families (HOF) in the south-east corner of the State and the roll-out of the Aboriginal and Torres Strait Islander Family Support Program and Referral for Active Intervention (RAI) services across the State.

Estimates or targets for 2012/13 are provided for intakes (i.e. child concern reports and notifications), rates of children subject to substantiated harm and protective orders, and numbers of children subject to substantiations and ongoing intervention (i.e. intervention with parental agreement and child protection orders). The projections indicate that no positive change is expected in relation to either the numbers of children or the ways in which these children are having contact with the child protection system. For example, an increase is projected in the number of children subject to ongoing intervention although concerningly, the relative proportion of children subject to the less intrusive option - intervention with parental agreement - is projected to remain at around 19%.

Similarly, the relative percentage of children assessed as 'not in need of protection' following an investigation is not projected to change from around 36% of outcomes. The rate of Aboriginal and Torres Strait children subject to an order is projected to increase from 48 per 1000 in 2011/12 to 51 per 1000 in 2012/13. The percentage of children experiencing one or two placements before exiting the system after 12 or more months is projected to remain at the 2011/12 figure of 41%.

Why does the system continue to struggle?

Previous Queensland inquiries, as well as similar inquiries elsewhere, have failed to conceptualise the child protection system in a different way and have therefore focused on doing the same things 'better' or doing 'more of the same', rather than advocating for different and new approaches.

Typical recommendations have included standardising or automating procedures, introducing structural changes for administering the system, and underlining 'reforms' requiring legislative changes. Examples from the CMC Inquiry include the recommendation to regulate kinship care in the same way as foster care, whilst not addressing the more fundamental issues and need for the devolution of responsibility for protecting Aboriginal and Torres Strait Islander children to community-controlled and led organisations.

Key structures and processes currently incorporated within Queensland's child protection system can be dated back to a system designed in the late nineteenth century to 'rescue' children and animals from maltreatment.   While the system has been added to, amended and made more complex since that time, the essence of the system, its underpinning assumptions and the ways in which it operates remain largely the same.

A system stuck in its past

The genesis of the 'formal' child protection system may be regarded as having its roots less than 150 years ago in the case of a 10 year old child from New York named Mary Ellen.   In 1874, there were no laws governing the treatment of children. In response to concerns raised by Mary Ellen's neighbours and her parents' refusal to change their abusive and neglectful treatment of her, intervention was 'forced' on her parents under legislation covering the treatment of animals.

As described in PeakCare's Discussion Paper, Rethinking Child Protection: A New Paradigm*, the case of Mary Ellen established the framework for a child protection system across the western world that has largely gone unchanged in relation to its overall structure and key processes (Testro & Peltola, 2007).*

In response to the case of Mary Ellen, most industrialised countries, including Australia, had by the end of the nineteenth century introduced legislation offering protection to children, established specialist children's courts and developed organisations with designated government authorities to:

- *receive and investigate reports of children who were being maltreated by their parents*
- *initiate legal proceedings to 'rescue' children from their adverse circumstances, and*
- *arrange for their care outside of their family, thereby eliminating all further risks to their physical safety.*

The key assumptions underpinning the child protection system in its infancy were that child abuse and neglect affected only small numbers of children and once discovered and exposed, could be dealt with simply through the removal of these children from their parents' care.

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In addition to being concerned about the physical safety of children, the system quickly became concerned with also protecting children from being 'contaminated' by the 'poor' morality and behaviours of their parents (such as gambling and the drinking of alcohol). In response to these matters, the same processes were used to receive and investigate reports of children who were being exposed to 'moral danger', thereby enabling legal action to be taken to 'rescue' and 'remove' them from their parents' care.

Key challenges to the system's design

With the progress of time, key features of the child protection system, its aims and underpinning assumptions have been challenged by a growing body of knowledge and experience. While some amendments and safeguards have been added in response to higher levels of understanding about child abuse and neglect, the system has remained fundamentally the same.

Challenges to the 'child-rescuing' ethos

Since the inception of the child protection system, original assumptions made that the numbers of children who might need 'rescuing' from their parents' care would be small was challenged by growing awareness of the prevalence of child abuse and neglect.

In particular, the advent of x-rays and increased capacity of medical practitioners to identify injuries to babies that could not have occurred accidentally, led Dr Henry Kempe and others to uncover the 'hidden' abuse of children. Subsequent decades featured similar 'discoveries' about the prevalence of sexual abuse and the extent and impact of domestic and family violence.

The notion that only small numbers of children would be in need of 'rescuing' was countered by an increased appreciation of the potential for most parents if placed under enough stress through economic, personal or social hardship and isolation, to physically or emotionally abuse or neglect a child or, at the least, not parent them 'well'.

The motivation to seek alternatives to a 'child-rescuing' response was added to by increased knowledge and understandings gained about:

- *the importance of children's attachment to their primary adult care-givers and the significance of this attachment, particularly during their formative years, to their long-term emotional and psychological health and well-being, and*

- *the trauma and harm that may be experienced by children not only when separated from their families, but also by the subsequent disruption caused by their removal to the connections they have with their extended family, friends, community and culture.*

In response, child protection theorists advocated for:

- *increased use of prevention and early intervention programs targeted towards parents of infants and young children for purposes of promoting their attachment*

- *the development of strategies aimed at strengthening the capacity of families and communities to care safely for their children, thereby preventing child abuse or neglect*

- *the introduction of 'checks and balances' within the system to assess and weigh up the risks of harm to a child if interventions to secure their protection do not take place, compared with the potential harm that may be caused by the intrusion and disruption to their care if these interventions do occur – particularly, when these interventions entail the removal of a child from their family's care*

- *where the removal of children needs to occur, the use of interventions to facilitate the reunification of children with their families, and*

- *where reunification is not possible, the facilitation of arrangements that provide for permanence and stability in the relationships that children have with their adult care-givers that incorporate, wherever possible, a role for family members in remaining involved in 'sharing the care' to the extent to which this is wanted by each child.*

Challenges to the moral and cultural constructs placed on 'child protection'

In conjunction with the development of strongly held views about the gross inadequacy of 'child-rescuing' practices, recent decades have also seen the emergence of challenges to the moral and cultural constructs placed on the child protection system.

The damage caused by the imposition of these constructs is most starkly evident when consideration is given to the devastating impact of the forced removal of Aboriginal and Torres Strait Islander children from their families during the period in Australia's history now commonly referred to as the era of 'The Stolen Generations'.

Government policy of the day allowed for Aboriginal and Torres Strait Islander children, unlike all other children, to be legally regarded as 'neglected and destitute' based solely on their race. This justified the forced removal of Aboriginal and Torres Strait Islander children with no legal rights held by their families to argue or appeal these decisions.

The ongoing legacy of this era on Aboriginal and Torres Strait Islander families and communities serves as a vivid reminder of the dangers of a cultural bias being applied to the judgements made about what constitutes sound child-rearing practices and the grounds that warrant the initiation of child protection interventions.

These are dangers that continue to exist today – not only in relation to Aboriginal and Torres Strait Islander children, but also those whose families have other cultural backgrounds or who may be discriminated against for other reasons.

History has also demonstrated, for example, the harm caused to many individuals and families in the past when for reasons of morality and conformance with prevailing social norms, economic hardship, or the possession of a physical or intellectual disability by a child or parent, undue pressure was routinely placed on parents – single mothers especially – to relinquish the care of their children and consent to their adoption, their placement in foster or institutional care or being raised by a relative 'pretending' to be their mother.

Various Australian governments including Queensland's, have or are now preparing to formally apologise to the victims of forced adoption practices of the past that were largely driven by the imposition of a short-sighted and ill-informed moral construct on child protection policy and practice.

Somewhat perversely, the dangers of a moral or cultural bias influencing child protection policy and practice has also in the past disadvantaged children whose families have a 'mainstream' demographic profile. These were the children from 'good families' who were too frequently not heard or believed when they complained of being abused or whose behaviours in acting out the trauma of their abuse, were misinterpreted and dealt with in a punitive manner.

Within commentary contained in the 1967 Director's Annual Report of the Queensland Department of Children's Services explaining the high numbers of 'intractable' girls detained in 'training homes', a conclusion was drawn, "The problem involving girls is generally morals, but in a few cases they have been involved in offences". A developing awareness of sexual abuse and public outcry about the high numbers of children, 'status offending' female children in particular, being detained in the Wilson Youth Hospital eventually prompted the establishment of a Commission of Inquiry. The Demack Report that was released in 1976 recommended the use of alternative facilities and services for adolescent girls and emphasised community responsibility and treatment in preference to their detention. However, the legislated ability to detain 'uncontrollable' children on the grounds of being 'likely to fall into a life of vice' remained in place until the early 1990s.

Similar to other human services systems, the child protection system cannot exist in isolation from or avoid being influenced by contemporary social norms and community standards. Perhaps more than any other providers of human services however, those who work within the child protection system - those who hold statutory authorities in particular - have high levels of power to intrude and make judgements about highly personal aspects of people's lives. In an ongoing way, this makes children and families extremely vulnerable to having moral and cultural constructs imposed upon them.

To curtail this dynamic, the child protection system has increasingly incorporated legislated provisions and other safeguards to protect the rights of all parties throughout the processes used to determine the level of intervention needed to secure the protection of children from harm.

Despite these safeguards however, inherent within the struggle to re-shape the child protection system is a failure to fully appreciate that the children and families this system is intended to service are not an homogenous group. The reasons for their contact with the child protection system vary widely as do their responses to the range of interventions and services they may receive along with the pathways made available to them in accessing these services.

Whilst some children and families may be viewed as having a profile that characterises them as 'vulnerable' or 'at risk', exceptions can always be found. Child abuse and neglect is not confined to any particular socio-economic group, nor is it the inevitable consequence experienced by the children of single parents or parents who were abused or neglected themselves or have an intellectual disability or formerly spent time 'in care'.

While services that are targeted towards particular cohorts of children and families may benefit many, there are continuing dangers of value-laden constructs being applied in the name of 'protecting children' that unfairly and unjustly draw attention to and discriminate against some groups – both in relation to who is 'reported', the pathways made available to them in accessing services and the nature of the 'response' that they receive.

Challenges to the assumption that children would be safe when removed from their parents' care

Growing public awareness and dissatisfaction with the outcomes of the Stolen Generations era as well as those of forced adoption practices of the past highlighted the dangers of assuming that children, when removed from their parents' care, would be safely cared for by others. This is an assumption that has been tested by numerous inquiries and discovered to be ill-founded.

For example, the 1997 Bringing Them Home Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families *found that children removed from their families were often placed in dormitories on reserves, were refused contact with and told that they were not wanted by their families, were forbidden to speak their language, received little or no education, and experienced neglect as well as physical, emotional and sexual abuse. These findings were consistent with those that featured within the 1991* Report of the Royal Commission into Aboriginal Deaths in Custody.

Similarly, the vulnerability of children who have lived outside of their family's care has been highlighted within the:

- Lost innocents: Righting the record. Report on child migration *produced by the Senate Community Affairs References Committee in 2001*
- Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children *produced by the Senate Community Affairs References Committee in 2004, and*
- Lost innocents and Forgotten Australians revisited report on the progress with the implementation of the recommendations of the Lost Innocents and Forgotten Australians reports p*roduced by the Senate Community Affairs References Committee in 2009.*

> *Within Queensland, the vulnerability to exploitation, abuse and neglect that has historically been experienced by children who, when removed from the care of their families, are placed in the care of others, was amply demonstrated in the findings of the 1999* Forde Inquiry into abuse of children in Queensland institutions *as well as the CMC's* Inquiry into abuse of children in foster care *completed in 2004.*
>
> *Each of these inquiries as well as numerous similar inquiries conducted in other Australian states and overseas have emphasised the ongoing vigilance required in ensuring that the alternative care services being provided to protect children:*
>
> - *are, in fact, helpful to them, and*
>
> - *at the least, do not cause them further harm.*
>
> *The frequency and regularity with which various inquiries have been conducted both in Queensland and elsewhere and the consistency of their findings strongly indicate that:*
>
> - *the State has been negligent in discharging its 'corporate parenting' role, both in respect of the out-of-home care services it has provided itself as well as in its choice, and exercise of scrutiny, of those organisations and individuals to whom the State has bestowed the responsibilities of caring for children on its behalf, and*
>
> - *the vulnerability of children and their exposure to risks of being further harmed by the services intended to protect them remain high if rigorous safeguards are not firmly in place.*

The intransigence of the system

In light of the growing awareness of the inadequacy of the child protection system for the reasons described above, governments across Australia have reached some level of agreed-upon understandings about the need for change.

The quest to re-shape the system and reduce the over-reliance on tertiary child protection responses reached its zenith with the development of the *National Framework for Protecting Australia's Children* that was endorsed by the Council of Australian Governments (COAG) in 2009.

Whilst the adoption of this framework may be seen as a major step forward in acknowledging and defining the 'problem', it cannot be seen, as yet, to have achieved any major redistribution of resources from the tertiary end of the system to primary or secondary services or any fundamental shifts in the ways in which the system operates and functions as a whole.

Nor can adoption of the framework by all States and Territories be seen as having achieved a nationally consistent approach to child protection or a consistent experience by children and families throughout the country if and when they encounter the system.
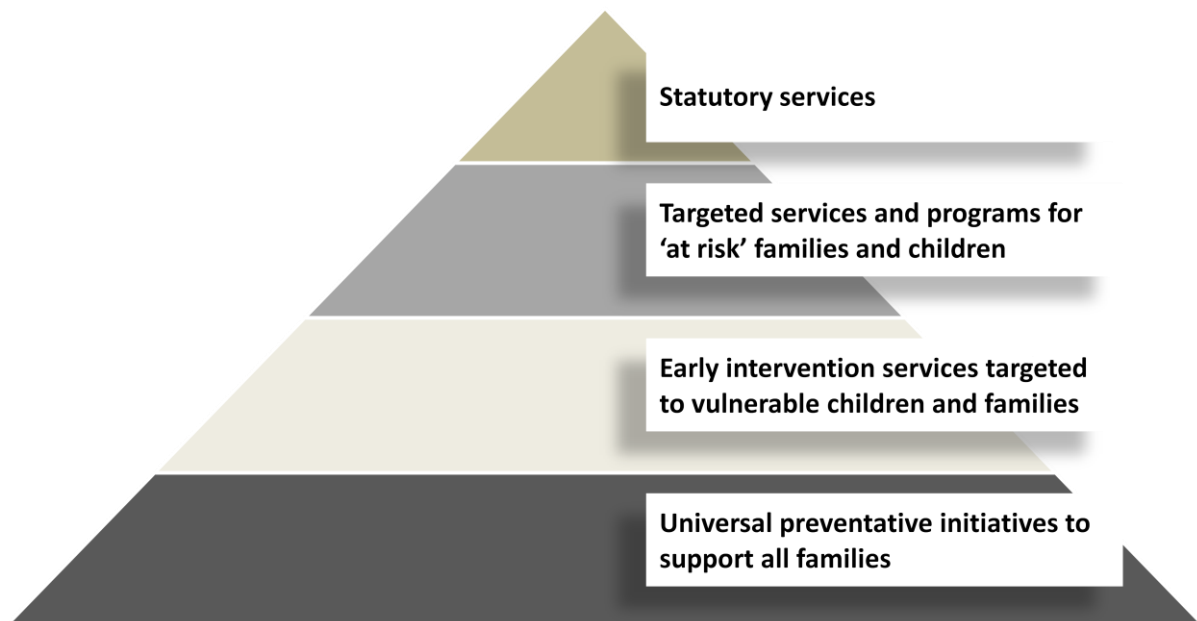
The irreversible pyramid

Queensland is a signatory to the National Framework for Protecting Australia's Children*, endorsed by the Council of Australian Governments in 2009. The* Framework *seeks a shift in emphasis from responding to child abuse and neglect through statutory tertiary responses to promoting children's safety and well-being through increased access to:*

- *services (such as public health, education, housing and income support) that should be universally available to all children and families, irrespective of their involvement or otherwise with the child protection system*

- *early intervention services targeted to children and families who may be viewed as vulnerable, and*

- *targeted services and programs for 'at risk' children and families.*

The model recognises that statutory intervention should not be the first or only response to children and families in need, and that offering assistance earlier to those families who need help can prevent abuse and neglect, as well as reduce individual and societal costs in the longer term.

Based on a 'public health model', statutory services are depicted in diagramatic representations of the National Framework *as being at the 'top' of a pyramid in recognition that they constitute the smallest part of the overall system given that the number of children and families accessing services decreases as services increase in intensity. This model arose out of calls to reduce the over-reliance on tertiary responses to child abuse and neglect and to 'reverse the pyramid'.*

Statutory services

Targeted services and programs for 'at risk' families and children

Early intervention services targeted to vulnerable children and families

Universal preventative initiatives to support all families

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> *The irony is that, despite the commitment made to 'reversing the pyramid', the number of and rate per 1000 children receiving statutory child protection services continues to increase and the real recurrent expenditure (reported in the Report on Government Services 2012) on the most intensive services - child protection and out-of-home care - continues to increase each year. From 2009/10 to 2010/11, expenditure increased in every jurisdiction except New South Wales, which reported a reduction in expenditure on child protection. Queensland however reported an increase of over 20% on child protection services, compared with a less than 5% increase across all Australian jurisdictions. Notwithstanding that the rate of entry to care has stabilised in Queensland, the overall number of children entering the system and living in out-of-home care is increasing, and projected to continue increasing in 2012/13.*

The reality is that without comprehensive, accessible universal, early intervention and intensive family support services, the gateway to accessing the services to which children and families are entitled or which address particular vulnerabilities will remain by default and in reality linked with being notified or, worse still, multiple notifications to the Department of Communities, Child Safety and Disability Services.

Rather than ensuring that children and families are receiving the 'right services at the right time' (i.e. services that are both timely and appropriately matched in their intensity to the types and level of need held by individual children and families), the system in its current configuration either:

- excludes many children and families from receiving the help they need at the times it is needed (or at the least defers help being accessed until their needs become 'bad enough'), or

- 'draws' children and families further into the system than is necessary in order for them to access the services they need and then makes it difficult for them to 'leave'.

Examples of this dynamic include:

- parents struggling to care for children with disabilities feeling compelled to relinquish care of their children in order for them to receive the services their children need

- children in families that have been experiencing domestic and family violence being removed on the grounds of the mother's 'failure to protect' even when the mother herself is a victim and not the perpetrator of the violence

- babies and children of mothers with intellectual disabilities being removed in preference to placing supports around the parents

- children being able to establish their eligibility to access services such as free annual health checks only by being placed 'in care', rather than these service being provided on a needs basis irrespective of a child's guardianship status and as a means of supporting parents who may be unable to afford the costs of meeting these basic care requirements, and

- children and their foster or kinship carers being able to access regular respite care, professional and para-professional support and the reimbursement of costs associated with their care that are not as readily available to their parents were their children to remain in their care.

The overall effect is a 'graduating' one whereby children and families may be seen as 'failing into' more intrusive and higher-level responses.
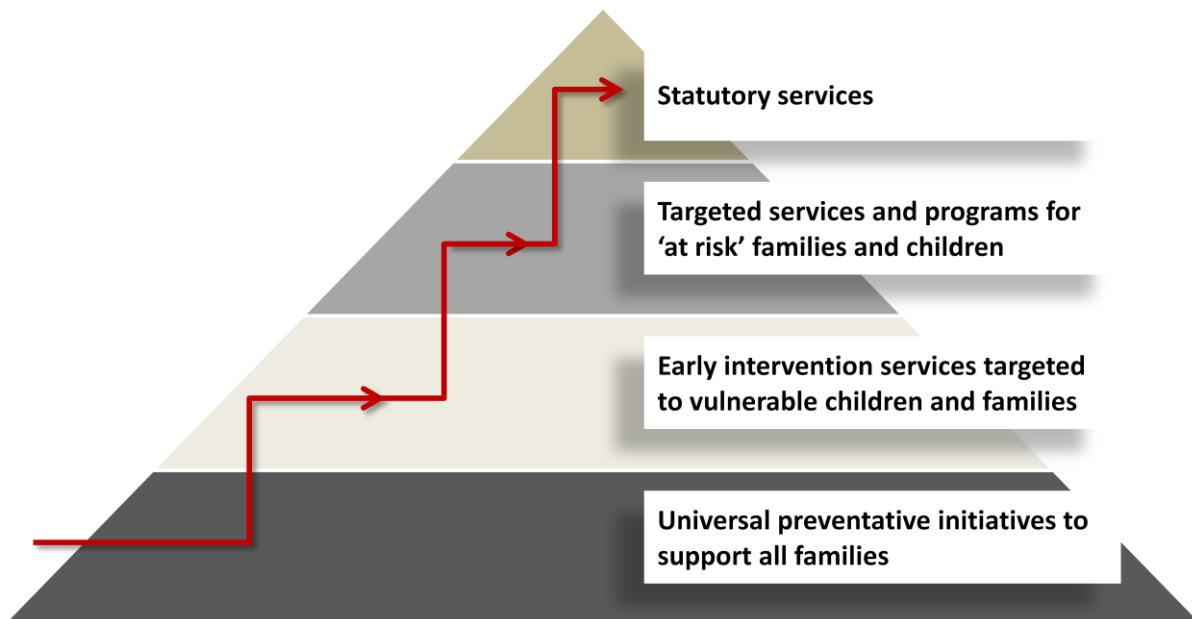

Rather than children and families receiving the 'right services at the right time' based on a matching of their needs to an appropriate level of service response, the response they currently receive is predominantly driven by:

- whatever services happen to be locally accessible and available

- a reactive approach aimed at eliminating 'risks' to the immediate *safety* of children where it is assessed that the level of risk is unacceptably high

- insufficient attention given to reunifying children with their families and a lack of confidence in being able to facilitate reunifications safely, subsequently leaving many children entrenched within the system, and

- the introduction of new and additional risks to the safety, well-being and life opportunities of children due to placement instability experienced by far too many and the subsequent 'acting-out' of their trauma in feeling 'unwanted' and 'not belonging'.

By way of contrast, a 'needs-based' as opposed to 'risk-focussed' model would promote a more fluid arrangement where greater emphasis would be placed on:

- proactively meeting the needs of children and families, thereby preventing the emergence of risk factors

- where these risk factors do emerge, intervening earlier with an appropriately tailored and individualised response which may include, where necessary, statutory intervention

- making the services and supports that children and families need readily available to them without making this assistance contingent upon their contact with statutory services including, in particular, the placement of children in out-of-home care

- ensuring that the placement of a child in out-of-home care is not perceived as an 'end in itself' but rather one that 'sits alongside' a range of accompanying interventions with the child and their family, and

- facilitating the progress of children and families through the system, thereby preventing their unnecessarily prolonged involvement with statutory services where their ongoing involvement is not warranted.

This contrasting approach is presented in the following diagram:
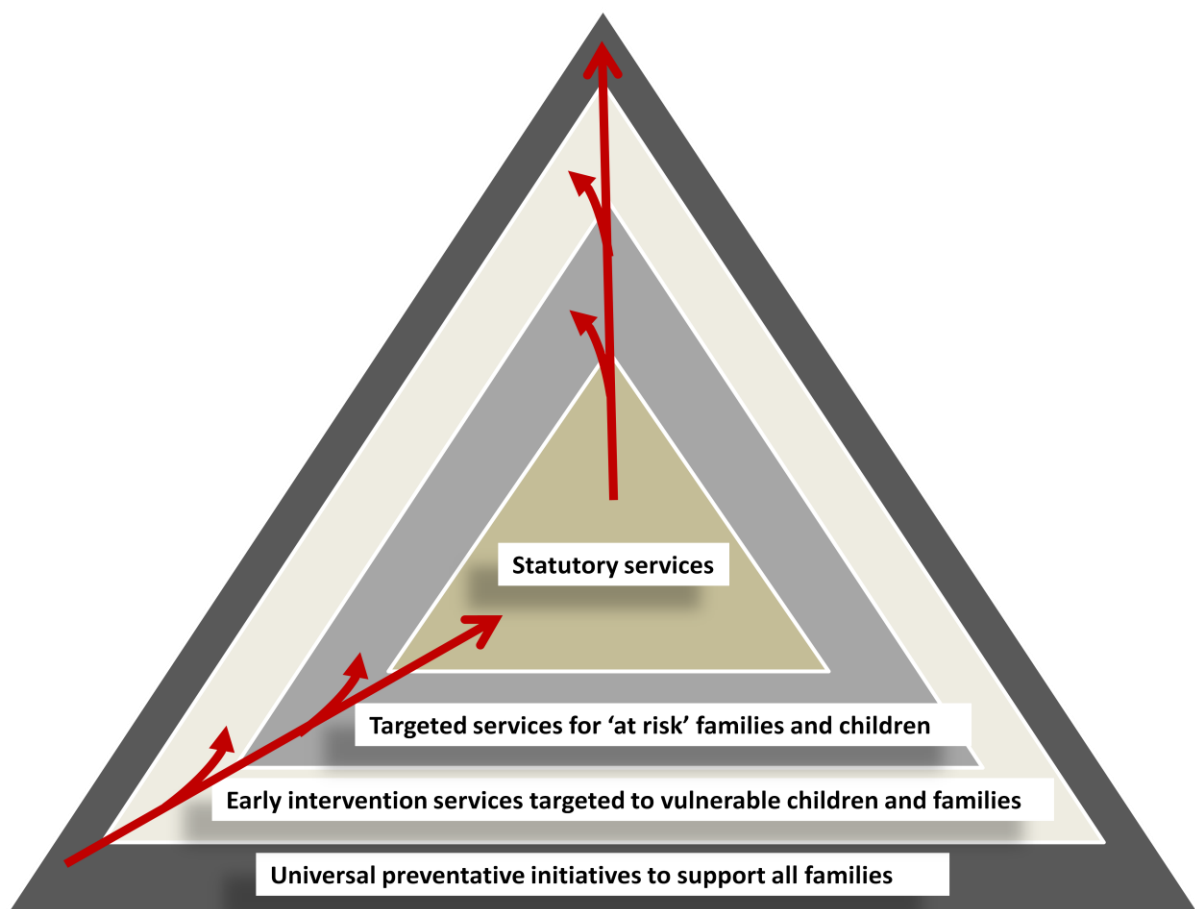
Notwithstanding the value of initiatives such as Helping Out Families (HOF), less well publicised local service development initiatives and the fine work of a large number of individual organisations and child protection practitioners, carers and others from within both the government and non-government sectors, the system as a whole has largely remained intransigent in the face of the evidence supporting the need for change. The positive outcomes being achieved by various organisations and individuals are occurring almost in spite of a system that remains deeply flawed and outdated.

A key aspect of the Queensland system that compounds its intransigence in having capacity to reduce its over-reliance on tertiary responses concerns the 'gateways' through which children and families must generally proceed to access the services they need.

The over-reliance on an inefficient 'hit or miss' reporting system

As previously noted, the initial design of the child protection system was informed by an assumption that only small numbers of children were being maltreated. This assumption was de-bunked by the reality of much larger numbers being brought to governments' attention than anticipated.

Despite this, the Queensland system has largely continued its attempts to manage the larger than expected number of reports of child maltreatment through a 'gateway' located within the statutory services component of the system. Fundamentally, the system has remained unchanged with reports of alleged child abuse or neglect mostly being reported to a statutory authority (i.e. the Department of Communities, Child Safety and Disability Services) that has the legislated authority to investigate reports assessed as meeting a changing threshold of significance in relation to their seriousness and urgency.

The escalation in the sheer number of reports being received over the last decade has meant that massive injections of resources have been needed just to administer the complex processes developed to record, screen, investigate, assess and respond to a relatively small proportion of these reports. The value of the increasingly disproportionate allocation of resources to this segment of the child protection system (i.e. tertiary intervention) in achieving the outcomes being sought from the system must be questioned.

The reporting system, as it currently exists in Queensland as well as, to a greater or lesser extent, other Australian states and territories, largely relies on the use of actions that are triggered by and taken in response to reports about abuse or neglect made to the statutory agency. Predominantly, the sources of these reports are members of the public and people in occupations who have regular dealings with children.

This can be regarded in no other way than a 'hit or miss' approach given that:

- There can be little confidence placed in the notion that those children or families who are most in need will necessarily be engaged with their local community due to their transience or other reasons or receiving services (such as child care, health or educational services) that can be relied upon to identify and report concerns where this is warranted. Nor can

there be confidence placed in the notion that those children or families who are most in need will come to the attention of any other parties who might report their concerns to the statutory authority (i.e. there can be little confidence that many children who have a genuine need to be protected will not remain 'hidden')

- Conversely, many children and families will, for a range of reasons, be unnecessarily reported.

In light of the above, the child protection system in its current design may be seen as perpetuating:

- the 'under-inclusion' of some children who are most in need along with the 'over-inclusion' of others who may then be subjected to unnecessary or disproportionately intrusive interventions into family life, and

- the possible 'over-inclusion' of some children and families when a different response to tertiary intervention would have been more suitable.

Whilst legislated and policy-driven mandatory reporting requirements have been imposed upon some groups (such as doctors, nurses and others employed in specified roles) in an attempt to ensure that those children who are in most need of statutory intervention are reported, the inadvertent consequences of these requirements can include:

- a reluctance by some to 'look for' indicators of abuse or neglect that may need to be reported or conversely to 'over-report' their concerns for fear of not meeting their mandated obligations

- a withdrawal of these persons from initiating or continuing assistance to a child or their family on the basis of them having referred their concerns to the statutory agency, often leaving the child and their family 'in limbo' with no assistance forthcoming, and/or

- a reluctance by families to seek help or disclose struggles that they are experiencing for fear of being reported and having their children removed as a consequence of simply seeking assistance.

In many instances, insufficient attention is paid not only to the introduction of the obligation to report but also to ongoing strategies to ensure that the inadvertent consequences of these requirements do not undermine or counteract their benefits.

To a greater or lesser extent, jurisdictions across Australia have introduced strategies to reduce the burgeoning costs associated with managing a 'bottle-necked' system of receiving and processing reports of child abuse and neglect. These strategies have included, for example:

- the 'sharpening' of definitions concerning the significance of harm and/or risks of harm to children that constitute a 'notification', thereby lifting the threshold on those reports that warrant investigation

- the introduction of 'differential responses' that distinguish between different levels of response that may be required (such as drawing distinctions between a 'notification' and a 'child concern report')

- broadening 'referral pathways' to family support services for purposes of 'diverting' families to supports rather than an investigation and further contact with the statutory system, and

- making use of panels of government and community-based practitioners to assess available information about a child and family and, subject to the outcomes of these assessments, allow follow-up responses to concerns to be directly made by designated community-based organisations instead of the statutory agency conducting an investigation.

Within Queensland, the Department of Communities, Child Safety and Disability Services has recently commenced the trialled use of a 'Child Protection Guide' to assist potential notifiers determine whether a concern warrants reporting to the Department or could be referred to a service provider within the local secondary service system.

Key reservations about the usefulness of this tool include the following:

- If the purpose of the tool is predominantly focussed on 'diverting' families from contact with the statutory system rather than assisting the process of actively referring families to the most appropriate service to meet their needs, its intentions are flawed.

- As noted within the rationale underpinning the *National Framework for Protecting Australia's Children*, effective child protection responses are about ensuring that families receive the 'right services at the right time'.

- The concept of 'diversion' in the context of child protection is inappropriate as it represents the antithesis of children and families receiving the 'right services at the right time'.

- Where families may be 'diverted' from contact with the statutory system, this should occur only when statutory intervention is not the 'right service' at that time for that child and family, which makes the tool useful only if it assists in determining what the 'right service' is and if, in fact, the 'right service' exists locally.

- If the tool is successful only in diverting families from contact with the statutory system and not facilitating their access to the services they need to address the concerns (if valid) that drew the professionals' attention to them, it is likely that the needs of many families will remain unmet, their children's exposure to risks of harm will continue or increase and further reports of concerns will follow.

- It is understood the processes developed for use of the tool included having an 'outposted' Departmental Officer available to assist in determining which reports warranted investigation when this may not be apparent or clear. It is further understood that this position has since been withdrawn by the Department. This is concerning given that the role and functions to be performed by this Officer had been previously viewed as important to the successful administration of the tool.

- Related issues which have repeatedly been already raised during the Inquiry concern the threshold for the statutory agency to take action and the nature of that action. While on one level these, of course, relate to the legislative framework and provisions of the *Child Protection Act 1999*, the interpretation and consistent implementation of the legislation and associated policy and practice guidelines is wanting.

The above reservations are of particular concern in relation to pregnant women given the priority that should be placed on them receiving the help and support they need so that their unborn children are not at risk of harm once born and certainly not removed at birth.

Clearly, Queensland's tertiary-driven system for receiving, recording, assessing and responding to reports of child abuse and neglect is not sustainable in its current form. Drawing children and families into an intrusive investigation wherein currently less than 40% of cases are substantiated with around 20% of those being subject to a further substantiation within 12 months is not only inefficient and unsustainable, it is heartless.

Moreover, it can only be concluded that basing the gateway for children and families to gain access to the support and other services they need on such a 'hit or miss' reporting and investigation approach is unreasonable, inequitable and unjust.

Queensland - the same but different

Jurisdictions across Australia, including Queensland, and internationally are struggling with re-shaping or reforming their child protection systems. All Australian jurisdictions have, in one form or another, experienced an inquiry in recent years. A major review of the system in the United Kingdom, and one from which there are clear lessons for Queensland's road map, reported in 2011. That review by Professor Eileen Munro noted that the system was compliance-driven, to the detriment of professional judgment and expertise.

Queensland's situation has characteristics and elements that are the same as those that exist in other jurisdictions as well as some that are significantly different. It is the 'same' in so far as the 'child protection system' as it exists within all States and Territories is complex, encompassing multiple government and non-government service providers and where child and family needs are becoming increasingly complex. 'Differences' in Queensland which must also be accounted for stem from, for example, the spread of population across a vast and diverse geographic area, the comparatively more recent provision of government-funded services by community-based organisations and rapid expansion of out-of-home care placements. Despite knowledge about the economic and human benefits of investing in prevention and early intervention, resource allocation as it is managed by all States and Territories remains, to a greater or lesser extent, skewed to tertiary interventions.

At the commencement of this inquiry, the most recent publically available data (2010/11) indicates that while there has been movement up and down in the number of children entering and exiting

out-of-home care each year, the actual rate/1000 children entering care in Queensland decreased from 2.5/1000 in 2009/11 to 2.2/1000 children in 2010/11.

Children are however staying longer in out-of-home care, and a contributing factor to the overall situation is that many children entered around the time of the CMC Inquiry and have never left.

Despite examination of components of the system in previous inquiries, demand increasing and resources tripling, a child's and family's pathway through Queensland's child protection system remains fundamentally the same, with more or less attention given to the pathways into or those that sit alongside the statutory system.

Challenges and opportunities for this Inquiry

This inquiry has an advantage over previous inquiries in that the Commissioner has been charged with the responsibility of making a "full and careful inquiry in an open and independent manner of Queensland's child protection system".   In taking advantage of this opportunity, it is imperative that the inquiry works back from the desired outcomes being sought for children, families and communities, informed by what is known about what works or doesn't work when and for whom, rather than simply recommending 'more of the same' (e.g. more training, information systems, recording and 'early intervention') or a particular approach (e.g. adopting a public health model). Whilst recommendations of this kind may, at least in part, carry some benefits, they are unlikely to significantly re-shape the child protection system or pave the way for a new paradigm.

Despite the growth of knowledge and experience over recent decades, Queensland's child protection system is becoming increasingly inadequate and resistant to change in dealing with the demands being placed upon it within a contemporary society. It is a system that is increasingly being characterised as 'risk-obsessed' in preference to being seen as adopting a 'needs-focus' wherein the management of risks to the safety of children can be more comprehensively contextualised and effectively addressed.   Moreover, in clinging to the short-sightedness of its priorities, it is a system that often fails to adequately take into account the whole-of-life implications of its decision-making in relation to the lives of many children and families.

It is a system that is struggling to come to an active realisation that ultimately, the protection of most children is best achieved through the proactive engagement and support of their families and communities, notwithstanding that tertiary intervention will, in some circumstances, be necessary. Where this is the case, the system within its current design struggles to provide the opportunities for tertiary interventions to be undertaken in ways that are non-adversarial. It is a system that too often perceives the removal of children as a necessary accompaniment to the delivery of tertiary interventions and the preferred (or often the only available) means of addressing risks to a child's safety.   And when the removal of children occurs, the system mistakenly promotes the notion that their placement in out-of-home care serves as an 'end in itself' rather than as a means and venue for introducing a range of accompanying strategies that can be used to reunify children with their

families in a timely manner or, where this may not be possible, facilitate a reconciliation of parents and their children in accordance with the terms of whatever their new relationship is going to be.

At a broader level, Queensland's child protection system is one that is struggling to define its purpose and the scope of its activities, particularly in relation to other human services systems and areas of social policy that also exercise a role and responsibilities in promoting the safety, well-being and life opportunities of children and their families.

To really make a difference for children and families whose circumstances lead them to being at risk of entering the child protection system or those already in contact or entrenched in the system, this inquiry must question the drivers that are immobilising the system and making it resistant to change. These are the drivers that are apparent in Queensland as well as elsewhere. They are the drivers that lead to:

- the under-inclusion of some children and families and the over-inclusion of others

- the ongoing insufficient capacity to properly service children, and families arising from mis-matches between the interventions individual families need and what they are offered, and

- inequitable spread and access to responses, programs and services.

The over-inclusion of some children and families particularly resonates with the Inquiry's mandate to make recommendations about "strategies to reduce the over-representation of Aboriginal and Torres Strait Islander children at all stages of the child protection system, particularly out-of-home care".   More than any other, they are the children and families who are most disadvantaged by the system in its current configuration and the ways in which it functions.

The Commissioner is encouraged to focus recommendations on 'outcomes', rather than 'outputs' or 'processes', as well as the ways in which the development and implementation of responses to his recommendations will be independently monitored to ascertain that outcomes being achieved for children and families actually improve.

A major challenge that also exists concerns the context of fiscal restraint in which the inquiry is being conducted. In accordance with the terms of reference established for the inquiry, the recommendations made by the Commissioner must be "affordable, deliverable and provide effective and efficient outcomes".

This imperative sits within the context of a major scaling back of the Queensland public service that has included the shedding of employees (albeit those who are purportedly not in 'front-line' positions) who have exercised roles and functions within a number of government departments that are related to the administration or support of child protection services as well as a discontinuation or reduction in grant funds to a number of non-government service providers and peak bodies.

A concern that must be considered by both the Commissioner and Government is whether the reduction in numbers of personnel across both these sectors will deplete capacity to properly and adequately implement responses to Inquiry recommendations. Reductions in 'policy' and 'program

development' personnel and system administrators within both the government and non-governments sectors may not be an effective cost saving measure in the longer term if there is insufficient capacity left to undertake the detailed policy analysis, program development, change management and monitoring functions that will be needed to implement major reforms.

Another concern relates to the Commissioner not 'ruling out' consideration of options, strategies or innovations that would or could deliver improved outcomes for children and families, simply on the basis of cost.

Forewarning of what may be required to re-shape the child protection system comes from the review of the United Kingdom's child protection system led by Professor Munro. With more than a year having transpired since the conclusion of the Munro review, those charged with the responsibility of shifting the system away from being overly bureaucratised and procedurally driven have warned that the past 'scaffolding' of the system must be removed incrementally and with care.

In anticipation that this Inquiry will make recommendations intended to reduce the over-reliance on tertiary interventions, it may also be expected that there will be challenges posed in not prematurely shifting resources away from the tertiary end (e.g. out-of-home care) towards prevention and early intervention without giving sufficient time for the demand for tertiary services to be effectively and genuinely reduced, which may expose some families and their children to even higher levels of risk than those that currently exist.

The Commissioner has been assigned the responsibility of charting a 'road map' for the next decade. This is viewed as a realistic time frame for re-shaping the child protection system and it may be expected that every year of those ten years will be required to implement the extent and nature of changes that are needed.

Our approach to finding the answers

In developing a 'road map' for the future, a methodical and comprehensive approach is needed to:

- identify the elements that are essential to an effective child protection system

- evaluate the effectiveness of each of these elements in relation to the ways in which they are currently constructed and performing in producing the outcomes being sought for children and families, and

- wherever necessary, re-constructing these elements in ways that will better achieve the desired outcomes.

In particular, any efforts to re-construct the child protection system that are to be of benefit to children and families must:

- take into full account the lessons learned from the past

- challenge all previous assumptions that have historically underpinned the child protection system, and

- take a 'fresh look' at the ways in which the system functions 'as a whole' in preference to adopting a 'piecemeal approach'.

The following proposes a framework for guiding an exercise of this type. Accordingly, the elements identified within this framework become the subject matter addressed within subsequent parts of this submission.

Identification of the outcomes being sought for children and families

Improvements to the child protection system must be driven by a clearly articulated statement of its purpose and aims. Such a statement can only be produced if there is clarity about the outcomes being sought for children and families.

The achievement of this clarity is seen as essential in informing the 'program logic' that is to guide the construction and design of all other elements of the system.

Outcomes being sought for
children and families

## Responses, programs and services for children and families

In order to achieve these outcomes, the right range and mix of responses, programs and services are needed that are timely and responsive to the changing needs of children and families.

System 'enablers'

In bringing the right range and mix of responses, programs and services into effect, key sets of 'system enablers' are needed. This includes having:

- legislation and policy in place that:

  o serve as an expression of government policy about the ways in which it intends to protect and care for children

  o provide a context in which statutory provisions of the legislation are to be exercised in practice and interpreted by courts, and

  o detail statutory provisions to intervene in the lives of children and families, where necessary, including any restrictions to the ways in which these powers are to be exercised

- the best possible infrastructure, means and processes in place within and across the government and non-government sectors, to plan, manage, administer and deliver the right range and mix of responses, programs and services, and

- the right workforce in place within both the government and non-government sectors to deliver the required range of responses, programs and services.
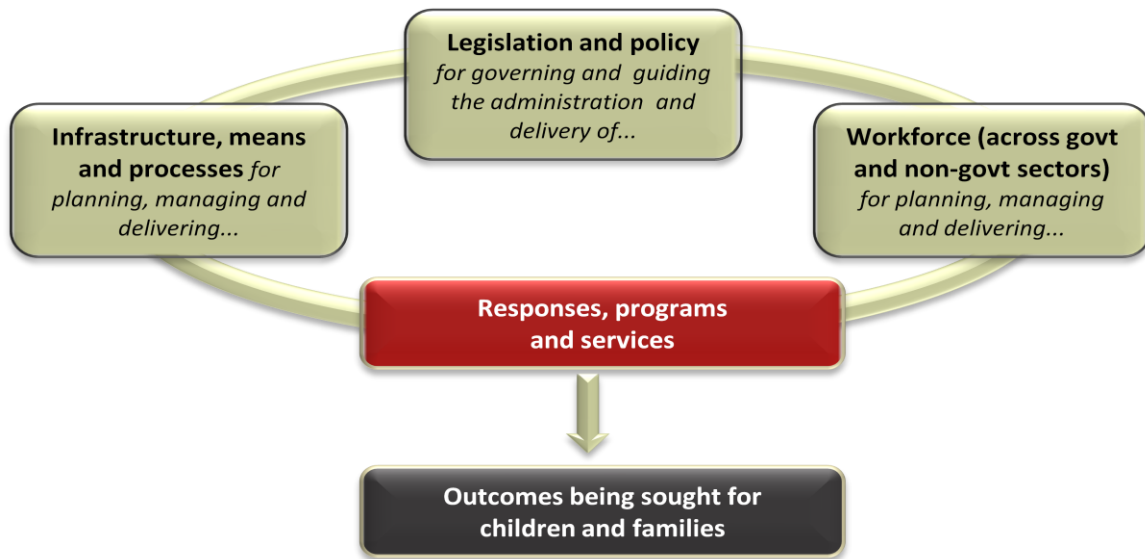
System maintenance and improvement

To ensure ongoing maintenance of the system and its continuous improvement, key sets of means and processes are needed to ensure:

- adequate collection, analysis and public reporting of administrative data from government and non-government-delivered services to inform:

    o shared understandings of issues, trends, patterns and differences in client needs, service usage and unmet demand at state, regional and local levels, and

    o the allocation of financial and human resources

- robust, transparent and independent (if appropriate) monitoring, evaluation and review of responses, programs and services

- easy access to and use by children and families of advocacy, complaint and formal review processes

- clear linkages are in place between (regional) practice and (central office) policy analysis and development

- clear linkages are in place for maintaining across sector liaison at strategic and operational levels, and

- quality assurance mechanisms exist across government and non-government service delivery.
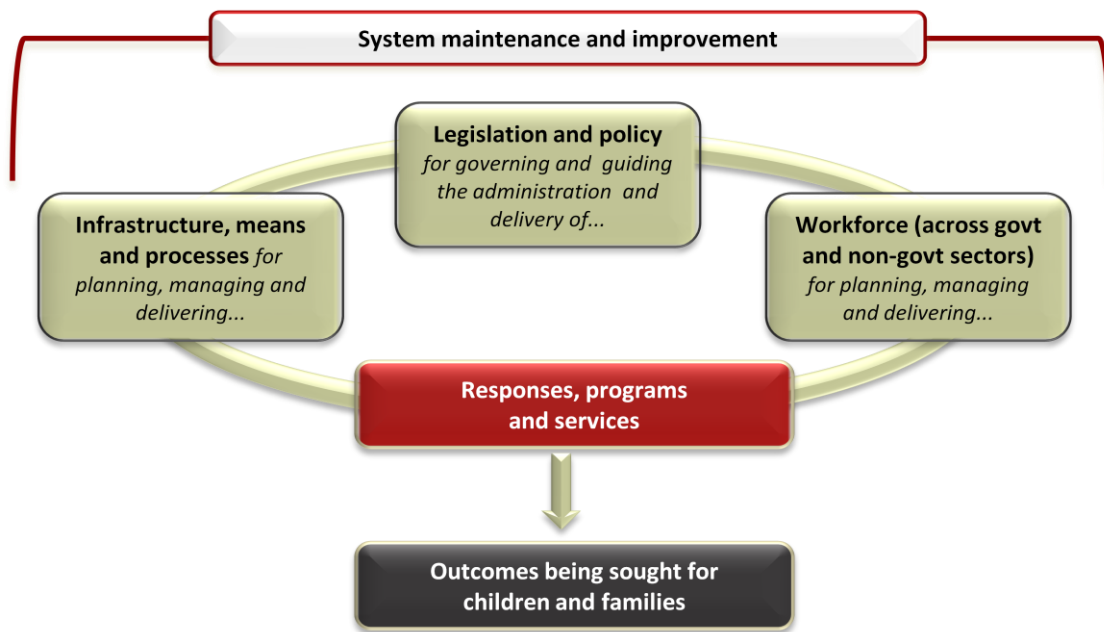
In addition to addressing each of the key elements of the child protection system, following parts of this submission also detail special considerations that apply to meeting the needs of:

- Aboriginal and Torres Strait Islander children, young people and families, and

- children and families who have culturally and linguistically diverse cultural backgrounds.

Parts of our submission

In keeping with the framework proposed for a comprehensive examination of the child protection system, subsequent parts of our submission include the following:

Part A: The outcomes sought for children and families

Part B: Responses, programs and services for children and families

Part C: Legislation and policy governing and guiding the administration of responses, programs and services

Part D: Infrastructure, processes and means for delivering responses, programs and services

Part E: Child protection workforce needed to deliver responses, programs and services

Part F: System maintenance and improvement

Part G: Special considerations

PART A:
THE OUTCOMES BEING SOUGHT FOR CHILDREN AND FAMILIES

Generally, child protection systems within various jurisdictions express aims relating to three inter-related areas:

- ensuring the safety of children from harm

- achieving their well-being, and

- promoting their life opportunities.

In relation to Queensland, for example, the *Child Protection Act 1999* states that the main principle for administering the *Act* is that the safety, wellbeing and best interests of a child are paramount (s.5A).
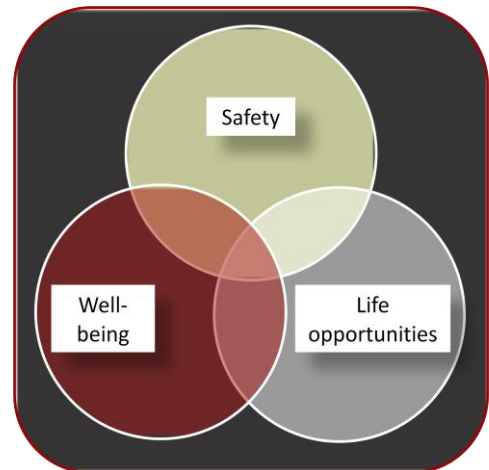
Other general principles such as those relating to children being provided stable living arrangements that provide for their developmental, educational, health, intellectual and physical needs to be met (s.5B (k) (ii)) and the maintenance of their cultural, ethnic and religious identity and values (s.5B (m)) are ones that may be viewed as relevant to promoting their life opportunities as well as their personal and cultural safety and well-being. Further, in addition to listing a number of functions held by the chief executive in relation to providing, or helping provide, information and services that relate to preventing, reducing or responding to the incidence of harm to children, specific reference is made to providing, or helping provide, services that encourage children in their development into responsible adulthood (s.7(1)(e)).

The three aims may be regarded as inextricably inter-related with the achievement of one aim unlikely to occur in isolation from the others. For example, where a child's safety from harm has been ensured, it may be expected that this will have some positive effect on their well-being which, in turn, is likely to enhance their life opportunities.

'Good' child protection practice suggests that key benefits to be gained by children who experience a child protection system where the multiple aims of the system are realised, include the achievement of a sense of:

- security

- identity, and

- belonging.

When children experience statutory child protection that entails living away from the primary care of their families, contemporary literature indicates that key factors influencing whether or not children achieve these three key benefits include:

- the continuity and stability of their care

- ongoing contact with their parents, siblings and extended family and the quality of this contact

- having a choice about seeing their family

- knowing why they are in care

- having the opportunity to maintain their cultural connections

- consistent and continuing engagement in schools and friendships

- consistent and continuing engagement with known and trusted workers

- feeling safe, respected, listened to and believed, and

- being involved in decision-making about their care.

(Refer to Hannon, C, Wood, C. & Bazalgette, L. (2010) In Loc Parentis. Demos. U.K. Downloaded from UK. http://www.demos.co.uk/file/In Loco Parentis - web.pdf?1277484312)

The aims of the child protection system are not confined however to stopping further harm of children who have already experienced or been placed at significant risk of abuse or neglect. Nor is it confined to promoting the well-being and life opportunities of children who have been made the subject of statutory intervention to secure their safety from harm.

In response to the growth in knowledge about child abuse and neglect noted within the introduction to this submission, the child protection system has attempted to extend its sphere of influence through the introduction of strategies aimed at preventing child abuse and neglect.

It is in this area that the child protection system has struggled to define the scope of its responsibilities – particularly in relation to the responsibilities exercised by other human services systems (such as those responsible for health, education, youth justice, adult criminal justice, housing and income support). Clearly, these other human services systems also have a role and responsibility in relation to promoting the safety, well-being and life opportunities of children and support of their families.

Difficulties have often been experienced in achieving:

- clarity about where the responsibilities of the child protection system begin and end in relation to matters that are, or should also be, the concern of other human services systems, and / or

- a relationship between these human services systems that is driven by a commonly defined purpose and set of objectives in relation to the safety, well-being and life opportunities of children that allow for a complementary exercise of their responsibilities.

What did the Forde and CMC inquiries say?

In focussing on its examination of the abuse of children in institutional care, the Forde Inquiry concluded that children in the care of the State were at risk of further harm (i.e. the child protection system was not meeting one of its key aims in relation to ensuring the safety of children).

Recommendations addressed a range of matters intended to safeguard the safety of children in care including:

- the mandatory reporting of abusive situations that come to the attention of Departmental employees and staff of residential care services

- regular inspection of residential care services

- the provision of advocacy services for children in residential care services, and

- legislatively prescribing that the licensing of residential services be made subject to an independent evaluation with clear linkages established between the standards of care that are to be met, service agreements, quality assurance and the granting or renewal of a licence.

However, as well as promoting the safety of children living in out-of-home care as an outcome of statutory intervention, the Forde Inquiry also recommended that:

- the Queensland Government increase the budget of the Department to meet the national average per capita welfare spending for children, and

- focus the expenditure of the additional resources on prevention and early intervention programs and services for 'high-risk' families.

Specifically in relation to the 'well-being' and 'life opportunities' aims of the child protection system, the Forde Inquiry recommended that programs be developed to help young people in the care of the State transition to independent living by providing them with assistance to gain employment, education and housing.

In a similar manner to the Forde Inquiry, the CMC Inquiry made a number of recommendations aimed at safeguarding and promoting the safety and well-being of children living in out-of-home care following the use of statutory intervention. These recommendations included ones that concerned:

- extension of the Community Visitors program to cover children living in foster care

- the (proposed) Department of Child Safety assuming responsibility for the final assessment and approval (and re-approval) of all foster and kinship carers and a range of protocols to be observed in relation to their training, approval and support

- the regulation of 'voluntary' placements of children in out-of-home care, and

- legislating certain case planning practices and procedures.

Again similar to the Forde Inquiry, the CMC Inquiry recommended that the government maintain a commitment to developing primary and secondary child abuse and prevention services. A central aim of the 'new model' recommended by the CMC was asserted as a return to a clarity of focus and purpose to child protection in Queensland by having a 'stand-alone' department focus on meeting the needs of children identified as being 'at risk', thereby allowing for a concentration on early and intensive intervention in that context.

A key recommendation made by the CMC that significantly impacted on the stated purpose of the child protection system concerned the inclusion of an additional principle within the *Act* clearly spelling out that, if a conflict arises between the interests of a child and the interests of the child's family, it must be resolved in the child's favour.

The CMC also recommended that the *Child Placement Principle* specifically state that a placement decision made in accordance with the hierarchy of options presented within the *Principle* can only be made if it is in the 'best interests' of the child – the rationale being that the best interests of the child should be paramount in any decision, regardless of whether the child is Aboriginal or Torres Strait Islander or not.

What progress has been made in implementing recommendations of these inquiries?

Subsequent parts of this submission detail the extent to which recommendations made by the Forde and CMC Inquiries that related to promoting and safeguarding the safety and well-being of children who are placed in out-of-home care have been implemented. This includes, in particular, Part B: *Responses, programs and services for children and families – Out-of-home care and shared care arrangements* and *Assisting the transitions experienced by children and young people.*

The progress that has been made in implementing the recommendations made by each Inquiry about prevention and early intervention responses are detailed within Part B: *Responses, programs and services for children and families – Prevention, early intervention and intensive family support*.

In keeping with the recommendations of the CMC Inquiry, the *Child Protection Act 1999* was amended to note that:

- the main principle for administering the Act is that the safety, well-being and 'best interests' of a child are paramount (s.5A), and

- the placement of Aboriginal and Torres Strait Islander children in accordance with the hierarchy of options provided by the *Child Placement Principle* must occur only when the placement is in the 'best interests' of the child.

Have outcomes for children and families improved?

There is a clear inter-relationship that exists between the aims of ensuring a child's 'safety' and promoting their 'well-being' and 'life opportunities'.

Lessons from the past concerning the inadequacy of 'child rescuing models' described within the introduction to this submission amply demonstrate the inherent dangers of a child protection system where 'safety' remains the sole rationale for intervening in the lives of children and families or inadequate attention is given to other aspects of a child's health and development. This applies, in particular, when both:

- decisions made about the level of intervention needed to address risks to a child's safety do not sufficiently take into account both the immediate and longer-term implications of these decisions in relation to their well-being and life opportunities, and

- inadequate measures are taken following decisions made about their safety (particularly when the decisions have entailed removal from their parent's care) in ameliorating any subsequent harms caused to the child's well-being and life opportunities arising from these decisions.

It is of great concern therefore that Queensland children 'in care' continue to have poor educational and health outcome in comparison with the general population, placement instability continues to plague the system, disproportionate numbers of young people who age 'out of care' become involved with adult service systems (such as criminal justice and mental health) and Aboriginal and Torres Strait Islander children continue to be grossly disproportionately represented at all points within the child protection system.

It is not possible, of course, to determine the balance or extent to which these outcomes are a result of parental abuse and/ or neglect in comparison with inadequate or inappropriate child protection responses, programs and services, delivered too late.   At the least however, they suggest that the system remains predominantly focussed on its attempts to eliminate risks to the immediate safety of children with much less attention being successfully given to achieving the system's aims concerning children's well-being and life opportunities.

While most jurisdictions in the administration of their child protection systems uphold that the best interests of children are to be regarded as the paramount concern, few clearly and adequately address the notion that the best interests of children are usually one and the same with, and not contrary to, those of their parents (i.e. the best interests of children are usually served when their families are appropriately assisted and supported in caring safely and well for their children in preference to the use of statutory intervention including, in particular, intervention that results in unwarranted removal of children or their unnecessarily prolonged absence from their family's care).

The intentions of the CMC Inquiry's recommendation in ensuring that where a conflict exists between the interests of a child and those of an adult caring for the child, decisions are to be made in favour of the child's interests are not disputed. However, this is regarded as constituting only one element of the notion of a child's 'best interests'. The way in which the concept is currently understood and applied, in effect, pits the obligations of the State to ensure that children are free from risks to their immediate safety against the longer-term interests to the well-being and life opportunities of a child that may come from supporting their family to care for them safely.

This 'narrow' understanding of a child's best interests is especially concerning and 'nonsensical' in the way in which it has been applied as a 'qualification' to the Aboriginal and Torres Strait Islander *Child Placement Principle*. In effect, this amendment to the *Act* diluted the significance of the *Child Placement Principle* and implied that the best interests of Aboriginal and Torres Strait Islander are sometimes served through their placement outside of the hierarchy of preferred options. While it can be acknowledged, unfortunately, that a suitable placement for an Aboriginal or Torres Strait Islander child may not always be available, at least in the first instance, that fits within the higher order options of the hierarchy, it must never be thought that a placement outside of this hierarchy is serving the child's *best* interests.

Matters to be attended to in the 'road map':

The following matters have been identified as ones that require attention in developing the 'road map':

- Re-shape the child protection system.

  For as long as the child protection system continues its over-reliance on tertiary responses, it is likely that the system will continue to achieve poor overall outcomes in relation to the safety, well-being *and* life opportunities of children. Critical to the process of re-shaping the system will be the creation of a broader range of gateways through which families can access the support and services they need, as and when they need them.

  Without this, the predominant gateway to services that is currently in place (i.e. the 'hit or miss' reporting of child protection concerns to the statutory system) will increasingly overburden the Department of Communities, Child Safety and Disability Services in the costly exercise of simply processing these reports with little known benefit flowing on to the children and families who are the subjects of the concerns. These arrangements are not economically sustainable and are likely to lead to greater efforts being made by the Department to 'divert' children and families away from involvement with the statutory system, leaving many increasingly exposed to high levels of risk unless, as is likely, they are reported again and the increased severity of the concerns demand intervention. An effective child protection system is not one that 'excludes' children and families from receiving the responses, programs and services they need. An effective child protection system is 'inclusive' in the ways in which it engages children and families and tailors its responses to the changing types and level of needs they experience.

  To effect positive change, significant re-shaping of the system must occur to ensure an improved configuration of primary, secondary and tertiary responses, programs and services. The way forward to achieving this is further explored in Part B: *Responses, services and programs for children and families* of this submission.

- Re-define and clarify the outcomes being sought for children and families through the development of an over-arching 'child and family well-being framework'.

  This framework should clearly explain and describe the approaches to be taken in:

- o defining what families need to parent their children safely and well, taking fully into account the cultural and community context and its influence on child-rearing practices and the roles played by family and community members

- o comprehensively identifying the range of multi-layered factors that can impede families in the performance of their parenting role and those that make their children vulnerable to child abuse or neglect

- o developing whole-of-Queensland Government social policy and responses that address the factors standing in the way of families caring for their children safely and well

- o planning, implementing, monitoring and continually improving the range of prevention, early intervention and intensive family support services at State, regional and local levels needed to provide targeted responses to the factors that are contributing to the vulnerability of children to abuse or neglect

- o in keeping with the above, developing programs and services that proactively respond to need in preference to being reactively driven by the fear of risks

- o better contextualising tertiary child protection responses within this framework, and

- o seeking outcomes in relation to the well-being and life opportunities of children subject to statutory intervention that are commensurate with those in the general population.

- As further discussed in Part D: *Infrastructure, processes and means for delivering responses, programs and services – Responsibilities within and between the government and non-government sectors*, make use of the overarching 'child and family well-being framework' to:

  - o inform the development of whole-of-Queensland Government policy impacting the safety, well-being and life opportunities of children and the support of their families

  - o guide the exercise of responsibilities held by all key government agencies in promoting the safety, well-being and life opportunities of children before, during and after statutory child protection intervention

  - o design, plan, implement, monitor and continuously improve funding and service models and resource allocations in ways that allow for an incremental shift in emphasis from the tertiary end of the child protection system to less intrusive interventions as the demand for tertiary responses decreases

  - o identify additional 'hump funding' that may need to be invested to enable these shifts to occur, and

  - o inform the nature and terms of the partnership between the government and non-government sectors needed to foster the innovation necessary to being about a new and more effective child protection system whilst retaining accountability for the quality of responses, programs and services being provided to children and families.

PART B:

RESPONSES, PROGRAMS AND SERVICES FOR CHILDREN AND FAMILIES

In order to achieve the outcomes being sought for children and families, the most appropriate agencies and / or individuals work together to deliver the 'right' set of responses, programs and services at the 'right time'.

A well-functioning child protection system that has been comprehensively designed and developed therefore encompasses:

- public community education about child abuse, neglect, child sexual assault, and domestic and family violence so that children, parents, extended family and the general community understand the issues, are aware of acceptable standards of behaviour, know when and where to seek advice or assistance if needed, and recognise that protecting children is everyone's business

- widely accessible and non-stigmatising universal services such as schools, maternal and child health services, child care and community centres which:
  - o promote social inclusion and community connectedness, and
  - o are alert to identifying concerns about the well-being of a child and / or family and, if needed, can trigger referrals to other services or programs

- responses, services and programs aimed at assisting parents to care safely for their children by addressing or preventing the escalation of concerns through the provision of practical, financial, social, educational and therapeutic supports, that are designed for, and targeted to, particular:
  - o populations (e.g. young children; parents with an intellectual disability; parents of children with disabilities; Aboriginal and Torres Strait Islander families; young parents; young people under both child protection and youth justice orders; gay, lesbian, bisexual, transgender or intersex young people), and / or
  - o needs (e.g. mental health issues, substance use, domestic and family violence)

- tertiary services provided by the statutory agency, other government agencies and non-government organisations, that respond to the impacts of child abuse and neglect with specialised interventions, in-home support, outreach services and out-of-home care.

While a range and mix of responses, services and programs are required to ensure the existence of an effective child protection system, this submission focuses on three major inter-related areas:

- prevention, early intervention and intensive family support

- out-of-home and shared care arrangements, and

- assisting the transitions experienced by children and young people.

PREVENTION, EARLY INTERVENTION AND INTENSIVE FAMILY SUPPORT

As stated as a general principle underpinning the purpose and administration of the *Child Protection Act 1999*, the preferred way of ensuring a child's safety, wellbeing and best interests is through providing assistance or support to the child's family (s.5B). The *Act* (s.7(b)) also states that a function of the chief executive is to provide or help provide services to families to protect their children if a risk of harm is identified.

In the context of ensuring families have the capacity to care safely for their children and protect them from abuse and neglect, prevention and targeted early intervention services create social and economic benefits in preventing unwarranted contact by families with, or their unwarranted further entry into, the tertiary child protection system.

Factors regarded as critical to the effectiveness of prevention, early intervention and intensive family support include:

- situating programs and services within a clear policy framework to guide planning, resource allocation and service delivery to vulnerable children and families, and recognising that the history, characteristics and needs of those children and families should determine the nature, intensity and frequency of service provision and the selection of service provider/s

- the capacity of each service or program to link in a coordinated manner with other services and programs able to assist in addressing factors that may be associated with the stressors being experienced by families such as housing instability, mental health issues, domestic and family violence, intellectual disability, substance use or legal matters

- attending to the 'setting' in which the programs and services are delivered so that where service delivery is office-based, the physical design, is (more) family-friendly (Where staff or client safety is perceived as an issue, the space needs to reflect a more sophisticated understanding of security where the design is not reliant on physical obstructions with an overtly presented security purpose that serves to antagonise already marginalised people)

- the timeliness of the service provision (i.e. families being able to receive the 'right services at the right time') by the 'right provider' (e.g. culturally competent or specialist provider)

- the design and delivery of programs and services that are respectful of the cultural identity, beliefs and customs of the families who are the recipients of their support and the resourcing of organisations to provide these services that are the best-placed to do so due to their own cultural profile, and

- the incorporation of 'intensive family support' options that, through their delivery of multi-modal therapeutic and support services, seek to:

  o preserve the care of children within their families as a viable alternative to their removal and placement in out-of-home care, and

  o do so in ways that properly take into account the best interests of these children and the harm that can be caused to children when they are removed from their family's

care including, in particular, the deleterious effects of disrupting the bonding process between mothers and their infant children especially when breastfeeding.

Children and parents, irrespective of their involvement or otherwise with the child protection system, are also entitled to access a range of services that are or should be 'universally available' to all families (such as education and health care). Equitable availability and accessibility of these services should exist regardless of the personal circumstances or geographic location of any child or family.

What did the Forde and CMC inquiries say?

The Forde Inquiry recommended that the child protection budget be significantly increased and that funds should focus on preventing child abuse "through supporting 'at risk' families, respite care, parenting programs and other early intervention and preventative programs for high-risk families".

The CMC Inquiry similarly considered prevention and early intervention to be important, particularly for purposes of preventing families from further entry into the system after their initial contact. Identifying, implementing and evaluating therapeutic treatment programs for children with 'severe problems' was recommended by the CMC.

The CMC also recommended the *Child Protection Act 1999* be amended to incorporate notifications about harm or suspected harm to unborn children.

What progress has been made in implementing recommendations of these inquiries?

Investment in prevention and early intervention service responses - primarily those delivered by non-government agencies - increased after the CMC inquiry. In addition, programs with objectives relating to family preservation and family reunification, were funded in a limited number of locations across the State. These 'family intervention services' include Early Years Centres, Referral for Active Intervention' (RAI), Helping Out Families (HOF) and Aboriginal and Torres Strait Islander Family Support Services.

The *Child Protection Act 1999* was amended to incorporate notifications about unborn children and assistance to the pregnant woman where the unborn child was assessed as being at risk following the birth.

Have outcomes for children and families improved?

The number of children in contact with the tertiary end of the child protection system is increasing, which indicates, on the surface, the ineffectiveness of:

- early intervention efforts as the characteristics and multiple needs of children and families entering the tertiary system are reportedly becoming more complex and challenging, and

- family reunification efforts as children are staying longer in out-of-home care.

While the data (see the table below) about re-substantiation within 3 or 12 months of a decision to substantiate and about substantiation within 3 or 12 months of a decision not to substantiate indicate some improvement over the last decade, without research it is not possible to assert that the families received interventions by government or non-government agencies that helped to address the issues that brought them to the Department's attention.

	2000/01	2009/10
Re-substantiation within 3 months of a decision to substantiate	10.4%	8%
Re-substantiation within 12 months of a decision to substantiate	24.8%	17.7%
Substantiation within 3 months of a decision not to substantiate	4.7%	3.2%
Substantiation within 12 months of a decision not to substantiate	12.9%	8.7%

Anecdotal evidence about notifications on unborn children indicates that pregnant women do not receive assistance (although some argue this is because they are hard to engage) and once born, the child is removed following her / his birth and often at the hospital. Data about the number of unborn children where harm or risk of harm has been substantiated has recently been made available and could potentially be used to inform local area service planning.

Anecdotal evidence also indicates that parents of children with disabilities do not have access to in-home and other supports which would offer the assistance needed to prevent them from relinquishing their child/ren to State care.

In respect to children of parents with intellectual disabilities, anecdotal evidence also indicates that these children are more likely to be removed due to parents' lack of access to targeted supports and perceptions that an intellectual disability per se means the parents are unable to care for their children.

Matters to be attended to in the 'road map':

The following matters have been identified as ones that require attention in developing the 'road map':

- Develop a cross-sectorial prevention, early intervention and intensive family support policy framework to clarify the purposes of these interventions in promoting child and family well-being, preventing child abuse and neglect and achieving family preservation and reunification goals. This should include supports for pregnant women whose unborn children have been assessed as being at risk following birth.

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- Investigate and report on:

  o the profile and needs of children and families who are accessing departmentally funded 'family support workers' and services, and

  o the types of activities undertaken by these workers and services across the State.

  This could include making (better) use of the administrative data which the services collect and report on to the Department. Programs have largely developed in an ad hoc and inconsistent manner and many receive a small level of funding. Others are in their infancy and charged with a mammoth task with minimal capacity.

  Required data includes whether and what interventions families receive if they are reported to the Department, are subject to an investigation and the outcome is that the child is 'not in need of protection'.

  Prevention and early intervention services funded to, or focused on, working with children and families across Queensland must be mapped and described for purposes of, if necessary, re-focussing their activities and ensuring a better spread of, and equitable access to, a range of prevention and targeted early intervention initiatives for vulnerable children and families that offer the 'right' services when they need them.

- Map and report on the range of services being provided across Queensland as the absence of this information, in conjunction with the lack of a clearly stated policy framework, significantly inhibits capacity to undertake the service planning and resource allocation necessary to provide equitable access to programs and services across the State.

- Use the service mapping to create an adequate spread of prevention, early intervention and intensive family support services across Queensland to ensure equitable access by families to generic, targeted or specialist responses that could prevent their contact with, or further entry into, the child protection system.

- Use the service mapping to re-assert the purpose and obligations of universal services to be truly universally available and accessible to all children, young people and families, irrespective or otherwise of their contact with the child protection system.

- Use the service mapping to ensure access for children and families to 'step-down', less intensive programs and services on exit from intensive support services. These options are required to meet ongoing needs and / or maintain families' connections with community supports.

- Map and report on the extent and nature of planning and case work with parents and children in contact with family support services, the qualifications of practitioners, and the range and mix of therapeutic, educational and practical supports offered to families.

- Investigate and report on reunification efforts with children and families by Departmental Officers and non-government intensive family support agencies. This investigation should

specifically report on efforts where children are removed from their mother at or soon after their birth.

- Where permanency planning has determined that a child will remain in out-of-home care rather than return to their family, actively promote work by intervention and out-of-home care services with children and their families to promote strong connections with family, community and culture. This includes attending to these concerns prior to, and certainly in preparation for, young people transitioning from care.

- Review departmental policy and practice around the interface between child protection and domestic and family violence given the 'punitive' tertiary child protection response that is reportedly often directed towards mothers on the basis of them 'failing to protect their child' in preference to the provision of family support interventions that could more positively be taken to support mothers in safely caring for their children.

- Develop capacity, interventions and programs that respond adequately to families where parent/s have an intellectual disability. Program design and content would accordingly recognise and build on the capacity of these parents to care for their children with support, and pay sufficient attention to the need for more intensive programs, processes and materials that are specifically adapted and adjusted to meet the learning and communication requirements of these families.

- Address the inadequate range and number of supports and services including in-home supports available to families who are struggling to care for children with disabilities. Parents in these circumstances are often feeling unsupported and unable to cope and there are numerous anecdotal reports that many parents feel compelled to relinquish the care of their children to the child protection system in the hope of their children then being able to access the support they need. Issues relating to this matter are discussed in a recent Victorian report:
  http://www.humanrightscommission.vic.gov.au/index.php?option=com_k2&view=item&id=1651:desperate-measures-the-relinquishment-of-children-with-disability-into-state-care-in-victoria-may-2012&Itemid=690

- Develop an assessment framework for use by a range of non-government generic, targeted and specialist service providers (e.g. neighbourhood centres, services working with parents of dependent children, homelessness and domestic and family violence services) to guide identification of child and family needs and strengths, and actions and responses to known or suspected child abuse and neglect. The framework may be able to leverage off the *Queensland Child Protection Guide*, currently being trialled by health and education professionals to assist decision-making about (mandatory) reporting to the Department and/or referral pathways.

- Review policy, practice and program development around the balance between non-stigmatising, supportive referral pathways for families wishing to access early intervention services and more assertive outreach strategies that effectively engage parents who are less willing to present on their own volition.

- Promote a child focus in services that work with parents who have dependent children. Challenge the siloed approach by specialist services working with adults who are parents so that any issues or concerns related to their capacity to parent are adequately attended to. This includes training and other awareness-raising strategies for police, hospital staff, general practitioners, mental health workers, drug and alcohol services and other frontline professionals to assist their recognition of issues that may impact on the capacity of their clients to parent well and increase knowledge and awareness about intervening or facilitating referrals for those not coping with parenting or whose lives are being impacted by risk factors such those associated with family violence, housing instability, mental illness and substance use.

- Co-locate or collaboratively provide 'one stop shops' to parents and children who exceed the current age limit of 8 years for 'Early Years Centres' so that more families can be assisted in a setting that offers a range of multi-disciplinary government and non-government services and programs.

- Through partnerships between researchers, service providers and service users, address the under-developed evidence base about 'parenting programs' that are offered to families. Particular attention is required in relation to the content and format of programs intended to meet the range of different needs, for example, different cultural backgrounds and other factors, such as parental intellectual disability.

Out-of-home and shared care arrangements

Parents and families need practical, financial and emotional support to care safely for their children in the family home. Some families, because of the nature or complexity of their needs or circumstances, require periodic, regular or ongoing access to additional or targeted supports. Offering support in the family home through family preservation and intensive family support services and programs are approaches that assist in enabling parents to care safely for their children.

Where children require placement in out-of-home care, an integrated range and mix of 'care settings' is required, with access to a particular setting determined on the basis of each child's individual needs – recognising also that these needs may change over time.

As such, selection of the appropriate care option should be based upon how well the 'care setting' is able to perform the following functions at any particular point in time:

- accommodating the child within an environment wherein the living conditions and the persons responsible for their care have a demonstrated capacity to provide for their immediate and ongoing safety from harm

- meeting the child's daily care requirements including the nurture, support and stimulation needed to enable their physical, intellectual, emotional, pro-social, cultural and spiritual growth

- providing the appropriate setting for the child's access to individualised needs-based services (such as medical, cultural, educational/ vocational, recreational, counselling and therapeutic services) coordinated through complementary and integral partnerships with other service providers, and

- fulfilling the defined purpose of the interventions being undertaken with the child and, wherever appropriate, their family, ranging from providing:

  o a safe venue for delivering care on an emergency basis whilst assessment of their needs and strengths is undertaken to identify, plan and implement further required interventions

  o family support that may incorporate either emergent or regular, planned respite care to assist and strengthen a family's capacity to provide ongoing care of their child

  o short-term out-of-home care for purposes of facilitating the child's reunification with their birth family or transition to other longer-term or permanent care arrangements

  o long-term out-of-home care with varying levels of ongoing involvement of the child's own family in 'sharing the care'

  o permanent out-of-home care that may be formalised through adoption, guardianship or custody arrangements that may or may not incorporate ongoing involvement of the child's parents or other members of the child's birth family, to

      o   transition from care towards semi-independent or independent living arrangements.

As depicted within the following diagram, the range of primary care settings necessary to facilitate the above purposes should be flexible, creative and diverse, both in relation to how they are conceptualised and the ways in which they are implemented in practice.

It is noted that these options should not be viewed as disconnected or discrete and, for many children, various combinations or variations of these options may be required over time to meet their changing needs.
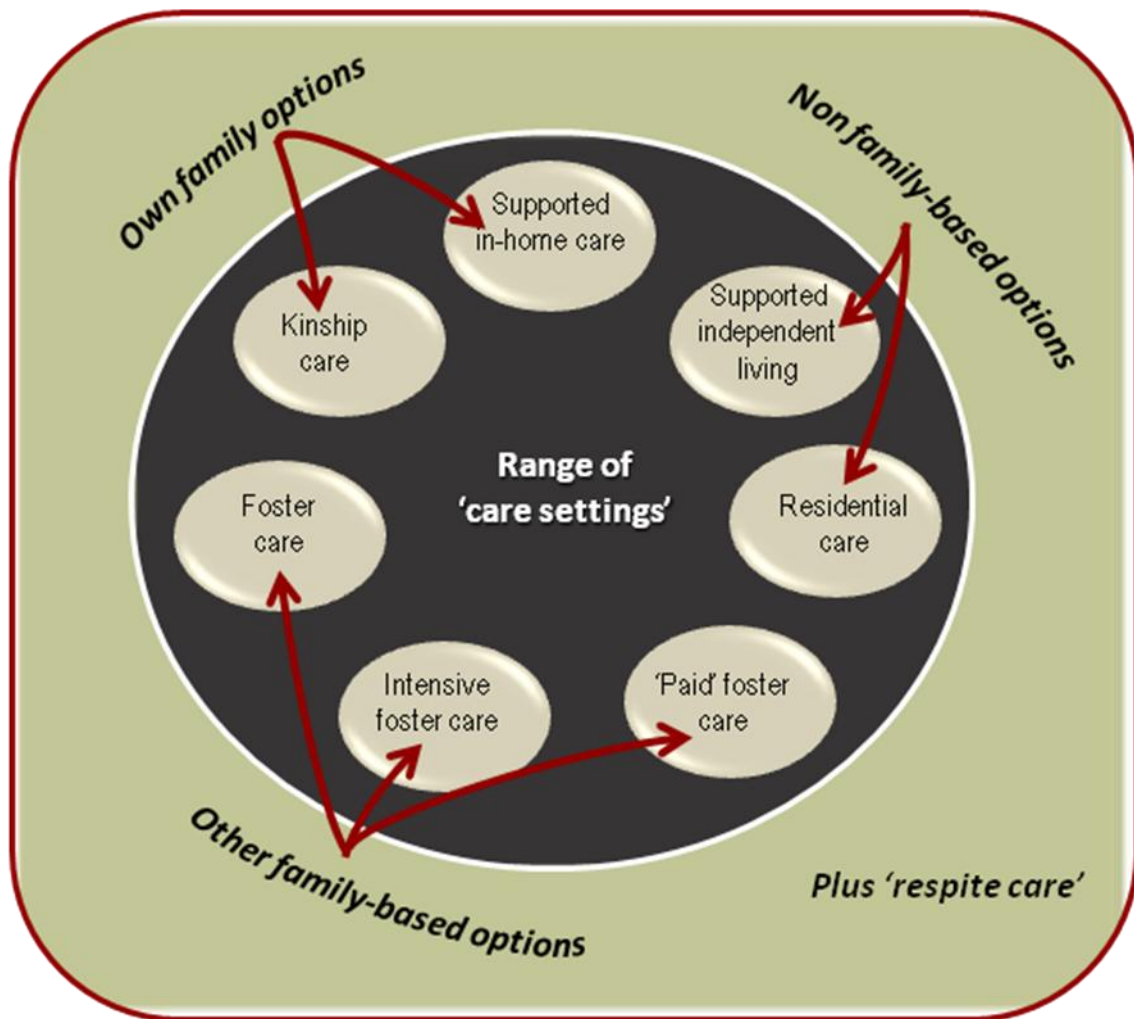
The following summarises the range of 'care settings' depicted with the above diagram:

Own family options

Intervening earlier to support children and families and viewing the service system in a more holistic way mean that the potential role of children's own families in contributing - at least in part - to the care of their children must be considered and actively promoted. 'Own family options' are regarded therefore as including:

- *supported in-home care, and*
- *kinship care.*

Supported in-home care *includes arrangements that are made which enable parents or other family members to remain as a child's primary carers where they are assisted by support services in performing this role. These arrangements may include the provision of respite care on either an emergent or planned, regular basis.*

A variation of the in-home care option may include arrangements that are made which allows a family to live-in together in accommodation provided by the support service for purposes of:

- *facilitating assessments*
- *providing family therapy, and/or*
- *delivering a range of individualised practical and educative supports required by family members.*

Both the in-home option and the live-in variation of this option focus on either preserving the primary carer role exercised by parents or other family members or reunifying children with their families.

It is noted that these are not commonly used or recognised options within Queensland.

Kinship care *includes arrangements made where a child's day-to-day care is provided by a relative or member of the family's network. Given the pre-existing ties between the child and their carers, it is argued that kinship care should not be perceived in the same way as an 'other family-based option' (such as foster care) and is more appropriately conceptualised as an 'own family option'. This is particularly so in relation to Aboriginal and Torres Strait Islander children in view of the child-rearing practices and roles traditionally played by extended family and community members. Conceptualisation of kinship care as an 'own family option' is regarded as more reflective of Aboriginal and Torres Strait Islander custom and is respectful of the importance that should be assigned to maintaining the connections that Aboriginal and Torres Strait Islander children have with their family, community, country and culture.*

It is noted that kinship care is mostly viewed as an 'other family-based option' rather than an 'own-family option', notwithstanding some differences that are applied between the ways in which the approval, re-approval and training of foster and kinship carers are regulated.

Other family-based options

Other family-based options within Queensland currently include:

- *'general' foster care*
- *'intensive' foster care, and*
- *'paid' foster care (currently referred to as 'specific-response care') .*

General foster care *refers to services where day-to-day care of children is delivered by partnered couples or individuals who have been approved to provide foster care of children within their own homes. Usually, general foster carers are recruited, trained and supported by non-government organisations that are funded for this purpose.*

Intensive foster care *is defined by the Department of Communities, Child Safety and Disability Services as a program offering placements and intensive support for children in out-of-home care who require therapeutic support for complex and extreme levels of needs. Children are placed in the home of an approved foster or kinship carer (or provisionally approved carer), with intensive support provided to the placement by a non-government intensive foster care service provider.*

Both general and intensive foster carers are viewed as 'volunteers' who receive an allowance to reimburse them for the expenses they incur in providing care. In addition to the 'base' allowance that varies with the ages of children, foster and intensive foster carers are able to receive additional high needs and complex needs allowances as well as access a 'child-related contingency fund' to reimburse them for certain costs associated with an individual child's care. As a result of recent Departmental policy and procedural changes, the administration of payments to intensive foster carers, where previously managed by funded non-government organisations, has been taken over by the Department. This includes the determination and regular reviews of the amount of any additional complex needs allowance a carer may be regarded as eligible to receive, the premise being that as the complexity of a child's needs change, so too will the amount of the complex needs allowance they receive.

Non-government providers of intensive foster care services and carers themselves are concerned that the procedures and criteria for making these determinations are insufficiently developed, confusing and likely to result in wide variations when applied in practice with no moderating process to ensure consistency within and across regions. Moreover, intensive foster carers are concerned that in stabilising a child's care and assisting them to better self-regulate their behaviours, their 'good work' will be 'rewarded' with a reduction in their carer payments. Some non-government organisations have expressed concern that this may jeopardise the stability of placements and intensify difficulties being experienced in recruiting suitable carers. At the least, there is a need for a more transparent, accountable and impartial procedure to be developed that can be accepted by all parties as a means of appropriately matching the level of resourcing of carers with the changing level of a child's need.

'Paid' foster care *is limited in its use within Queensland. Currently referred to as 'specific-response care', the use of 'paid' carers' is, at present, limited to individualised arrangements that are occasionally made allowing for a carer to receive a 'taxable income' as remuneration for their care of a child within their own home. These arrangements are generally restricted to carers who have a particular qualification, knowledge or skill set (e.g. a nurse) which makes them suitable to care for a particular child (e.g. a child with a debilitating chronic medical condition).*

The development of out-of-home care models within Queensland that incorporate use of 'paid' carers in a manner similar to models used elsewhere, is urgently needed. Currently, distinctions drawn between 'intensive' and 'general' foster carers are limited. Both groups are regarded as 'volunteers' whose level of payment is set and varied according to the complexity in the level of the needs of children placed in their care. Whilst some non-government organisations 'specialise' in providing 'intensive foster care' where carers are specifically recruited and trained to provide care of children with complex or extreme needs, others provide both 'general' and 'intensive' foster care for purposes of enabling carers to move 'in and out' of their roles as 'general' or 'intensive' foster carers. Irrespective of which model is used, recent changes to Departmental policy and procedures allow the Department, rather than organisations supporting the carers and children, to vary the payments made to carers.

Models that make use of 'paid' carers conceptualise this differently. The distinctions made between 'general' foster carers and 'paid' carers used to justify the differences in the remuneration they receive, are based on three key inter-related factors:

- *the characteristics and complexity of the needs held by the children for whom care is being provided (similar to 'intensive foster care')*

- *the nature and extent of duties the carers are expected to perform over and above those that may be expected of either 'general' or 'intensive' foster carers (which precludes the carer or at least one carer where carers are partnered, from having any other employment), and*

- *the higher level of knowledge, experience and skills needed to perform the duties of a 'paid' carer and an associated higher level of commitment to ongoing training, learning and development.*

'Paid' carers engaged in programs of this type are regarded as integral members of a multi-disciplinary team comprising other para-professional and professional staff. Whilst they have a specific role in establishing a therapeutic milieu within their home that is conducive to the achievement of goals in relation to each child's treatment and care, they are also participants in the assessment, planning, implementation and review of all associated therapeutic interventions. During times when they are not involved in directly caring for a child, they may be engaged in other activities such as supporting families who have resumed care of a child or working with, or providing respite care of, other children who are placed elsewhere. As such, they perform a role that may be seen as a 'hybrid' of the 'traditional' carer role and a residential care worker.

Models of this type can offer a cost-effective alternative to residential care models that make use of rostered workers and, in particular, may be viewed as preferable when the child would benefit from a more personalised engagement with a single carer, partnered carers or a family.

Non-family based options

Non-family based options are those where the care provided to children is not delivered within a family-based setting and/ or a carer's own home.

Residential care*, as it is currently provided within Queensland, may be delivered for either individual or small groups of children by rostered workers on a 24-hour basis. Models that incorporate 'live-in carers' have not been used for several years, reportedly due to difficulties in recruiting individuals or partnered couples to perform this role. Residential care is delivered by non-government organisations that are either recurrently funded on a triennial basis for this purpose or paid on a 'per child basis' by way of invoice.*

Therapeutic residential care *generally refers to residential care models that are more intensively supported and staffed to provide time-limited placements of children with complex or extreme needs.*

Consistent with the policies of most Australian jurisdictions, the Department of Communities, Child Safety and Disability Services generally does not view residential care as a suitable option for children under the age of 12 years. Exceptions to this preferred practice are made to allow for the co-placement of large sibling groups and Aboriginal or Torres Strait Islander children in 'Safe Houses'. Some non-government organisations are challenging of this policy and perceive the age limit of 12 as arbitrary and one which should be outweighed by other factors that make residential care a suitable alternative to foster care when it is specifically designed to cater for the needs of younger children.

A major difficulty reportedly experienced by a number of non-government providers of residential services concerns pressure placed on them by Officers of the Department of Communities, Child Safety and Disability Services to accept referrals of children aged less than 12 years, especially when this entails over-riding matching considerations and the placement of these children with older young people who may pose risks to their safety. Unless certain conditions are met, the acceptance of these referrals can contravene the terms of service agreements and jeopardise a non-government service provider's compliance with standards associated with the licensing regime.

Supported independent or semi-independent living programs *offer young people close to exiting care a balance between routinely-provided supports and transitioning to independence. This option, where suitable, is sometimes used to assist a young person obtain stable housing and acquire necessary life skills, prior to exiting care on their 18th birthday.*

> ### *Respite care*
>
> *Respite care is sometimes mistakenly seen as an entitlement for carers. Whilst not discounting the benefits that may be enjoyed by carers in having some time to themselves, the primary purpose of respite care should be to expand a child's network of caring adults who are able to:*
>
> - *provide them with a consistent, stable source of support, and*
>
> - *create a 'community of care' with whom the child identifies and which promotes their sense of belonging.*
>
> *Most children visit and stay with friends and relatives on occasion. For children in care, this good experience that other children enjoy can become un-natural and stigmatising due to 'red-tape', the use of language and terms (such as 'respite care') that perpetuate the notion that its primary purpose is to benefit carers, and positing the rationale for 'respite' with negative perceptions about caring for children in care.*

In addition to a diverse and flexible range of 'care settings' that should exist for children, an effective system should:

- acknowledge that children are also members of the communities in which they live

- actively facilitate their connectedness with these communities, and

- draw from these communities, access to a range of supports and services necessary to address the child's needs and support the 'care setting' in which they live.

As depicted by the following diagram, both 'formal' and 'informal' structures exist within communities that play significant roles in:

- supporting families and carers, and

- promoting the safety, well-being and life opportunities of children.

Where children are subject to statutory child protection intervention, access should be provided to formal structures – delivered by government and/or non-government agencies - to address the full range of each child's individual needs in a manner that is complementary to, and supportive of, their care arrangements.

In addition, children's continued or expanded engagement with informal structures such as extended family networks and friends is also essential to maintaining their personal well-being and connectedness to community life and culture.

In some instances, both 'formal' and 'informal' structures may exist within communities that should also be accessed. These may include, in particular, those that serve as cultural, recreational and social outlets for children.
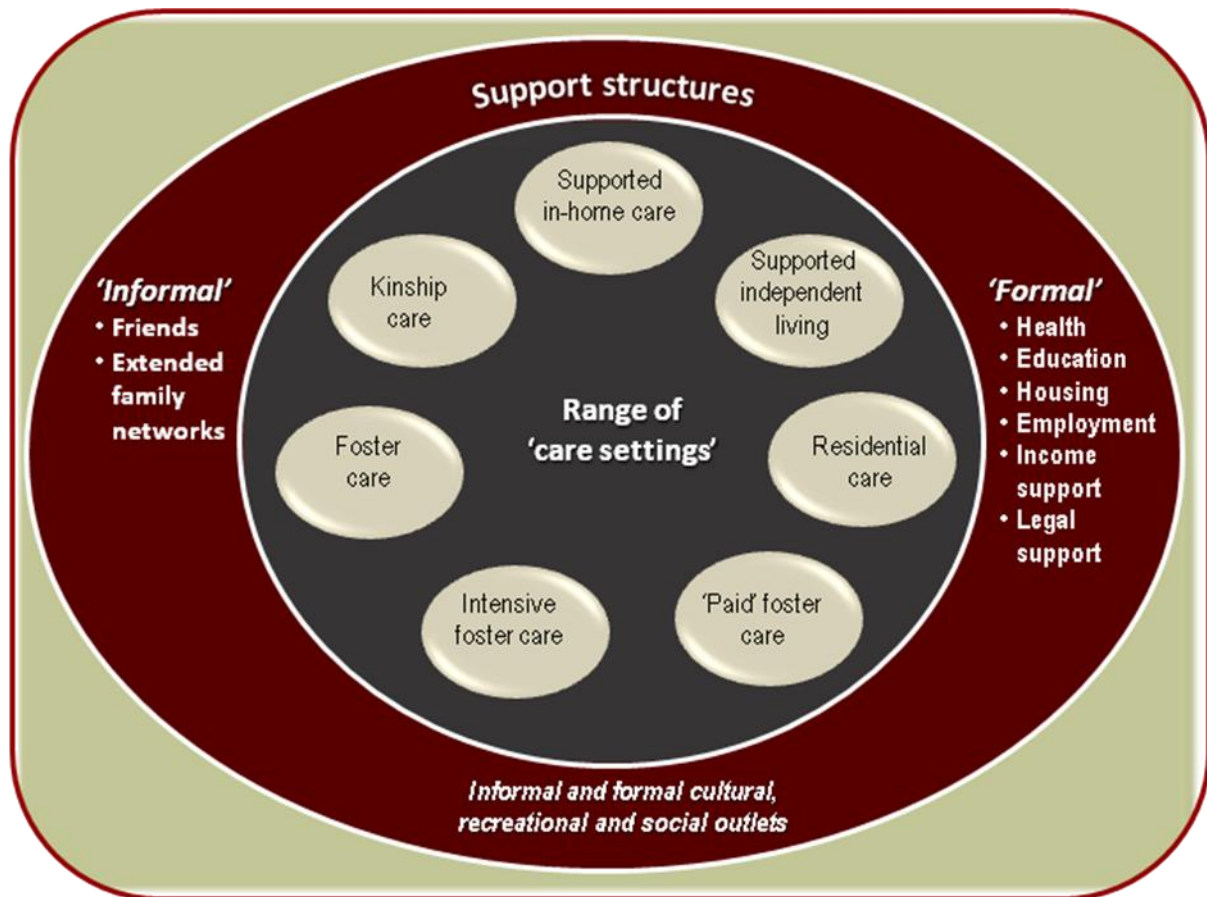
What did the Forde and CMC inquiries say?

The Forde Inquiry recommended that the need for, and effectiveness of different models of, residential care be investigated. Further, the Forde Inquiry recommended that planning reflect equitable access across Queensland and high quality, culturally appropriate residential care for Aboriginal and Torres Strait Islander young people be made available.

The CMC Inquiry similarly recommended that planning around best practice and the needs of children inform the type and range of out-of-home care options to be made available, and that the effectiveness of these options be evaluated.

In respect to residential care, the CMC Inquiry recommended that the need for residential care be evaluated to ascertain the profile of children in need of these services, the best service models to use in catering for these cohorts of children, and the sets of skills and training needed by residential service staff. Recommendations were also made that these residential services be monitored and evaluated.

In response to a perceived shortage of placement options, the CMC Inquiry made numerous recommendations about foster care and carers, including looking at recruitment, putting in place

mechanisms to keep a track of available placements, promoting respite for carers, and using exit interviews and research to identify factors affecting successful placements. More and specialised training was also recommended for foster carers as were mentoring programs.

The CMC inquiry also recommended development of a framework, in consultation with Aboriginal and Torres Strait Islander communities, to support kinship care and the screening and monitoring of carers.

It was recommended that the foster care allowance cover the costs of caring for a child, with additional payments to be made on a needs basis (in preference to a regional resource allocation). Tiered payments were recommended based on the skills required to care for particular children. It was also recommended that carers supported by the Department and those supported by non-government organisations receive the same level of support and conditions. A recommendation was also made that the costs of carers' attendance at training be met.

What progress has been made in implementing recommendations of these inquiries?

Various projects were implemented in response to the Forde Inquiry recommendation, particularly in regard to regional planning to ensure a range and mix of out-of-home care options, including "an appropriate distribution" of residential care. Costings and models were also prepared.

The CMC's recommendations were reported as fully implemented. The *Child Protection Act 1999* was amended, the foster care allowance was increased and tiered, and foster carer training requirements and modules were changed.

Have outcomes for children and families improved?

Placements for children requiring out-of-home care are limited in terms of both the range of placement settings and the number of available places, which means that children's individual needs are not matched to carers or settings, and they are not necessarily placed near to family and existing community connections (e.g. schools).

Placement in out-of-home care is the 'go-to' option as indicated by the increased percentage of 91.5% of children under an order (i.e. not placed with parental agreement) and in out-of-home care at 30 June 2002 to 96.5% at 30 June 2012.

More foster carers exited the system in 2010/11 than were recruited.

Children are staying longer in care than they did a decade ago. At 30 June 2002, 18.7% of children had been in care between two and five years, compared with 30.5% at 30 June 2011. The percentage of children in care for longer than five years at 30 June 2002 was 16% compared with 34% at 30 June 2010.

At 30 June 2011, children placed in residential care comprised 8.1% of all children in out-of-home care, compared with 1.5% at 30 June 2002, a significant increase. The percentage of children placed in foster care decreased from 73.2% at 30 June 2002 to 59.6% at 30 June 2011. The percentage of children in kinship care increased from 25.3% at 30 June 2002 to 32.2% at 30 June 2011, mainly due to the increase in non-Indigenous children being placed with kin. The percentage of Aboriginal and Torres Strait Islander children placed with kin however decreased from over 40% to 32% over the period. Non-Indigenous children are more likely to be placed with family than Indigenous children.

No data are made available about the number of children placed with 'general' foster carers compared with 'intensive' foster carers, or the number of carers in each category.

The data around the changes in the rates of Indigenous and non-Indigenous children in out-of-home care are however the most alarming - the rate of Indigenous children has increased from 12 children/1000 at 30 June 2002 to 40.2/1000 at 30 June 2011. The increase for non-Indigenous children over the same period was however only 2.9 to 4.6/1000 non-Indigenous children.

Matters to be attended to in the 'road map':

The following matters have been identified as ones that require attention in developing the 'road map':

- Review the policy framework around the range and mix of 'care settings', in reference to the above diagrams and information, to re-design the system to ensure local availability of a suite of models including those that incorporate 'shared care arrangements' and the increased availability of 'wrap-around' supports for the explicit purpose of facilitating and supporting family preservation and the reunification of children with their families.

- Undertake regional or local area planning exercises to review service capacity and orientation within an overarching policy and program framework and its application to locally assessed child and family needs.

- Re-balance the focus on the removal of children in preference to expending a similar or lesser amount to provide in-home or other supports to the families of children who may, where required, be supported though 'one-off' short-term or regular respite care or other 'shared care' arrangements.

- Revisit policy and practice around the criticality of appropriate matching of children's needs to the placement setting and carer, as anecdotally this does not occur consistently due to shortages of placement options. It must not be considered as acceptable that the availability of a 'spare bed' constitutes an adequate 'matching' criterion. There is also insufficient focus on pre-placement planning which would support a smooth transition between care environments, for example, between in-home and out-of-home care and from more intensive to less intensive settings.

- Revisit policy, practice and program development around the efforts made in relation to Aboriginal and Torres Strait Islander children and young people such that representatives of the Department, Aboriginal and Torres Strait Islander Foster and Kinship Care Services and Recognised Entities would work with children and family members to identify potential kinship carers able to provide full-time or shared care.

- Support the development and funding of 'family-residentials' whereby, as part of a family preservation or reunification program, a family would live-in together in accommodation arranged by a support service to facilitate assessments and / or enable family members to receive the practical, educative or therapeutic supports they require to enable effective parenting.

- Support transitions from more to less intensive out-of-home care arrangements with a suite of options that can be made available to children and their families.

- Support transitions from out-of-home care with investment in pre- as well as post- family reunification interventions and supports.

- Revisit policy and practice around securing guardian consent or permission, including ways in which consent or permission can be obtained in a more timely manner, as children, parents, carers and workers report this as an ongoing issue which adversely affects children living in out-of-home care, both when their guardianship is held by the chief executive and when parent/s have retained guardianship. Children miss out, for example, on medical care or are not able to participate in recreational or social activities as a result of the existing policy and practices.

- Revisit policy, practice and program development to ensure additional ('wrap-around') supports can be made available to children in placements including those which can be continued during or following family reunification and during or following transitions to other alternative care arrangements or independent living.

- Revisit policy, practice and program development around the placements of children and young people in 'individual arrangements' with rostered residential care workers. Subject to wide variations in the *bona fides* of organisations that are contracted to perform this function and the models of care that they employ, these arrangements can often be expensive, not purport to be therapeutic and not conducive to 'normalising' those children's 'childhood'.

- Revisit policy and practice around young people in contact with the youth justice system including, in particular, those who are unnecessarily remanded in custody for lengthy periods because of out-of-home care placements not being available to them.

- Reinstate annual public reporting about grant funding approved to each organisation and service along with the disbursement of transitional program funding allocations, and the amount and purpose for which these funds were provided.

- Undertake policy, practice and program development around out-of-home and shared care models that would meet the needs of children and families with culturally and linguistically diverse backgrounds. 'Specialised' or adapted models are needed and must be developed in close association with the appropriate representatives of various cultural and ethnic groups.

- Review funding arrangements for children placed away from their families to allow non-government organisations to develop and implement programs that flexibly respond to children in their complex transitions between 'in-home', 'out-of-home' and 'shared care' arrangements and support the continuity and stabilisation of their relationships with significant family members, carers and workers.

Specifically in relation to residential care:

- Develop a 'program logic' at a system level as well as at a local service system level to define the preferred 'fit and mix' of residential, 'paid' foster care, 'intensive' foster care, foster care, independent living programs and other out-of-home care settings.

- Revisit practice around the 'gap' between stated departmental policy and the practice of placing children aged less than 12 years in residential settings including, in particular, the practice of placing children under the age of 12 years in congregate care with unrelated children aged to 17 years.

- Undertake a costing exercise to ascertain the level of funding required to properly operate a residential care service taking account of legislated standards, workforce skill and capability requirements, location, and safe working conditions, and use this information to transition service providers to those realistic and consistent funding levels.

- Consider the development and imposition of, and accompanying transition strategy for, minimum entry-level qualifications for residential care workers given the extent of their responsibilities for the direct care of highly vulnerable children whose behaviours and needs can be extremely complex.

- Support the development of Aboriginal and Torres Strait Islander community-controlled and led residential care services.

In relation to foster and kinship care:

- Review the current arrangements whereby some carers are 'departmental carers' and others are supported by non-government Foster and Kinship Care Services as the arrangements are confusing and inconsistent with non-government services being subject to a licensing regime designed to ensure that the children placed with carers attached to those agencies receive the care to which they are legislatively entitled.

- Develop a practice framework and procedures for government and non-government Foster and Kinship Care Services (and the Recognised Entity for an Aboriginal and Torres Strait Islander child) to identify family members with whom a child/ren could be placed if not initially, then as a subsequent placement or in a shared care arrangement.

- Clarify the role of Foster and Kinship Care Services, particularly Aboriginal and Torres Strait Islander Foster and Kinship Care Services, in working with the Department, family members and, in relation to Aboriginal and Torres Strait Islander children, the Recognised Entity, to identify potential family members who could be assessed as potential kinship carers and promote a consistent approach and prioritisation of kinship care across Child Safety Service Centres and regions.

- Review the requirement for prospective kinship carers to undergo 'working with children' and personal history checks as it adversely impacts on recruiting extended family and discourages Aboriginal and Torres Strait Islander family members from applying to become approved carers.

- Identify and investigate the factors contributing to the reportedly low morale amongst foster carers and the hostility directed towards the Department as it is impacting on their retention and subsequently, the capacity of the foster care system.

- Review current arrangements for administering payments to 'general' and 'intensive' foster carers including, in particular, the processes used to determined the allocation of higher needs and complex needs support allowances and access to the client-related costs contingency fund, with a view to establishing arrangements that are more objective, accountable and transparent with a moderating process incorporated to promote consistent decision-making across regions.

- Research and develop models of out-of-home care that incorporate use of 'paid' carers that may be adapted and applied to meet the needs of particular cohorts of children and value-add to local care systems.

Assisting the transitions experienced by children and young people

Smooth transitions into out-of-home care, between different placement settings, back to family and to independence necessitate planning and individualised attention to the range of needs held by each child.

Children usually experience a number of transitions between emergency, short and long term out-of-home care settings. Placements last for varying lengths and for some children, their care is shared between, for example, family and foster carers, or by different out-of-home carers. Regardless of whether the transition is into or from different placement settings, or, at 18 years, from care to independence, the following factors are essential to ensuring that these transitions are managed well and experienced positively by children:

- ensuring each child's right to planned and smooth transitions back to family, between care arrangements (i.e. from one placement setting to another) and from care to independence

- prior to placing or transitioning a child between placement settings, affording careful attention to assessing the child's needs and matching the child with the most suitable placement setting, in order to promote placement stability

- making in-home supports and outreach services available to facilitate smooth transitions into, between and from care environments, including where a child returns to their family

- ensuring that individualised planning occurs and young people are provided equitable access across the state to responses, services and programs targeted at assisting their transition from care to independence, particularly in relation to those young people who are most at risk of:

    o simply transitioning to other crisis or intensive service systems (e.g. those systems dealing homelessness, income support, public housing and adult criminal justice)

    o early parenting which may entail subsequent contact with the child protection system as a parent, and/or

    o unemployment

- ensuring that proper attention is paid to health, education, career planning and (re) establishing family contact and community connections well in advance of young people turning 18 years of age, and

- consistent with contemporary community standards, ensuring that young people transitioning from care to independence (i.e. those who age out of care) receive, as an entitlement, access to financial, emotional and practical supports until they turn 25 years of age, with these supports acknowledged as a whole-of-Queensland government responsibility and response.

What did the Forde and CMC inquiries say?

Although focused on the factors contributing to the abuse of children in Queensland institutions, the Forde Inquiry also considered necessary changes to the policies, legislation and practices at that time. Recommendation 41 proposed the Department develop transitional programs to prepare young people in State care for independent living and help them to transition from care by providing assistance to gain employment, education and housing.

The CMC Inquiry made no specific recommendations in respect of children transitioning between care arrangements or young people transitioning from care to independence.

What progress has been made in implementing recommendations of these inquiries?

In response to the Forde inquiry recommendation, a Transition from Care Pilot Program was implemented in 1999/2000. Practice and resourcing of transitions from care were supported with a $1M/annum allocation to the Program. The findings from a program review completed in late 2000, were reported by the Government as having been incorporated into practice.

Provisions were included in the *Child Protection Act 1999* to enable assistance to be provided by the Department to young people exiting care.

In recent years, the Department funded a small number of targeted programs to assist young people prepare for their transition to independence and / or mitigate the link between homelessness and transitioning from care.

Have outcomes for children and families improved?

In 2001/02, 71.1% of children who exited care after more than 12 months had experienced either one or two placements, compared with 44.7% in 2010/11. No data are available about the numbers of children in care who are reunified with family, self-placed with family or significant others, or who are homeless.

As previously detailed within this submission, young people are now more likely to 'age out of care' than previously.

Research about young people's experiences of transition from care planning has found that many young people transitioning to independence report not having, or not knowing about, their 'transition from care plan' or actively participating in its development. Some cohorts of young people are at higher risk than others, for example, Aboriginal and Torres Strait Islander young people, those who have experienced multiple placements and young people with physical or intellectual disabilities, mental health issues or complex and challenging behaviours.

Planning is reportedly often focused only on some domains of care (e.g. independent living skills) to the detriment of other areas such as health and dental care, education and training, and very importantly, engagement with family and community services and social connections.

Young people's experience of transitioning from care to independence is also different across Queensland as:

- Child Safety Service Centre practice is reportedly inconsistent in respect to the amount and manner of investment they make in transition planning, and

- access to targeted programs and practical supports is inequitable due to there being few funded 'transition to independence' programs and a number of shortfalls having been identified in the program design of the Youth Housing and Reintegration Service (YHARS).

Matters to be attended to in the 'road map':

The following matters have been identified as ones that require attention in developing the 'road map':

- Properly focus on the criticality of the match between a child and their needs and the proposed carer and care environment. The longer children are in care, the more placements they tend to experience. Placement stability is important. While children move between care environments for a range of reasons, key factors affecting placement stability are matching the child and carer, and planned and gradual transitions into and between care environments.

- Adequately equip young people *and* family members to deal with young peoples' inclination to re-connect with and return to the family from whom they were removed as they get older, either while they are still in care or when they leave care. Where family contact and connections have not been established or supported during the time they were in care, neither family members nor the young person are usually adequately equipped emotionally for the relationship.

- Amend the *Child Protection Act 1999* to provide a legislative framework that states the timeframe and nature of entitlements, including the obligation across Queensland government agencies, to provide after-care supports to young people. While supports are not currently precluded under the *Act*, post-care support cases are reportedly rarely opened by young people's Child Safety Officers, and if they are, it is for a strictly time-limited period to address a particular issue such as resolving 'adult guardianship' matters. Young people should be entitled to access financial, emotional and practical supports post-care until age 25 years (consistent with community standards) and offered support across Queensland Government agencies, for example, financial support for further education.

- Be more flexible in funding guidelines for intervention and out-of-home care services to allow non-government agencies that have been working with a young person to continue to provide outreach or in-home services following the young person's transition from the service

- Work with young people and the Commission for Children and Young People and Child Guardian (CCYPCG) on a public education campaign aimed at de-stigmatising 'being in care'.

- Develop and implement a policy and practice framework which promotes work across the Department of Communities, Child Safety and Disability Services (e.g. Child Safety and Disability Services) and with other government agencies (e.g. Education, Training and Employment; Health; Housing) including, in particular, those delivering or funding universal services, to better equip young people preparing to transition to independence and after-care. Greater attention must be given to:

  o enabling and supporting access by young people to the services and programs to which they are entitled, and

  o adjusting existing services and programs so that they better match the needs of young people exiting care, thereby properly discharging the State's obligation as a 'corporate parent'.

PART C:

LEGISLATION AND POLICY GOVERNING AND GUIDING THE ADMINISTRATION OF CHILD PROTECTION SERVICES

Legislation is the paramount means by which a government states its policy intention about an 'issue' and the means by which the object of the legislation will be regulated, for example, service providers, service users, outputs, quality assurance, timeframes, penalties and so on. In doing so, the government states the powers and authorities through which the stated objectives of the legislation will be achieved. Regulations are used to prescribe the ways in which certain provisions will be enacted, for example, the records to be kept or the content of a report to the statutory agency about harm or suspected harm to a child.

Legislation is usually supported by a body of policies and procedures that 'flesh out' the detail in the legislation and provide directives or guidance to those with powers, responsibilities or delegations under the *Act*.

Not all 'issues' are deemed to require regulation by legislation and not all jurisdictions regulate the same issue in the same way. The intervention of the State into 'family life' is both an area in which approaches have changed significantly over time and where the approaches taken vary between jurisdictions.

The *Child Protection Act 1999* started out fundamentally as 'enabling' legislation whereby the broad approaches were spelled out in the *Act* with other particulars to be regulated through administrative processes, such as through policy and resource allocation. The legislative changes arising from the implementation of responses to CMC Inquiry recommendations, for example, about case planning, resulted in numerous new provisions and a far more prescriptive approach that details steps, responsibilities and contingencies. The CMC asserted that inserting a "specific provision on case planning" (p.248) was the best way to redress an inadequate standard of developing and monitoring case plans.

Guidance by an *Act* that addresses the gamut of promoting and delivering prevention through tertiary intervention services, as in the *Child Protection Act 1999*, is the preferred means to govern and guide the care and protection of children and the support of their families in Queensland. Extending the legislative framework to recognise extra-familial abuse is not supported as it is of a distinctly different nature and constitutes a criminal matter which is best dealt with in the criminal justice system.

The *Child Protection Act 1999* and *Child Protection Regulation 2011* should be reviewed before any more amendments are made.

Internationally and in other Australian jurisdictions, devolving powers and decision-making about Aboriginal and Torres Strait Islander children from governments to Indigenous controlled and led entities is occurring. For example, a recommendation of the recent inquiry into Victoria's child protection system concerned, over a ten year period, delegating the 'care and control' of Aboriginal children removed from their families from the Victorian department to Aboriginal communities. A number of steps, as well as oversight by the proposed Aboriginal Commissioner in the Commission for Children and Young People, were included to transition Aboriginal children as well as government, Aboriginal and mainstream services to the new arrangements.

What did the Forde and CMC inquiries say?

Recommendations for legislative regulation by the Forde Inquiry related to residential care facilities and addressed:

- mandatory reporting of 'abusive situations' by Departmental Officers and residential care workers

- regular inspection and monitoring

- collection of 'abuse in care' data

- provision of advocacy services to young people

- licensing being subject to an independent written evaluation , and

- a monitoring role by official visitors.

The CMC Inquiry presented proposed legislative changes from across the review in a single chapter. The recommendations related to:

- inserting an additional principle about resolving any conflicts between a child's interests and their family's interests in the child's favour

- annual public reporting obligations about the performance of Queensland government agencies with a role in promoting child protection (i.e. those with a 'Child Safety Director')

- the structure, role, functions and powers of Suspected Child Abuse and Neglect (SCAN) teams and responsibility for monitoring their performance

- enabling the Department to intervene where it is suspected that an unborn child may be at risk of harm after birth

- mandatory reporting by nurses of child abuse and neglect

- regulating kinship and 'provisionally approved' carers in the same way as foster carers

- regulating placements made with parents' consent in the same way as placements of children under orders

- responsibility of the Child Guardian to monitor and report on compliance with the Aboriginal and Torres Strait Islander *Child Placement Principle*

- inserting a rider in the *Child Placement Principle* (s.83) that placement decisions about Indigenous children should only occur if they are in the child's welfare and best interests

- clarifying the Department's obligation to consult with the Recognised Entity in respect of decision-making about Aboriginal and Torres Strait Islander children

- developing a case plan for each child

- information sharing between agencies and others involved in providing services to a child

- extending the Community Visitor program to all out-of-home care settings

- establishing a Child Death Review Committee by the Commission for Children and Young People and Child Guardian, and

- allowing the Commission for Children and Young People and Child Guardian to refer a matter for review to the (then) Children Services Tribunal.

What progress has been made in implementing recommendations of these inquiries?

Responses to the recommendations of the Forde Inquiry were largely embraced in the (then new) *Child Protection Act 1999* and in the (then) *Child Protection Regulation 2000*.

Responses to all of the CMC Inquiry recommendations were implemented through a multi-phase legislative reform process. The amendments substantially changed the *Child Protection Act*, gave additional powers to the Commissioner for Children and Young People and affected other pieces of legislation, for example, the *Health Act 1937*.

The *Child Protection Act* has not however been reviewed despite being in operation since March 2000.

Matters to be attended to in the 'road map':

The following matters have been identified as ones that require attention in developing the 'road map':

- Review the *Child Protection Act 1999* to assess its effectiveness, relevance and practicability in delivering its stated aims and objectives, after an initial process to establish that these are still 'right'. Incorporate seeking data and information across Child Safety Service Centres, different populations (e.g. young people transitioning from care, children placed with kinship carers, children with disabilities) and across the range of services delivered by government and non-government agencies.

- Pay particular attention to reviewing the use, effectiveness and outcomes for children and families of the following provisions of the *Child Protection Act 1999*:

- o 'best interests of the child' as this has, as explained in Part A of this submission, been pitted against a child's safety and ascribed a position of being something other than a holistic assessment that encompasses connection with family, cultural background and community

- o notifications on unborn children and provision of help and supports to pregnant women where it is suspected that the unborn child may be at risk of harm following birth – the intention of the CMC's recommendation was that pregnant women receive supportive help before the birth rather than interference with their rights. The apparent high number of children removed at birth from hospitals highlights not only the lack of supports to pregnant women, but also the insensitivity with which statutory powers are exercised

- o case planning, particularly the provisions relating to case planning at a family group meeting, case reviews and use of intervention with parental agreement

- o 'alternative dispute resolution' processes such as family group meetings and court ordered conferences

- o assessment orders and orders granting guardianship to another suitable person other than a member of the child's family

- o parents' and children's right to participate in decision-making under the *Act*

- o parents' and children's right to access legal representation in case planning and court processes

- o assistance to young people to transition from care to adulthood

- o roles and responsibilities of Recognised Entities in being consulted about decision-making about Aboriginal and Torres Strait Islander children

- o annual reporting about child protection matters across Queensland government agencies, and

- o maintenance of contact by Aboriginal and Torres Strait Islander children with the child's community or language group

- Review the use, value and implementation of mandatory reporting provisions in other pieces of legislation, e.g. nurses under the *Health Act 1937* and the need for ongoing training for all mandatory reporters.

- Get the balance right between prescriptive and administrative approaches to the regulation of Queensland's child protection system. Over its 12 years of operation, the *Act* has been made increasingly prescriptive about who, what, how and when actions are undertaken, yet with insufficient consideration given as to whether or not legislation was the best approach to regulating the concerns.

- In reviewing the *Child Protection Act 1999* and considering strategies to reduce the over-representation of Aboriginal and Torres Strait Islander children in the child protection system, seriously consider devolving the control of functions to community-controlled and led agencies

and ensuring that this occurs in accordance with a supportive and resource-sufficient implementation plan.

- Unless there are confidentiality or other associated issues, make departmental and other relevant government agencies' practice resources and decision-making tools publicly available on the website/s. For example, the Department of Education, Training and Employment's education support planning and resource allocation materials.

- Investigate the differences and reasons for gaps between stated policy intent and practice across Child Safety Service Centres, for example, in respect to the use of less intrusive interventions such as 'intervention with parental agreement', and notifications on unborn children and compliance with the higher order options in the *Child Placement Principle*.

- Develop legislation, policy, practice manuals, program descriptions, funding information papers and similar documentation in a partnership between the Department of Communities, Child Safety and Disability Services, other government agencies and non-government peak bodies to ensure that all parties are 'on the same page' in respect of their understandings and interpretation of the legislation and administrative processes.

PART D:

INFRASTRUCTURE, MEANS AND PROCESSES FOR DELIVERING RESPONSES, PROGRAMS AND SERVICES

In bringing the right range and mix of responses, programs and services into effect, it is imperative that the best possible infrastructure, means and processes are in place, both within and across the government and non-government sectors, to plan, manage, administer and deliver them.

This submission focuses on two key aspects of this requirement, namely:

- the nature of the relationships needed between and within the government and non-government sectors to plan, manage, administer and deliver the right range and mix of responses, programs and services at State-wide, regional and local levels, and

- at an individual 'case level', the need for clearly articulated and applied definitions, within and across the government and non-government sectors, of three key inter-related functions:

    o 'statutory case management'

    o 'casework', and

    o 'coordination of support and care'.

Relationships between and within government and non-government sectors

No one government agency or non-government organisation can address the multitude of needs impacting on vulnerable families and children and parental capacity to care for their children. Individuals and organisations must work together to deliver responses, programs and services for purposes of supporting families and, where necessary, providing care for children whose parents may be unable to be their primary carers for a range of reasons and varying periods of time.

Often, children and families who have contact with the child protection system are involved with other service systems such as those delivering youth justice, adult correctional, mental health, housing and homelessness, domestic and family violence, substance abuse, family support and disability services. Delivery of these responses, programs and services also relies on the involvement of a range of government and non-government agencies working together to ensure legislated and community-based roles and responsibilities are discharged.

A core factor underscoring government and non-government agencies effectively working together is that government program arrangements are clearly articulated and provide a sound basis for:

- the delivery of high quality government services and their coordination across government agencies and program areas with clearly assigned leadership roles

- integrated service planning and development across government agencies and the program areas within these agencies, and

- the development and maintenance of constructive working relationships with non-government organisations that are respectful of the independence and autonomy of these organisations.

Additionally, in keeping with national and international experience and trends, the quality of service delivery and decision-making is improved when advocacy services are in place to represent the interests of various parties who have an involvement with the child protection system and all parties understand and have ready access to complaint and review processes.

Government portfolio arrangements must cater for the independence of the structures and processes developed within government departments, commissions or other statutory entities charged with responsibility for various complaint, review and appeal processes as well as the funding of non-government organisations with roles in advocating and representing various parties be they children and young people, parents and family members, foster and kinship carers, or non-government service providers.

PeakCare
Queensland Inc.

What did the Forde and CMC inquiries say?

Implicit within many of the recommendations of the Forde and CMC inquiries were references to the respective roles and responsibilities of both the government and non-government sectors. In order to implement these recommendations, it was therefore required that mechanisms be developed for joint planning, collaboration and cooperation across the sectors.

Of particular importance to the issue of relationships between and within government agencies were recommendations of the CMC Inquiry in relation to the establishment of a Directors-General Coordinating Committee and a Child Safety Directors Network to manage and coordinate a whole-of-Queensland government approach.

Both inquiries made recommendations in respect of needs analyses to inform resource allocation and the equitable distribution of services. The Forde Inquiry, for example, recommended that exercises of this type be undertaken to inform planning concerning the development and use of residential care facilities. The CMC Inquiry recommended the development of a strategic framework for child protection, to articulate the range, mix and full-cost of services that are needed and identify the level of resourcing required to adequately implement the framework.

Also in respect of funding to non-government agencies, the CMC Inquiry recommended an investigation of alternative models that would ensure a match between available resources and the actual cost of providing the services that children, families and carers need.

In response to findings that the (then) Department of Families did not always treat non-government service delivery partners as true 'partners', the CMC Inquiry recommended the creation of a contemporary and progressive service delivery partnership in order to provide effective and efficient services for children, families and carers.

Both inquiries also made recommendations concerning:

- advocacy and representing the interests of the various parties involved with the child protection system
- the review and appeal of decisions relevant to child protection service delivery, and
- the monitoring and quality assurance of service delivery to ensure improved client outcomes.

What progress has been made in implementing recommendations of these inquiries?

In response to various recommendations of both the Forde and CMC Inquiries, a range of initiatives was put in place such as:

- the appointment of Child Safety Directors in various government departments and entities

- an expansion of the monitoring role of the Commission for Children and Young People and Child Guardian including, in particular, extension of the Community Visitor program and reporting functions exercised by the Child Guardian in relation to child deaths and various aspects of children's safety and well-being

- development of service standards as the basis of a quality assurance strategy for licensing out-of-home care services delivered by non-government organisations, and

- establishment of zonal partnership and planning networks, comprising of government and non-government representatives, to foster collaborative responses and integrated services.

Have outcomes for children and families improved?

As noted in the introduction to this submission, questions in relation to defining the extent and scope of the responsibilities held by the 'child protection system' – especially in relation to the scope of responsibilities that are also held by other human service systems concerning the safety, well-being and life opportunities of children and their families – have for many years remained vexed.

In a number of different ways, successive Queensland governments have attempted to resolve this matter through various portfolio and departmental program arrangements. In response to recommendations of the CMC Inquiry, for example, the Department of Child Safety was created to 'focus exclusively upon core child protection functions' whilst also becoming the 'lead agency in a whole-of-government response to child protection matters'. Presumably, 'core child protection functions' were taken to mean 'tertiary child protection services', while 'child protection matters' were taken to include a broader range of policies, programs and services administered by other government agencies that may impact on the protection and care of children, particularly those in State care.

Whilst some observers of the newly instituted portfolio arrangements following the CMC Inquiry acknowledged the increased levels of resourcing and thorough attention given to the investigation of child protection concerns by the (then) Department of Child Safety, others were critical of:

- priority that seemed to be 'automatically' given to tertiary responses in preference to less intrusive interventions

- insufficient influence held and exercised by the (then) Department of Child Safety as the 'lead agent' in ensuring that an increased spread, number and range of primary and secondary services did, in fact, eventuate via the funding programs administered by other departments, and

- a lack of engagement with the non-government sector by the Child Safety Directors Network and a perceived inability of the network to adequately coordinate a whole-of-government approach.

In an apparent reversal of the logic that underpinned the recommendations made by the CMC concerning the creation of the Department of Child Safety, the subsequent Bligh-led Labor government established the 'mega' Department of Communities that incorporated 'child safety' as a 'program area' along with several others. Broadly, the rationale for this arrangement was to increase capacity for the integration and coordination of various human services, subsequently reducing some of the criticisms made of the 'stand-alone' Department of Child Safety.

Whilst some observers noted moves towards an improved integration of services across program areas contained with the Department, others perceived little change in that program areas continued to operate in a 'siloed' manner. Others also noted that the 'specialised' focus of the former Department of Child Safety became diluted and compromised.

The current Newman-led government has established portfolio and departmental arrangements that may be regarded as falling somewhere in between the extremes of the previous two arrangements with 'child safety', 'disability services' and 'communities' being retained within a single department and other program areas being allocated to a range of other departments or government entities. It is too soon to determine any discernible benefits or adverse effects of these arrangements.

It is apparent that successive Queensland governments have wrestled with ways in which they can create the best possible portfolio and departmental program arrangements to effect positive changes in managing the child protection system. It also becomes apparent however that any arrangements that are made will inevitably carry both some advantages and disadvantages. The frequency of changes made to these arrangements over recent years has, in fact, added to the difficulties being experienced by the child protection system by not allowing sufficient time for the various systems and processes needed to support the arrangements to become embedded and establish their impact.

Also, irrespective of the changes that have been made, the success of the child protection system in meeting its purpose and aims relies heavily on the policies, priorities and practices of a range of other key government agencies such as those responsible for health, education, housing, justice, police and Aboriginal and Torres Strait Islander and multicultural affairs.

As noted in the introduction to this submission, the child protection system is one that has, for a number of years, struggled to establish the scope of its responsibilities particularly in relation to the responsibilities held by a number of other human services systems in supporting the safety, well-being and life opportunities of children and their families.

At the least, it must be expected that the policy directions and activities of the government agencies responsible for these other service systems do not conflict, detract from or undermine the capacity of the child protection system to achieve its goals in relation to children and families. Preferably, it should be insisted upon that the policy directions and activities of these agencies actively contribute to, and be held accountable for, the attainment of these goals.

Currently, this is not the case as demonstrated by the examples that follow:

A collision of systems versus collaboration across systems

Education

All children and young people are entitled to be educated. School participation, attainment and completion are lower for children and young people in care than for the general community. Employment, further study and life opportunities for young people exiting care are therefore worse than for other young people. 'Children in care' (i.e. those in the chief executive's custody or guardianship) are meant to get an 'Education Support Plan' to proactively focus on educational, social and behavioural development. A number of issues and gaps have however been identified that undermine the partnership between Child Safety and educational services. These include the lack of entitlement afforded to children on interim or unfinalised orders to a plan. There are reports that Child Safety abrogate their responsibility to participate in planning processes and assert that 'education' is Education's responsibility, rather than a cooperative, cross-agency responsibility. While performance reports indicate that almost all children 'in care' have a plan, many children are unaware of the plan and / or have not participated in its development. Such a critical initiative as an individualised plan geared to supporting participation, attainment and school completion is further undermined by a lack of access to the practical and financial resources required to realise a child's goals.

There are however good examples of collaborative approaches that involve resources being allocated by non-government organisations. These include Life Without Barriers' pilot of an educational psychologist who works with teachers and the carers of young people living in an intensive foster care program and the inclusion by Key Assets of an educationalist within the multi-disciplinary team that supports children living in their intensive foster care program.

Justice and Attorney-General (JAG)

The Attorney-General's portfolio includes key functions delivered through the children's court and magistracy, court ordered conference proceedings, youth justice and detention centres, and the Queensland Civil and Administrative Tribunal, all of which interface with the child protection system and indicate the criticality of liaison between Child Safety and JAG. Some of the issues associated with the children's court have been raised in evidence provided to the Inquiry. Other areas where there is room for improvement in the collaboration between JAG and Child Safety relate to children's and family's understanding of, access to and participation in alternative dispute resolution processes and court processes, as well as the prompt and fair review of decisions made by the Department, Children's Commission and children's court.

Housing

Lack of basic home safety, housing instability and homelessness all contribute in one way or another to undermining parents' capacity, or perceptions of their capacity, to care for their children. Issues, such as the lack of access to suitable, affordable, stable housing coupled with unresolved tenancy matters, can lead to, as well as perpetuate, contact with the child protection system. For example, children can sometimes remain in out-of-home care longer than necessary because a lack of housing acts to undermine reunification with their families. Access to stable and appropriate housing is also an issue for young people transitioning from care near to or at 18 years when departmentally-funded placement in an out-of-home care setting is no longer an option. While transitioning families and young adults from one, or between, intensive service systems is not ideal, priority access to 'public housing' is essential for parents or other family members providing care for otherwise 'at risk' children and for young people exiting care. Collaboration across the portfolios responsible for child protection, housing and homelessness could address the policy anomalies and challenges arising from the 'One Social Housing System' and mitigate housing-related issues confronting children and families at risk of or in the child protection system. Facilitating access to free or affordable government, private or community legal practitioners is also essential in being able to address outstanding tenancy matters that act to prevent movement out of homelessness.

Police

Some issues relating to the 'collision' between Police and the child protection system have already been raised with the Inquiry. One concerns the Queensland Police Service practice of reporting all families subject to domestic and family violence call-outs and Child Safety being crippled by the volume of those reports. Another relates to Police charging children in residential care with 'nonsense offences' following call-outs by residential care workers. There are anecdotal reports of Police refusing to provide assistance to workers unless the child is charged and Police not making use of other options such as cautioning. This situation is compounded by anecdotal reports of residential care services continuing to be told by Departmental Officers to report children to the Police in spite of the former Department of Communities establishing a committee of stakeholders in early 2012 to address the 'criminalisation of children in residential care', including the drafting of guidelines advising when Police may be appropriately called.

Youth Justice

The replacement of the Children's Services Act 1965 *with the* Juvenile Justice Act 1992 *and* Child Protection Act 1999 *was intended to clarify the relationship between 'child protection' and 'youth justice' and prevent the mis-use of a criminal justice system to address concerns more appropriately viewed and dealt with by the child protection system (i.e. stop the sentencing of children to welfare).*

Within contemporary Queensland, the success of the child protection and youth justice systems conjointly operating to avoid children who have protective needs being dealt with more harshly than others in their dealings with the criminal justice system remains questionable. This is demonstrated by:

- *the continuing high proportion of children remanded in custody for lengthy periods of time for reasons that chiefly concern their lack of suitable accommodation rather than the seriousness of their alleged offences or risks they may pose to the community, a matter which was raised in a recommendation from the Forde Inquiry about the need to develop alternative placement options for children in these circumstances,*

- *the high number of 'police call-outs' to children living in residential care and the subsequent charging of children with very minor offences, and*

- *the ongoing treatment of 17 year old children as adults in preference to them being dealt with as children under the provisions of the* Youth Justice Act 1992.

It seems that recommendations made by the CMC Inquiry in relation to the structures and positions needed to coordinate a whole-of-government approach to the protection and care of children and the support of families were, in fact, on the right track, and were ones that already existed or were subsequently implemented in other jurisdictions.

In practice however, the intentions of these recommendations were not adequately realised in Queensland. It is apparent that changes to portfolio and departmental program arrangements or the establishment of positions with specified responsibilities for whole-of-government coordination will not, in and of themselves, succeed.

Over and above these structural responses, there is a need to ensure that:

- all government agencies adhere to an overarching 'child and family well-being framework' that properly locates child protection responses, programs and services within the context of this framework

- the respective leadership roles to be played by both the Premier and the Minister for Communities, Child Safety and Disability Services in ensuring that all government policies that potentially or actually impact the protection and care of children and support of families remain consistent with the goals and underpinning philosophies of the 'child and family well-being framework' are unequivocally supported by the government as a whole

- similarly, the leadership role to be played by the chief executive of the Department of Communities, Child Safety and Disability Services in association with the Department of the Premier and Cabinet is exercised in ways that will ensure that all government-delivered services and policy development across agencies remain consistent with and contribute to attainment of the goals and underpinning philosophies of the 'child and family well-being framework', and

- the role played by the Commission for Children and Young People and Child Guardian in researching and impartially reporting on the performance of all agencies in contributing to the goals of the 'child and family well-being framework' is maintained and strengthened.

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In respect of non-government service delivery partners not being seen as true 'partners', the progress that has been made in rectifying this varies widely. Examples can be found of highly effective and respectful working relationships between service outlets of the Department and non-government service providers. Conversely, examples can also be readily found of an adversarial relationship where the more powerful partner (i.e. the Department) tells the funding recipient (i.e. a non-government service provider) what to do and how to do it, sometimes irrespective of this being contrary to service agreements, departmental policy or service standards associated with the licensing regime. Not only is the relationship unnecessarily tainted when Departmental Officers in these instances use threats to cease or reduce funding to organisations, it destroys the vibrancy of the non-government sector.

In many respects, the Department has continued to struggle in clarifying and managing the multi-faceted role that it plays with non-government organisations as a funding body, monitor of compliance with service standards and the terms of funding and service agreements, and conjoint deliverer of client services. Whilst in part, this may be addressed through the development of improved role descriptions, systems and procedures, it is also symptomatic of difficulties being experienced within the organisational culture of the Department, at least in some areas. In some instances, this may also be affected by organisational cultural difficulties that exist within some non-government service providers.

Matters to be attended to in the 'road map':

The following matters have been identified as ones that require attention in developing the 'road map':

- Develop an overarching and comprehensive 'child and family well-being' framework that properly locates child protection responses, programs and services within the context of this framework and serves as the major reference point for the development of all government policies that may impact on the protection and care of children and the support of families.

- Establish the leadership roles to be played by the Premier and Minister for Communities, Child Safety and Disability Services in ensuring that all government policies that potentially or actually impact the protection and care of children and support of families remain consistent with the goals and underpinning philosophies of the 'child and family well-being framework'.

- Establish the leadership role to be played by the chief executive of the Department of Communities, Child Safety and Disability Services in association with the Department of the Premier and Cabinet in ensuring that all government-delivered services and policy development across agencies are coordinated in ways that remain consistent with and contribute to attainment of the goals and underpinning philosophies of the 'child and family well-being framework'.

- Strengthen the role played by the Commission for Children and Young People and Child Guardian in researching and impartially reporting on the performance of all agencies in contributing to the goals of the 'child and family well-being framework'.

- Re-invigorate the Child Safety Directors Network which was intended as a result of the CMC Inquiry recommendations to facilitate better coordinated and managed service responses across government agencies that interface with the Department of Communities, Child Safety and Disability Services in meeting the needs of children and young people in or at risk of entering the child protection system. Priority matters for the attention of the Network relate to children and families who fall through the cracks because, for example, across-agency responses are un-coordinated or have restrictive eligibility criteria or inequitable access. Groups affected include young people under dual orders (i.e. child protection and youth justice), older young people who are mistakenly perceived as less vulnerable than babies and toddlers, children who are suspended from school and parents who feel compelled to relinquish the care of their children with disabilities.

- Work together in establishing and maintaining a 'true' partnership between the government and non-government sectors wherein the independence and autonomy of non-government organisations are respected and the multi-faceted role played by the Department is clarified and better and more consistently managed.

- Allocate an adequate level of funding to support vibrant and active peak body partners that:

  o advocate at a systems level on behalf of the range of stakeholder groups in contact with the child protection system - children and young people, parents and family members, foster and kinship carers, and non-government service delivery partners. As the interests of Aboriginal and Torres Strait Islander children and families are borne of a distinctly different history, the funding of a community-controlled and led organisation is most appropriate, and

  o participate as a partner in policy analysis and development, and the development of procedural policy.

- Fund a range of organisations, not just large organisations in the hope that this creates economies of scale and savings to government. Diversity and difference are features of a community sector that are to be encouraged as they yield innovative practice. A multiplicity of organisations supports service users' choice of provider and allows new and existing organisations to develop 'niche' markets, for example with different target groups or in particular locations.

- Quarantine funds for responses, programs and services to Aboriginal and Torres Strait Islander children and families for disbursement to Aboriginal and Torres Strait Islander community-controlled and led organisations. The proportion of funds should be commensurate with the level of over-representation of children in contact with the tertiary system and reflect the high priority that should be assigned to the development of innovative prevention and early

intervention services that are culturally relevant to Aboriginal and Torres Strait Islander peoples.

- Quarantine funds for responses, programs and services for culturally and linguistically diverse background children and families for disbursement to organisations comprising of people from the same cultural and ethnic backgrounds.

- Change the focus from funding 'outputs' of non-government service delivery partners to funding for agreed outcomes for children and families.

- Build flexibility about 'processes' and 'outputs' into program descriptions so that, for example:

  o practical and emotional supports to a child transitioning between care settings transition with that child as per case planning arrangements made with the new service provider, or

  o post-reunification supports are provided to children and families by service providers involved with the family prior to the child/ren returning home.

- When building flexibility into program descriptions, remove restrictive eligibility criteria imposed through service and funding agreements that confront children and families who want or need access to government or non-government services.

- Make use of the performance returns which funded organisations are bound to provide periodically to the Department. Cease duplicate reporting of data which the Department should, at least in theory, already have (e.g. number of children placed with a service) that the funded agency is nevertheless required to report. There is widespread support for transparency and accountability for the funding provided to non-government organisations, however the data collected and reported should be meaningful and aggregated on a program basis to monitor and develop a picture of each program (e.g. family intervention services) and contribute to an overall picture of children and families in contact with the child protection system, as well as foster and kinship carers.

- Involve non-government peak bodies in the preparation of program descriptions and funding information papers, which are the usual mechanism by which the Department advertises open or closed tender funding processes.

- Put in place mechanisms that enforce consistent interpretation and application of Departmental policy by regional and local service delivery outlets of the Department as well as adequate conduits to manage the interface between policy and practice, and between government and non-government service delivery.

Statutory case management, casework and the coordination of support and care

To enable a child protection system to operate effectively, clear definitions are required in relation to three key functions, namely:

- 'statutory case management'
- 'casework', and
- 'coordination of support and care'.

It is necessary that the definitions applied to each of these functions provide clarity about:

- the respective roles to be played by the statutory agency, other government agencies and non-government service providers
- the sets of authorities and responsibilities held by each party in accordance with these definitions, and
- the tasks that that are to be performed by each in keeping with their roles.

As depicted by the following diagram, the achievement of clarity about each of these functions is seen as necessary in being able to:

- plan a holistic and comprehensive response to the assessed strengths and needs of individual children and their families and continuously monitor and regularly review the responses being provided
- take proper account of the care setting in which a child is residing as well as the range of 'formal' and 'informal' community structures with which the child and/ or their family may be engaged (or re-engaged), and
- 'drive' the ongoing selection and assembly of the required people, programs and services necessary to implement the intervention strategies included within their initial and regularly reviewed case plans.

Moreover, effective operation of the child protection system requires that the practice of all parties involved in delivering these three key functions uniformly:

- reflects sound child protection theory, and
- recognises the criticality of good, comprehensive, evidence-based assessments of needs *and* risk, unhampered by cultural discrimination.
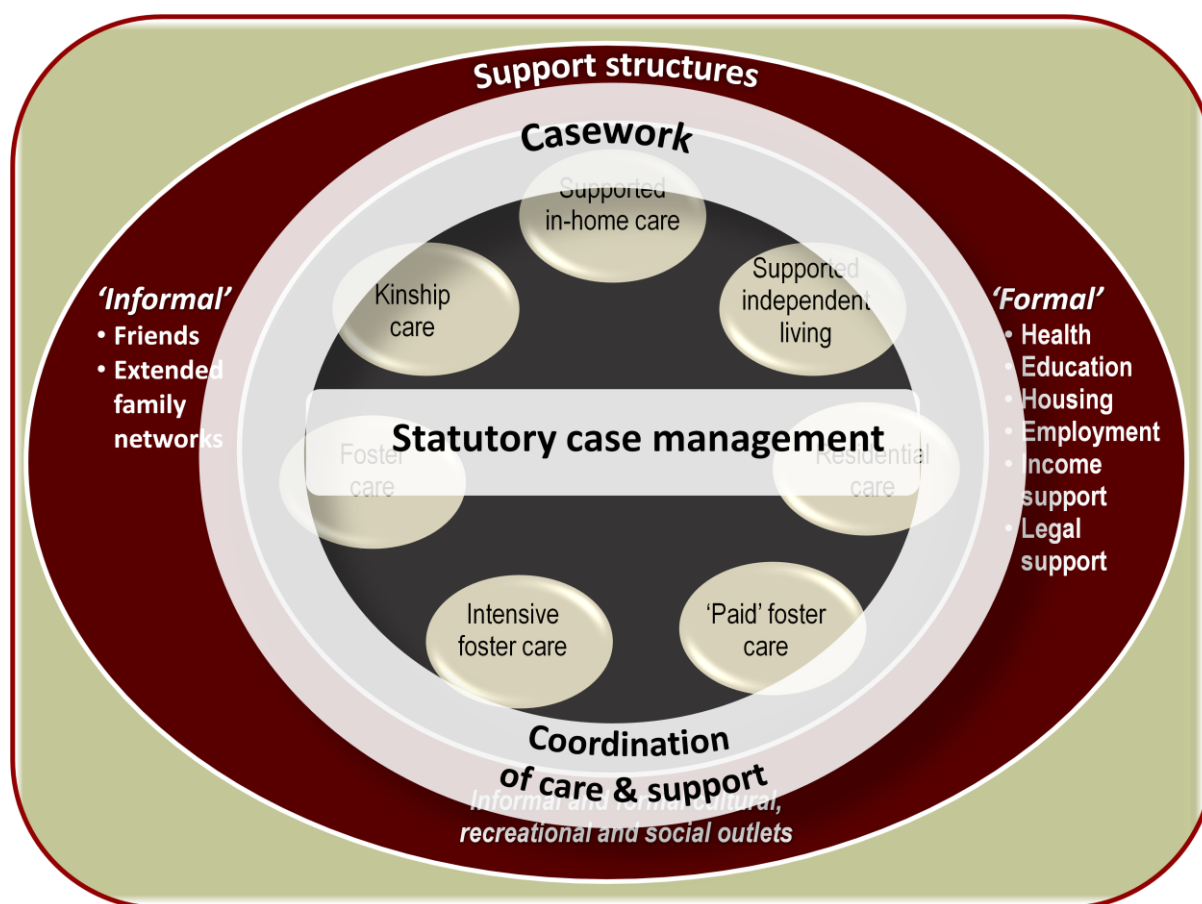
The following broadly describes key elements of the 'statutory case management', 'casework' and 'coordination of support and care' functions that should be addressed with the definitions of each.

Statutory case management

Statutory case management generally refers to the sets of responsibilities held by the Department of Communities, Child Safety and Disability Services in relation to children who are subject to statutory intervention and their families. In particular, this function usually requires the use of statutory powers and authorities delegated to Departmental Officers to perform the following key tasks:

- *establish, implement, monitor and regularly review in accordance with prescribed time frames, a statutory case plan that caters for the immediate, short and long term needs of a child in relation to their guardianship, custody and/ or living arrangements (e.g. plans that may exist in respect of a child's reunification with their family or changes to interventions that are being undertaken with parental agreement)*

- *select and initiate referrals to other government or non-government service providers that are able to provide the range of services needed to assist in bringing about the goals of each child's statutory case plan*

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- *undertake processes involved in making decisions that require the use of statutory authority or obtaining the authorisation or consent of the child's guardian (e.g. authorising the use of certain intrusive medical procedures when a child is the subject of a guardianship order or obtaining the consent of a parent when the parent has retained guardianship)*

- *monitor interventions being undertaken by other government or non-government service providers for purposes of ensuring that these interventions conform with the directions of each child's statutory case plan*

- *liaise with government and non-government service providers in regard to the progress of each child's statutory plan and any amendments that may be required over time*

- *arrange and convene key planning forums (such as family group meetings) that promote opportunities for the participation of a child, the child's parents and/ or other family members in the development and regular reviews of the child's statutory case plan including, in particular, when actions are being considered which may change the child's custody, guardianship and/ or living arrangements*

- *where required, initiate and/or participate in various court-based processes associated with a child's custody or guardianship arrangements*

- *receive and, where necessary, investigate and respond to reports of alleged harm or risk of harm and/ or alleged breaches of the standards of care being received by a child living in out-of-home care, and*

- *ensure that opportunity is provided for the participation of a Recognised Entity in significant decision-making about any of the above matters where they concern an Aboriginal or Torres Strait Islander child.*

Within Queensland, each of the above tasks is retained as a responsibility of the statutory agency when children are the subject of statutory child protection intervention.

Casework

In most instances, a child who is the subject of statutory intervention has an identified statutory child protection case manager (i.e. a Child Safety Officer) who is professionally accountable, through delegation, for their care and protection. In some cases, certain casework activities may be 'outsourced' to suitably qualified persons employed by a non-government service provider when this is in keeping with the provider's funding and service agreement with the Department of Communities, Child Safety and Disability Services.

Key casework activities undertaken by a non-government service provider may include:

- *assessing, developing, documenting, monitoring and reviewing a 'care plan' for a child or a 'family support plan' that is complementary to, and supportive of, the over-arching directions of the statutory case plan developed by the Child Safety Officer who holds statutory case management responsibility on behalf of the Department of Communities, Child Safety and Disability Services*

- *providing or arranging for the provision of counselling and/or other practical or therapeutic services*
- *providing advice and direction to carers and others involved in the care of the child and/ or support of the child's family about the environment in which the care and support is being provided and intervention strategies that may be undertaken in accordance with the care or family support plan, and/ or*
- *where a child is living in out-of-home care, monitoring the standard of care being provided and the appropriateness of the care environment in supporting the goals of the care plan and intervention strategies.*

Coordination of support and care

Generally subject to the nature and terms of service agreements between non-government service providers and the funding body, when children are being provided out-of-home care by a non-government service provider or a non-government organisation is providing support of a family, the activities and tasks associated with the 'coordinating support and care' function that they perform include:

- *liaising with the statutory case manager and other service providers – from both government and non-government agencies – who are involved in the care and support of the child and/ or their family*
- *assembling and leading the appropriate 'team' of family support workers, carers – both primary and respite – or residential service staff and other personnel who are to be involved in delivering each child's individualised care plan and/or family's support plan*
- *coordinating, monitoring, reviewing and documenting the activities of this team to ensure that they are effectively contributing to the goals of the child's care plan or family's support plan and that the manner in which the care and/ or support is being delivered to each child and/ or family meets all required service standards*
- *in respect of children living in 'out-of-home care', ensuring that:*
  - *their day-to-day care requirements are being met in a manner that complies with legislated standards of care, and*
  - *the linkages between each child's 'care setting' and the support services being delivered are maintained, integrated, coordinated and managed in a way that is conducive to the achievement of each child's care plan.*

In addition to the importance of ensuring that clarity exists in respect of each of the above functions and who is responsible for the performance of these functions and the ways in which they are connected, it is regarded as essential that all parties exercise their respective roles in accordance with shared values and understandings about 'good' child protection practice.

This is necessary to ensure that all persons involved in performing these functions are able to:

- work together in ways that are complementary to one another

- plan and deliver services that are well integrated so that the 'sum of the parts becomes the whole'

- be held accountable for the roles that they play, and

- make use of practice approaches that are known to be effective.

In the performance of their respective roles and functions, shared understandings should be held by all parties about the need for individualised and holistic responses to children and families which incorporate interventions that are:

- child-centred, yet family-focused in the ways in which they are planned and delivered

- 'needs' as opposed to 'service' driven (i.e. the services being provided should adapt to the needs of the child or family rather than the child or family being expected to adapt to the requirements of the service)

- timely in being able to deliver services as and when they are needed

- 'multi-modal' in being able to offer access to an array of services that can flexibly respond to different strengths and needs

- culturally respectful, meaningful and consistent with the beliefs, values and cultural practices of children and families

- inclusive of children and families as integral members of the 'team' that design, deliver and 'own' their plans

- localised in a manner that enhances the connectedness of children and families with their home community and networks by making use of 'natural' supports in addition to professional services

- the least restrictive that still manage and minimise risks to the safety of children, and

- strengths-based with preference given to interventions that do not inappropriately 'pathologise' the experiences of children and their families.

As depicted by the diagram, an additional purpose of ensuring that clear definitions are applied to 'statutory case management', 'casework' and 'coordination of care and support' is to enable well-managed and coordinated planning to occur across a range of 'domains' that each has a bearing on a child's immediate, short- and long-term:

- safety

- well-being, and

- life opportunities.
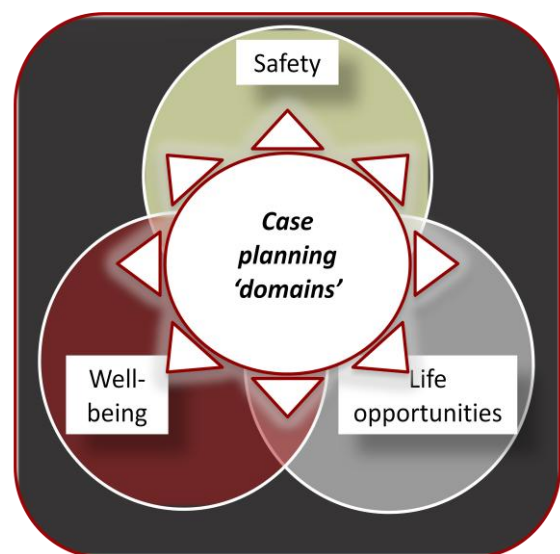
Clear definitions of the three functions are needed to inform the development of the various forums and procedures that should be utilised by all key parties from the statutory agency as well as other government and non-government agencies who may be involved, in managing and coordinating:

- assessments of each child's strengths and needs across a range of domains

- development of individualised plans informed by the outcomes of these assessments that further stipulate the roles and tasks to be performed by each party, including children themselves and members of their family wherever possible

- implementation and monitoring of the plans, and

- regular review and, where required, amendment of the plans.

What did the Forde and CMC inquiries say?

The main recommendation of the Forde Inquiry relevant to this matter concerned the establishment of a short term residential facility to enable comprehensive assessments to be conducted when children first enter care. The government did not accept the recommendation for a single facility to provide this service for all children across Queensland.

The CMC Inquiry made a number of recommendations focussed on:

- legislating about and implementing agreed cross-departmental procedures for the operation of the Suspected Child Abuse and Neglect (SCAN) system

- legislating that a case plan be developed prior to a court order being made

- legislating that a child's best interests take precedence over the interests of the child's family

- legislating about Indigenous participation in decision-making about Aboriginal and Torres Strait Islander children, prior to decisions being made by the Department

- delivering timely and informed initial and regular case planning for each child

- providing carers with information about children to be placed in their care and about the child's needs, and facilitating carers' involvement in case planning

- ensuring children are informed about their rights and tools are used to support children's participation in decision-making

- supporting parents' involvement in decision-making, and

- researching the effectiveness of family reunification as well as permanency planning.

What progress has been made in implementing recommendations of these inquiries?

In response to the CMC Inquiry, significant amendments were made to the *Child Protection Act 1999* to underscore child and family inclusive case planning processes and the court's role in reviewing each child's case plan prior to making a child protection order.

The Department introduced the use of:

- Structured Decision Making (SDM) tools to assist decision-making about interventions that may be used in responding to the findings of their investigation of child abuse or neglect notifications, and

- an assessment and case planning framework that addresses children's 'level of functioning' across eleven domains:

  1. *behaviour*
  2. *emotional stability*
  3. *alcohol and drug use*
  4. *family of origin relationships*
  5. *relationships with carer family* (where a child has resided with the same carer/s for twelve months or more)
  6. *social relationships*
  7. *cultural identity*
  8. *physical health*
  9. *child development and intellectual identity*
  10. *education/ vocational/ employment,* and
  11. *life skills* (used when a young person is aged fifteen years or more).

  (A twelfth 'category' allows for the noting of '*additional identified strengths or needs'* that may not be adequately addressed using one of the other domains)*.*

Generally, non-government service providers have attempted to develop and make use of assessment and planning frameworks that are complementary to that of the Department's.

Have outcomes for children and families improved?

There are currently no clearly stated and applied definitions of 'statutory case management', 'casework' and 'coordination of support and care'.

Non-government service providers frequently complain that this results in:

- inconsistent practice across the State

- an inefficient and confusing duplication of effort by the statutory agency and non-government service providers, particularly those providing out-of-home care services, and

- cumbersome decision-making processes that frequently cause delays in decisions being made with adverse affects on children and families.

Similar to a key finding of the recently completed review of the United Kingdom's child protection system led by Professor Eileen Munro concerning an over-reliance on electronic tools in preference to valuing professional judgment and expertise, Queensland child protection practitioners from both the government and non-government sectors report concerns about:

- an over-reliance on the use of the SDM tools by Departmental Officers and a reluctance to 'over-rule' the findings arising from the application of these tools, and

- inadequate Departmental responses to address adverse findings about use of the SDM tools indicated within the 2009 study conducted by Gillingham and Humphreys (Refer to http://www.peakcare.org.au/media/user_files/documents/9_Gillingham-SDM-in-Qld-2010-1.pdf).

While it is commendable that the Department of Communities, Child Safety and Disability Services makes use of an assessment and planning framework that addresses a range of 'life domains', it is concerning that the language used to 'name' each domain and describe the strengths and needs of children in respect of each domain, appears to have been selected solely to benefit the planning being undertaken by 'adults' involved in their care and support.

The terminology included within the framework is not child-, youth- or family-friendly and, as such, is not conducive to engaging the participation of children or their families in the case planning and review process. This also limits the usefulness of the written case recording undertaken by Departmental Officers.

In their current format and use of language, these case records may meet requirements in ensuring that an historical record of case decisions and events are being maintained (i.e. a 'static' purpose of case recording) and help in ensuring that this information is available to assist 'internal' communication between Officers within the Department. However, the ways in which the information is recorded and the language used would make it difficult to readily share copies of these records with children and families in ways that make the information meaningful to them or helpful in facilitating their involvement in the development and 'ownership' of the plans being made concerning their lives (i.e. a 'dynamic' purpose of case recording). In their current design, the plans are expressed as things being done by people in authority **to** children and families. It would be preferable if they were framed and presented as work being undertaken **with** them.

Rather oddly, the framework does not include a domain about a child's 'safety' – either safety from harm that may be self-inflicted or inflicted by others. This would seem to indicate that children and families are not being explicitly engaged in the development of strategies that may be used to address concerns about their safety that presumably were key factors that prompted their involvement with the child protection system.

In relation to other matters concerning the extent to which children and families are being actively engaged and provided the opportunity to participate in planning and decision-making about their lives, the following information is instructive:

- Reports produced by Queensland's Commission for Children and Young People and Child Guardian and the CREATE Foundation indicate a lack of participation by children in decision-making about their lives. However, promising developments in raising awareness about the need to more actively facilitate children's participation have emerged as a result of *G-Force*.

  G-Force, a working party of the *Child Protection Partnership Forum*, comprised of government and non-government representatives, aims to increase the participation of young people in decision making. By continuously identifying with young people the barriers to, and opportunities for, their participation, changes in policy and practice are occurring and the right of children and young people to have a say in the decisions that affect their lives is slowly being realised.

- The Brisbane Family Inclusion Network (FIN), a network which supports the involvement of parents in the statutory system, undertook research during 2011 on parental involvement in decision-making processes.

  This research found that parents are frequently not seen as stakeholders in decision-making about the child protection services they receive and do not perceive themselves as being included or respected in the process of these decisions being made.

  However, as a result of a multi-faceted range of strategies initiated by the Brisbane FIN, promising developments have been commenced in relation to:

  o parents being provided an avenue and means to express their collective voice about ways in which their experiences of contact with the child protection system can be improved

  o the acquisition of greater knowledge about the ways in which parents can be successfully engaged in the planning and delivery of interventions intended to achieve the safety and well-being of their children

  o the re-shaping of attitudes and the practice of both government and non-government workers in the work they undertake with parents and their children, and

  o the scoping of a *Statement of Commitment* (or similar document) to parents that clearly outlines their rights to be involved in decision making processes.

  A FIN located in Townsville has also established a strong network of support for parents whose families have had contact with the child protection system and a foundation for public education and advocacy about the impact of the system on families and ways in which this can be changed and improved.

During various roundtable meetings and other consultation exercises facilitated by PeakCare, child protection practitioners within both the government and non-government sectors have raised a range of other concerns about the quality of current practice and decision-making that is negatively impacting on the outcomes being achieved for children and young people. These include concerns about the following:

- the lack of a well-articulated set of shared values and understandings held by child protection workers both within and across the government and non-government sectors about 'good' child protection practice, demonstrated by:

  - a perception that is held and strongly asserted by some Departmental Officers that their role is to work exclusively with children, rather than the child in the context of their family and community

  - rather than focusing on need and risk factors for the child and family, investigations (and subsequent case planning) being driven by event-based decisions about, for example, whether to remove the child or not and identifying who is responsible for the harm, to the detriment of considering services and programs from which the child and family would benefit, and which mean that some children unnecessarily enter the system, while others who would benefit, do not receive needed services

  - where domestic and family violence exists, women escaping violence and their children being placed at risk by Departmental Officers inadvertently disclosing the whereabouts of these women to their former partners, indicating a lack of diligence and sensitivity to the relationship that often exists between domestic and family violence and child protection

  - approaches to reunifying children with their families that centre on 'how many hoops' a parent must jump through to prove themselves as being a capable parent rather than 'working with' families to address the issues of concern that are impacting on their capacity to safely parent their children

- deficiencies in the child protection service system design and logic due to the system having largely developed in an ad hoc and unplanned way in response to 'crises' and media attention

- inconsistencies in the delivery, and therefore children's and families' experiences, of statutory child protection services across Queensland and practice that is sometimes incongruous with stated Departmental policy and procedures

- speculation about the extent to which inconsistencies in decision-making may be linked with the increased number of Child Safety Service Centres established over recent years

- the extent to which unqualified or inappropriately qualified persons are being charged with responsibilities to make complex decisions that carry profound implications for children and families, and

- the under-utilisation of professional supervision including the low rate at which external supervisors are engaged for this purpose, and the under-valuing or complete disregard given to this activity which, in addition to ensuring high quality services and decision-making, has been found through research to significantly improve the retention rates of Social Workers.

Matters to be attended to in the 'road map':

The following matters have been identified as ones that require attention in developing the 'road map':

- Initiate a joint exercise to be undertaken by Departmental Officers and child protection peak bodies in consultation with non-government service providers, for the purposes of:
  - o producing clearly articulated definitions of 'statutory case management', 'casework' and 'coordination of support and care'
  - o in keeping with these definitions, refine understandings about the respective roles and responsibilities of the statutory agency and non-government service providers (particularly those involved in providing out-of-home care services)
  - o reduce the duplication of effort currently expended by Departmental Officers and non-government service providers in their attempts to perform these three functions under the existing arrangements, and
  - o incrementally transfer selected sets of responsibilities that do not require the exercise of statutory powers and authorities, from the statutory agency to non-government service providers (with a corresponding transfer of resources from the statutory agency to non-government service providers) when, after taking into account relevant issues including the stability and significance of the relationships each child has with key workers, an assessment is made that the transfer of these responsibilities would be more practical and efficient as well as beneficial to the child's care.

- Either discontinue use of the SDM tools or develop strategies to ensure that:
  - o the tools are properly used to 'inform' and not 'dictate' the outcomes of decision-making
  - o the capacity to 'over-rule' the tools through the use of professional judgement and expertise is emphasised
  - o the current focus placed on use of the tools in practice to determine whether or not a child is removed is replaced by a more appropriate emphasis given to use of the tools in assisting to determine what a child and their family need to live together in a well-functioning way
  - o any cultural bias or over- or under-importance ascribed to various risk factors are redressed, and
  - o the potential for collating the information recorded by the tools be investigated for purposes of identifying trends concerning the prevalence of various factors that may be impacting on

the capacity of families to care safely for their children so that this information can be used to inform service planning at local, regional and state levels

- Shift policy direction and practice to place increased emphasis on:

  o   the assessment of need as the predominant process in determining the outcomes of child protection investigations and the selection of appropriate interventions (i.e. focus less on 'who is to blame' and more on 'what is needed')

  o   improved assessment and decision-making practices to ensure that children and families are receiving the services they need, when they need them

  o   co-ordinated and collaborative inter-agency work, especially to address the needs of vulnerable and at risk families who have multiple and complex issues to overcome

  o   resourcing mandated professional supervision of child protection workers within both the government and non-government sectors as an essential strategy in ensuring service quality and improving workforce competence

  o   ensuring that that the child protection system is not mis-used by focussing its attention solely on families who are already marginalised by poverty, their socio-economic status and/ or cultural background and delivering interventions that further alienate, rather than engage, these families, and

  o   ensuring that a clear message is conveyed that child abuse and neglect occurs across all socio-economic and cultural groups.

PART E:

CHILD PROTECTION WORKFORCE NEEDED TO DELIVER RESPONSES, PROGRAMS AND SERVICES

The success of a child protection system in meeting its aims is highly dependent upon the quality of its workforce.

In particular, successful delivery of the range of responses, programs and services that make up the child protection system requires a workforce (i.e. those in paid employment) within both the government and non-government sectors that has a mix of qualifications, personal attributes, training, skills and experience matched to the demands and responsibilities of the various roles that are to be performed.

Moreover, the general public as well as the children and families who are the recipients of these responses, programs and services have a right to expect that they are being provided by people who are suitably qualified, trained and experienced. The general public would not, for example, tolerate the notion that children when attending school were not being taught by qualified teachers. Nor would they tolerate the notion that children who required surgery were being operated on by a non-qualified or unsuitably qualified medical practitioner.

It may be expected that the general public will become increasingly dissatisfied with the prospect that children who may be regarded as some of the most vulnerable citizens are receiving services and having decisions made about their care, by people who are not the most suitably qualified to do so and/ or who are not being appropriately remunerated in line with their level of responsibility, knowledge and skill set.

What did the Forde and CMC inquiries say?

The Forde Inquiry recognised that unless the issues and pressures impacting on front-line Departmental Officers were addressed and rigorous requirements placed on recruitment, induction and training of residential care workers, the quality of care being provided by residential care services would continue to be poor.

The Forde Inquiry specifically referred to addressing caseloads, supervision, retention, training and resources for front-line Departmental Officers, issues which were also the subject of recommendations arising out of the CMC Inquiry four years later.

The CMC inquiry also made recommendations about increasing the number of Departmental caseworkers, developing a formula for caseloads per worker, access to pre-service and ongoing training, and 'Indigenous cross-cultural training' for all staff. Partnerships with universities for enhanced training and professional development were also recommended.

Additionally, a recommendation was made about scoping the need for residential care services and the need to identify staff skills and training requirements.

What progress has been made in implementing recommendations of these inquiries?

Asserted as fully implemented, significant investment was made in increasing the number of Departmental caseworkers in response to the recommendations of the Forde and CMC inquiries. Training requirements were changed for new caseworkers although some initiatives have not consistently continued (e.g. training for new Child Safety Officers before commencing duties) or have been discontinued (e.g. partnerships with universities around graduate courses and course content).

The legislation includes provisions about 'suitable methods' for the selection, training and management of licensed care service workers.

Working within the context of the *Child Protection Partnership Forum*, the Child Protection Workforce Action Group (CPWAG) comprising representation from the Health and Community Services Workforce Council, PeakCare, Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP), government agencies, the tertiary education sector and various non-government organisations, was established and has existed for a number of years.

Have outcomes for children and families improved?

If children and families are to receive the right service, a quality service, at the right time from the right provider/s, the right workforce across government and non-government agencies must be in place and supported to stay in place.

For several years, both the government and non-government sectors have been experiencing pressures in consistently deploying a workforce with the appropriate mix of qualifications, personal attributes, experience and skills.   This is a challenging issue for both sectors in that:

- since the time of the Forde and CMC Inquiries, particularly during the CMC Inquiry and in the year following release of the CMC's report, the number of children and families in contact with the child protection system has continued to increase, and

- it is widely asserted that children and families who are now coming into contact with the child protection system are more likely to be experiencing complex needs which require a range of responses from multiple service providers with a mix of qualifications and high level skills and experience.

Similar to issues identified in the recently completed review of the United Kingdom's child protection system led by Professor Eileen Munro, Queensland's child protection system has become overly-bureaucratised and focused on compliance which:

- devalues professional expertise

- shifts the focus away from children's safety, well-being and life opportunities towards a focus on meeting the regulatory and procedural requirements of the system

- shapes the manner in which training is undertaken, shifting the focus away from professional education, skills and knowledge development towards a concentration on ensuring that procedural requirements are made known and observed, and

- impacts on the recruitment and retention of child protection practitioners with many choosing other fields of practice that afford greater levels of work satisfaction.

Staff recruitment and retention strategies are often short-term and reactive in their attempts to secure an available workforce rather than pro-active in establishing an available workforce that has the educational qualifications, skills and experience necessary to meet the requirements of their roles. Key factors contributing to this dynamic have included:

- the rapid growth of both government and non-government child protection programs and services over the last decade

- the frequency with which organisational changes have occurred within the statutory agency which have resulted in:

  o disruptions to the staffing structures and establishments of regional office and child safety service centres with subsequent difficulties experienced in embedding workforce recruitment and retention strategies, and

  o 'flow-on' effects to non-government service providers that often need to cater for these changes through amendments to their service agreements, the catchment areas they are required to service and their own infrastructure of service delivery outlets, management structures and staffing arrangements

- workplace practices that are generally not 'family-friendly' or flexible (within the Department of Communities, Child Safety and Disability Services in particular)

- the short-term nature of grant funding and contracting of individualised services for children (i.e. services paid for by way of invoice) that make long-term workforce planning difficult for non-government service providers, smaller organisations especially, and

- the influence of current community attitudes towards child protection as a field of employment that generally reflect a view that it is 'difficult' and 'un-rewarding' where individual workers are pilloried for 'systemic failings'.

Issues that are of particular significance to the non-government sector include:

- inadequate resourcing of non-government service providers to meet staff education, professional supervision, development and training needs

- a lack of recognition in service agreements and counting rules for 'funded outputs' about the contribution of professional development, supervision and training, which devalues and acts as a disincentive to undertake these activities

- limited recognition in the process of allocating grants of the expenses incurred by non-government organisations in releasing staff from their routine duties to attend training and the costs of back-filling these staff members

- inequitable access to high quality, accredited child protection specific training

- lack of a coordinated approach across the sector to education, professional development and training

- the extremely complex and confusing pathways through the Vocational Education and Training (VET) system

- the absence of minimum entry-level qualifications for various position 'types' including, in particular:

  o those that carry high-level responsibilities for service management and coordination and the delivery of complex casework and therapeutic interventions, and

  o residential care workers, which is especially alarming due to the extent to which these workers are charged with responsibilities for the direct care of highly vulnerable children whose behaviours and needs can be extremely complex, and

- inadequate structures and mechanisms to ensure that both 'non-accredited' and 'accredited' training offered by a plethora of training providers is being properly scrutinised in relation to the accuracy and efficacy of the course content and design by persons who have the appropriate knowledge of contemporary child protection practice and Queensland legislation, policy and service standards where this is relevant to the course content.

In relation to the last point, risks may emerge similar to those noted within the child care industry following the introduction of mandatory qualifications, that a workforce will be created that is 'well-qualified, but poorly educated'.

A major issue of concern in relation to the government sector is the extent to which social workers as a professional group have retreated from seeking employment as statutory child protection workers.

The Department's declining capacity to recruit and retain social workers in these roles was addressed by expanding the recruitment of Child Safety Officers to include those with professional backgrounds in nursing, teaching or criminal justice and extending the range of tertiary qualifications incorporated within the selection criteria for these positions.

While not intending to be dismissive in any way of the contributions that other professional groups (such as psychologists, occupational therapists, teachers, health practitioners, criminologists and others) may make to the delivery of child protection and related services, it is concerning that

persons with social work degrees, long considered the qualification of choice for child protection practice, are electing to work in other fields. It is also concerning due to the extensive history and involvement of social work in shaping child protection research, theory and practice.

In relation to the role performed by Child Safety Officers (and their Team Leaders, Senior Practitioners and Managers), it is regarded by PeakCare that the education and training received by social workers make them the best placed and most suitably qualified professional group to undertake the 'generic' case management functions incorporated within this role. In particular, social workers are regarded as the best qualified persons to:

- properly and holistically assess and consider the needs of children within the context of their family, community and culture

- understand and deal with the complex array of 'systems' that impact on a child's safety, well-being and life opportunities (ranging from a child's own family system and the system of 'formal' and 'informal' community, cultural and service structures and networks with which a child or family may be involved through to the legal systems they may encounter during their contact with the child protection system), and

- due to their broad ranging knowledge base, identify when the more 'specialised' knowledge and/ or skill sets of other professional groups (such as psychologists, medical practitioners, speech and occupational therapists, lawyers, teachers and others) as well as para-professionals (including foster and kinship carers) are required to inform their assessments and contribute to the implementation of the diverse range of strategies that may need to be incorporated within each child's and family's individualised plans.

In some respects, social workers as a professional group may be seen as 'jacks of all trades and masters of none'. However, in the context of child protection practice especially, being a 'jack' (or 'Jill') makes social workers ideally placed as 'generic' case managers to fully appreciate the complexities of child protection practice and know when to call on the 'masters'.

It is understood that some Child Safety Service Managers 'informally' attempt to employ Child Safety Officers with a mix of qualifications in order to establish a multi-disciplinary team wherein a range of professional perspectives and skill sets can be drawn upon. It would seem preferable to 'formalise' these kinds of arrangements by explicitly specifying the roles to be performed by each professional group within the multi-disciplinary team, thereby enabling the best match to be made between a child's needs and their worker/s.

It is noteworthy that the Child Safety program area of the Department of Communities, Child Safety and Disability Services is one of only a few State government employers that recruit professional groups such as social workers and psychologists that does not include the name of their profession within their position titles (e.g. by way of contrast, the disability services program area of the Department and the Health Department employ persons to perform roles that are given the title of Social Worker or Psychologist). It is also noted that senior officers of the Department (under former names) have, in the past, explicitly conveyed messages to newly recruited Child Safety Officers that

they are to forget that they are social workers or psychologists as they are now Child Safety Officers with a job to remove children from their families. While this is not a message that has been given out by the Department in recent years, the damage done to subsequent efforts made to recruit groups such as social workers and psychologists has not been sufficiently redressed.

In response to recruitment challenges, the Department has made laudable efforts in recent years to ensure that newly employed Child Safety Officers receive high levels of accredited training delivered by the Department's own Client Management Learning Unit. There are concerns however that in the Department itself being the deliverer of this training:

- the training curriculum and content can become 'insular', restricted to current policies and practices of the Department and limited in the focus given to the development of professional skills in critical analysis

- aims of the training inevitably focus on imparting knowledge about the procedural requirements of the Child Safety Officer role in place of developing advanced knowledge, understandings and skills relevant to sound child protection practice, and

- the training becomes an expeditious and 'poor substitute' for the attainment of a relevant Social Work or Human Services degree where one isn't already held by the training participant.

Matters to be attended to in the 'road map':

The following matters have been identified as ones that require attention in developing the 'road map':

- Implement shifts in policy direction to emphasise the importance of professional practice education and expertise and enhance the capacity of non-government and government practitioners to access education, professional development, training, supervision and mentoring.

- Develop a 'Professional Capabilities Framework' which incorporates the necessary capabilities to work in the Queensland child protection field and which can be used to inform a match between qualifications and work requirements, professional development, training and performance appraisal.

- Set minimum entry-level qualifications for positions within the non-government sector that carry responsibilities for the residential care of children, the support of families and the support of foster and kinship carers, and establish a staged transition process with clear timeframes for implementing this requirement that is supported by adequate resources.

- Support the development of clearly articulated, accessible and flexible pathways between vocational training and tertiary qualifications.

- Facilitate processes whereby government, non-government organisations and higher education institutions can constructively work together to ensure that students are 'job-ready' and prepared for the challenges of child protection work by exploring increased opportunities for practicum placements, mentoring and an internship model of learning.

- Re-visit arrangements previously undertaken by the Department in administering grants to University Social Work and Human Services Schools to develop and add child-protection related subjects to their curriculum, provide post-graduate courses in child protection, sponsor social work students and fund scholarships that prioritised Aboriginal and Torres Strait Islander social work students and those living in rural and remote areas, with a view to building on and extending these initiatives.

- Adequately resource more determined and robust management and professional supervision practices across both the government and non-government sectors to better ensure the development of professional practice and practitioner confidence.

- If movements are to be made towards the establishment of 'multi-disciplinary teams' that are able to perform the full range of role and functions necessary to make the child protection system work efficiently and well, give consideration to models that allow for improved interaction and coordination of roles held within the government and non-government sectors.

- As part of the consideration given to the development of the above models, review the current arrangements concerning Evolve teams. It may be seen that the initiation of arrangements concerning Evolve was tantamount to an admission that neither the Department within its infrastructure of Child Safety Service Centres nor non-government service providers generally possessed personnel with the right qualifications and levels of knowledge, experience and skills needed to deliver the services that Evolve provides. Consideration should now be given to re-directing the financial investment made in purchasing services from Evolve in two ways:

  o firstly, re-directing part of this investment towards strengthening the role, capacity and number of Senior Practitioners located within or across Child Safety Service Centres to ensure that 'specialist' knowledge and skills are further developed and held within the Child Safety program area of the Department, and

  o secondly, transferring the remaining (and more substantive) part of this investment to the non-government sector so that personnel with the specialised knowledge and skills of Evolve workers are more able to directly contribute to the services being provided by non-government service providers.

PART F:
SYSTEM MAINTENANCE AND IMPROVEMENT

The following are some of the key processes that ensure the ongoing maintenance of a healthy and responsive service system and its continuous improvement:

- collection, analysis and public reporting of administrative data from government and non-government-delivered services to inform:

    o shared understanding of issues, trends, patterns and differences in client needs, service usage and unmet demand at state, regional and local levels, and

    o the allocation of financial and human resources

- robust, transparent and independent (if appropriate) monitoring, evaluation and review of responses, programs and services

- easy access to and use by children and families of advocacy, complaint and formal review processes

- clear linkages between practice in the field and (central office) policy analysis and development

- clear linkages that enable across sector liaison at strategic and operational levels, and

- quality assurance mechanisms across government *and* non-government service delivery.

In respect of reporting of administrative data by funded non-government service providers, some concerns are discussed in Part D: *Infrastructure, processes and means for delivering responses, programs and services – Relationships within and between the government and non-government sectors*. These relate to:

- the Department's focus on reporting 'outputs' which undermines organisations' flexibility in working with children and families and embracing a more holistic framework that would include outcome measures for which responsibility could be collectively shared, and

- the apparent lack of coordination between regional officers and central office funding and program areas whereby non-government organisations provide periodic performance reports and these may or may not be provided to 'central office' and are not used for monitoring implementation or ongoing program development at either a regional or state-wide level.

The Forde Implementation Monitoring Committee, in its second and final report on implementation of responses to the Inquiry recommendations, remarked that while responses had been implemented, some focused on the local or 'regional' level, rather than the 'central' role whereby centralised systems would, for example, bring together individual complaints and reports about abuse of children in residential facilities to influence future placements, or regular inspections and review of residential facilities.

In relation to outstanding responses to recommendations about access by children in residential facilities to advocacy, the Forde Implementation Monitoring Committee in its second report noted its concerns about lack of access to individual advocacy provided by adults (as opposed to peers) and that, to be confident that children's advocacy needs were being met, particularly those of Aboriginal and Torres Strait Islander children and children with disabilities or in rural and remote areas, evaluation was needed.

It is noteworthy that of all the case-related decisions made by Departmental Officers, matters considered by the children's court and 'working with children' checks conducted, children, parents and other affected parties seek a relatively small number of reviews. Indeed this is a matter for attention in formulating the 'road map' in order to, as the Forde Inquiry noted, ensure that all relevant parties:

- are aware of their rights

- have access to 'alternative dispute resolution' processes

- are supported in availing themselves of their rights

- have the matters resolved promptly, and

- have access to services in the meantime.

A recommendation from the CMC inquiry was to allow the Child Guardian to refer decisions made by the Department or a non-government organisation to the (then) Children Services Tribunal. Provision was made to refer decisions made by the Department, however the government reported that this was unnecessary in respect of decisions by non-government organisations as any decisions could be attributed back to the Department. The extent to which this provision has been used is not known.

Healthy systems embrace effective review and complaint mechanisms. However, the number of applications relating to children and young people (though not all concerned with reviewable decisions under the *Child Protection Act 1999*) to the Queensland Civil and Administrative Tribunal (QCAT) decreased from 2009/10 (231) to 2010/11 (219). Of 222 applications in 2009/10 to the predecessor Children Services Tribunal and QCAT, approximately 80% were about 'child protection' and 15% were about matters concerning 'blue cards'. During 2011/12, QCAT reported its intent to engage with the child protection sector, to identify factors influencing the decrease and increase awareness about the Tribunal.

While the above key processes are important and relevant to this Inquiry's terms of reference, only the regulation of out-of-home care, an aspect of quality assurance of non-government service delivery, is discussed in detail.

Regulation of out-of-home care

Approval of foster and kinship carers and licensing of out-of-home care services are the primary means of ensuring children placed in out-of-home care receive the standard of care to which are entitled (i.e. care that is consistent with the requirements stipulated by s.122 of the *Child Protection Act 1999*). Where the same services are provided by government or non-government providers, the same regulatory frameworks and similar processes for assessing their respective contributions to achieving essential standards of care should apply.

To date, assessment against the *Child Safety Service Standards* has focused on out-of-home care services evidencing compliance, albeit with three types of evidence, against processes which are largely, though not entirely, based in legislated provisions. The logic is that the processes, if adhered to, lead to children receiving quality care. Getting the balance right between measuring the outcomes for children subject to statutory child protection intervention and assessing compliance against process-based standards is yet to be achieved.

Whilst maintaining the accountability of organisations across both sectors, the processes used to assess and monitor their performance should carry a stronger developmental focus conducive to the promotion of a 'learning culture' in preference to the 'compliance-driven' focus that currently exists, for example, in relation to the licensing regime for out-of-home care services.

What did the Forde and CMC inquiries say?

Both the Forde and CMC inquiries made a number of recommendations in respect of the regulation of out-of-home care. The Forde Inquiry in its findings that children had not received the care to which they were entitled in residential facilities recommended:

- ensuring strong links between legislated standards, funding agreements, the quality of care provided to children and the licensing of out-of-home care services

- legislating that the chief executive's determination of an out-of-home care service licence application be informed by independent external advice about the applicant's capacity to provide care that meets the standards of care

- developing and implementing standardised recordkeeping and quality assurance mechanisms to measure whether standards of care are being met

- establishing minimum requirements for operating residential facilities and providing adequate funding to ensure their safe operation

- establishing systems for the initial and ongoing employment screening of staff and others in contact with children in out-of-home care services, including consideration of criminal and child protection history

- requiring the application and use of transparent recruitment and selection processes for workers employed by licensed out-of-home care services

- legislating for mandatory reporting by Departmental Officers and residential care providers of abuse of children in residential care settings

- requiring inspections and monitoring of licensed out-of-home care services

- requiring collection and reporting of data about abuse of children in care, and

- ensuring advocacy services for children in residential care.

Recommendations by the CMC Inquiry addressed the following:

- an extension of the Community Visitor scheme to include all out-of-home care settings

- the development and implementation of a quality assurance strategy for all out-of-home care services and the establishment of minimum standards for the licensing of non-government service providers

- the establishment of a requirement that the Department receive and investigate allegations of abuse in care and exercise final responsibility for assessing and certifying carers

- the establishment of a requirement for foster carer approvals to specify the number and 'type' of children who may be placed with the carer

- the establishment of a legislated requirement to ensure the assessment and approval of *all* carers and regulation of placements made with parental agreement

- the establishment of a requirement for all prospective carers to complete parenting training that is evidence-based and training programs undergo ongoing evaluation of their effectiveness

- the establishment of a requirement for ongoing training for foster carers with re-approval contingent upon their completion of this training, and

- the development of new procedures for responding to abuse in care allegations.

What progress has been made in implementing recommendations of these inquiries?

The Forde Inquiry's recommendations focused on residential care. However, when responses were implemented, reforms were generally applied to residential and foster care. The *Child Protection Act 1999* and *Child Protection Regulation 2011* reflect responses to Forde Inquiry recommendations (e.g. independent assessment of an out-of-home care service applicant's capacity to provide care that meets the statement of standards prior to determining a licence application and recording by licensed services about complaints and allegations about 'abuse in care') and processes were commenced to license all out-of-home care settings.

In response to the CMC's recommendations, *Child Safety Service Standards* were developed and these have been used as the means to assess the standard of care which children receive when placed in out-of-home care delivered by non-government organisations. The standards constitute

the 'quality assurance framework' for licensing non-government out-of-home care services. The essence of the recommendation about quality assurance for *all* services was not however implemented.

The licensing regime is to be revamped with the implementation of the Human Services Quality Framework (HSQF) which is supplemented by mandatory requirements set out in a *Licensing Companion Guide*. The Guide identifies the minimum requirements for licensing that have to be satisfied.

Community Visitors visit children at 'visitable sites', which includes children placed with kin.

Have outcomes for children and families improved?

Anecdotally, out-of-home care services report that going through 'licensing' (i.e. ensuring evidence of compliance with the standards and the independent external assessment) is resource-intensive, excessively bureaucratic and onerous. They also report that internal processes have generally improved as a result of undergoing 'licensing'. The service standards and the regulation of out-of-home care however focus solely on 'processes' that, if adhered to, indicate quality care is or will be provided to children, rather than assessing the 'outcomes' achieved for children.

The assertion made by the Forde Implementation Monitoring Committee in its final report on the implementation of responses to Forde Inquiry recommendations that the focus was on management systems and not actual performance of care services as experienced by children's outcomes in the short, medium and long term, is as true today as it was then.

Fewer Aboriginal and Torres Strait Islander children are placed according to the higher order options of the *Child Placement Principle* (i.e. children are not being placed with kin), which some would argue, in part, reflects the imposition of a regulatory framework that is inappropriate when placing children – especially Aboriginal and Torres Strait Islander children - with family members. For Aboriginal and Torres Strait Islander peoples, the changes are compounded by subjecting carer applicants to criminal and personal history screening which highlights past and current discriminatory approaches to law and policing. Aboriginal and Torres Strait Islander peoples are disproportionately represented in the criminal, youth justice and child protection systems, which impacts on the granting of 'positive' notices. Screening per se also serves to make people reluctant and fearful of applying to be screened.

Notwithstanding that the way in which 'abuse in care' data have been counted in Departmental administrative data has changed over the last decade, the percentage of children for whom harm was substantiated and the person believed responsible was in the 'household' decreased from 3.8% in 2001/02 to 2.3% in 2011/12. In the years around the CMC Inquiry, the percentage was as high as 8.1% in 2003/04 and 7.6% in 2004/05, which can be attributed to the scrutiny of individual child files during and following the Inquiry.

Matters to be attended to in the 'road map':

The following matters have been identified as ones that require attention in developing the 'road map':

- Apply the same regulatory framework to the delivery of the same 'service' regardless of whether the provider is a government or non-government agency. Only those out-of-home care services that are delivered by non-government organisations are currently made subject to the licensing regime.

- Externally review the *Child Safety Service Standards* and the implementation of the licensing regime for out-of-home care services. Neither the Standards, nor their implementation, have been subject to review since their introduction in 2006. The stated assumption underpinning the licensing framework that children who are being cared for by services assessed as compliant with the *Child Safety Service Standards* receive a quality of care commensurate with the requirements stipulated by s.122 of the *Child Protection Act 1999* has not been tested or evaluated. An issue for consideration in the review includes the impact of contracting different companies to undertake the external assessment of an out-of-home care service applicant's compliance with the standards. Having different departmentally contracted external assessors and the evolution of the framework and assessment of what constitutes compliance over the past six years has undermined transparency and consistency in the interpretation of compliance with the standards. This is compounded by inconsistent advice and interpretations by regional Departmental Officers (in their supporting and monitoring roles).

- In reviewing the *Child Safety Service Standards*, consider the issues arising for non-government out-of-home care providers arising from the high levels of inter-dependence between these services and the Department in undertaking certain mandatory procedures (such as those associated with the approval and re-approval of foster and kinship carers, matching children to care environments and the planning and coordination of children's care). The ability of out-of-home care services to demonstrate compliance with the Standards is often hindered by the non-completion of tasks that are the responsibility of Departmental Officers.

- Externally review the proposed framework and implementation arrangements for the *Human Services Quality Framework* and *Licensing Companion Guide*. Licensed (and not yet licensed) out-of-home care services, other types of child protection services and their peak bodies have not been sufficiently consulted or advised about the content or ways in which the framework and mandatory licensing requirements will apply, including how independent assessments will be conducted or how services will be monitored over the period of the licence and/ or funding or service agreement.

- Make the names, numbers and types of licensed and yet-to-be-licensed (e.g. transitional funding arrangements) out-of-home care services publicly available.

- Promote a learning culture and continuous improvement environment around ensuring children receive the quality of care to which they are entitled. Non-government out-of-home care services often report the approaches taken by Departmental Officers to facilitate their compliance with the *Child Safety Service Standards* as 'punitive' and 'intimidating'. Other regulatory regimes for services working with vulnerable clients (e.g. people with disabilities) focus however on continuous improvement. In part, for Child Safety-funded services, the approach is compounded by not having resolved the inherent conflict wherein the same Departmental Officer in a regionally-based community support team offers 'support' at the same time as 'monitoring' whether affected service providers meet the standards and therefore will continue to receive funding. There is much anecdotal evidence of inconsistencies across the State and questioning of the expertise of these Departmental Officers to discharge the monitoring role.

- Shorten the turnaround time for suitability / personal history checks and 'Working with Children' checks as time delays adversely affect service providers' capacity to provide compliant services in a timely manner.

- Undertake a review of the cost-efficiency and effectiveness of suitability / personal history checks and 'Working with Children' checks in preventing harm to children. In addition, re-consider the requirement for young people who turn 18 years to obtain a 'blue card' when they stay on with their foster or kinship carer and that carer has children placed in their care.

PART H:
SPECIAL CONSIDERATIONS

It is implicit in each part of this submission that the interests and needs of children and families from Aboriginal and Torres Strait Islander and culturally and linguistically diverse (CALD) backgrounds are included.

Aboriginal and Torres Strait Islander children and families have however had a particular and tragic history that carries an ongoing legacy for their contact with and involvement in the child protection system. As indicated by the Commissioner's responsibility to recommend strategies to address the over-representation of Aboriginal and Torres Strait Islander children in today's child protection system, current approaches are not working. Considering all decision-making points and indicators of safety, well-being and life opportunities, Aboriginal and Torres Strait Islander children are faring worse than non-Indigenous children and clearly the nature of services, programs and interventions - almost exclusively investigation and placement – that are currently available are not working, or working well enough to address the social and economic disadvantages of Aboriginal and Torres Strait Islander peoples. For this reason, PeakCare's submission includes commentary on meeting the needs of Aboriginal and Torres Strait Islander children and families.

A particular part about meeting the needs of children and families from CALD backgrounds is included in this submission in recognition of the diversity of Queensland's population and the increasing number of new and emerging communities whose experiences and history of trauma, torture and dislocation are quite different to that of many other Queenslanders. Understanding and responding to these experiences as well as cultural and religious differences is imperative in government and non-government sector approaches if under or over-representation of these groups is to be understood and addressed.

Meeting the needs of Aboriginal and Torres Strait Islander children and families

Effective responses, programs and services for Queensland Aboriginal and Torres Strait Islander children and families are those that harness local Aboriginal and Torres Strait Islander knowledge and values, have a community mandate, are delivered by or in close partnership with Indigenous Australians, respect connection to culture, community, family and country, and offer a holistic approach to addressing the range and complexity of current and historic issues confronting families and communities. This will require a fundamental re-think of legislation, policy, practice, and organisational, governance and funding arrangements for protecting Queensland's Aboriginal and Torres Strait Islander children.

The Aboriginal and Torres Strait Islander Child Safety Task Force Report – *'Together Keeping Our Children Safe and Well'* – produced in 2010 provides additional information. (Refer to http://www.qcoss.org.au/sites/default/files/Together%20Comprehensive%20Plan%20FINAL.pdf)

What did the Forde and CMC inquiries say?

Building on the extensive findings of the 1997 *Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (Bringing Them Home Report), the Forde Inquiry found that Aboriginal and Torres Strait Islander children had not received the care to which they were entitled. While all recommendations of the Forde Inquiry were relevant and applied to Aboriginal and Torres Strait Islander children and families, a specific recommendation referred to a review of the funding and provision of residential care for Aboriginal and Torres Strait Islander children to ensure the quality and cultural appropriateness of these services.

The CMC Inquiry report devoted a chapter to Aboriginal and Torres Strait Islander children and made extensive recommendations focused on service delivery by community-controlled organisations and government agencies. Core to the recommendations was the development of responses and implementation in consultation with Aboriginal and Torres Strait Islander agency stakeholders, community representatives and communities. Recommendations related to:

- recruiting, screening, supporting and monitoring kinship carers
- providing access to respite and training and support of Aboriginal and Torres Strait Islander carers
- legislating for Aboriginal and Torres Strait Islander children placed with non-Indigenous carers to have contact with their kinship group
- incorporating with the *Child Placement Principle* a stipulation that a placement only be made if it is in the child's best interests

- recognising and supporting community-controlled organisations by providing them with professional development and assistance to comply with service agreements that are negotiated between these organisations and the funding body

- recognising the holistic approach of Aboriginal and Islander Child Care Agencies (AICCAs) in delivering prevention, early intervention and intensive support services to children and families, and reviewing service agreements and funding arrangements in ways that promote this approach

- requiring the Child Guardian to periodically report on compliance with the *Child Placement Principle*

- legislating to clearly state requirements concerning community participation in decision-making in relation to Aboriginal and Torres Strait Islander children's contact with the child protection system and the sharing of personal information about children and families

- formulating Departmental policy that recognises the rights of parents and children to be fully informed about, and involved in, case planning

- requiring Departmental Officers to consult with Recognised Entities before removing an Aboriginal or Torres Strait Islander child from their family's care, when decisions are being made about an Aboriginal or Torres Strait Islander child's placement outside of their family's care, and when other case planning decisions are being made, and

- delivering culturally appropriate child protection services in remote communities of the State.

What progress has been made in implementing recommendations of these inquiries?

Recommendations of the CMC Inquiry were reported as fully implemented. In particular, actions noted as having been taken in response to the CMC's recommendations included amendment of the *Child Protection Act 1999* to stipulate the nature and range of decisions in relation to which Recognised Entities are to participate or be consulted by the Department.

The section about the *Child Placement Principle* in the *Act* was amended to state that a placement must be only made if it is in a child's best interests and requirements were stipulated in relation to maintaining the cultural connections of children who are residing in non-compliant placements.

Informed by the CMC's recommendations, the Child Guardian is required to regularly report on compliance with the *Child Placement Principle*. Kinship care was regulated in much the same way as foster care.

Have outcomes for children and families improved?

The experiences of, and outcomes achieved for, Aboriginal and Torres Strait Islander children and families in contact with the child protection system have not improved and continue to be markedly different to those of non-Indigenous children and families.

When looking at the rates/1000 children in the Aboriginal and Torres Strait Islander population and non-Indigenous population, the disproportionate representation is increasing.

The following table compares the rates/1000 in the population at different decision points in 2001/02 and 2011/12 and clearly shows that:

- statutory responses are more likely to be more intrusive for Aboriginal and Torres Strait Islander children than non-Indigenous children, and

- at decision points further into the system, the level of disproportionate representation is higher.

	Rate/1000 Indigenous children 2001/02	Rate/1000 Non-Indigenous children 2001/02	Rate/1000 Indigenous children 2011/12	Rate/1000 Non-Indigenous children 2011/12
Notifications	26.6*	21.6*	70.3	12.8
Substantiations	14.3*	7.9*	24.6	3.9
Children under orders	15.0*	3.3*	44.8	5.1
Children in out-of-home care	12	2.9	40.2	4.6
Children with at least one placement	16	3.8	51.8	6

* Children 0 - 16 years - all other data are for children 0 17 years

At 30 June 2002, 23.4% of children under orders were Aboriginal or Torres Strait Islander. At 30 June 2011, the percentage had risen to over 37%. Aboriginal and Torres Strait Islander children are also more likely to be subject to an interim order than non-Indigenous children.

Notifications about Aboriginal and Torres Strait Islander children are more likely to be substantiated than for non-Indigenous children. In 2001/02, 47.7% of notifications of Aboriginal and Torres Strait Islander children were substantiated, compared with 35.2% for non-Indigenous children. In 2010/11, 34.2% of notifications of Aboriginal and Torres Strait Islander children were substantiated, compared with 30.7% for non-Indigenous children.

Aboriginal and Torres Strait Islander children are more likely to be substantiated for emotional abuse (37.1%) and neglect (36.5%) than physical (21.4%) or sexual abuse (5%), yet statutory responses continue to insufficiently focus on underlying causes or preventative and intervention responses to neglect and emotional abuse.

Adherence to the Aboriginal and Torres Strait Islander *Child Placement Principle* is declining. At 30 June 2002, 24.4% of Aboriginal and Torres Strait Islander children were placed with Indigenous kin and 69.5% were placed in compliance with the *Child Placement Principle* compared, at 30 June 2011, with 21.2% placed with an Aboriginal and Torres Strait Islander relative or kin and 52.5% placed in compliance with the *Child Placement Principle*.

Notwithstanding funding to Aboriginal and Torres Strait Islander family support services and the legislated role of Recognised Entities, interventions and responses to Aboriginal and Torres Strait Islander children and families are:

- largely delivered by non-Indigenous agencies with the government's imprimatur

- largely the same as the interventions and responses made to non-Indigenous families and additionally, do not recognise the diversity that exists within Aboriginal and Torres Strait Islander populations and communities, including differences in urban, regional and remote locations

- entrenched in values-based systems and racism and a continuous process of 'doing to' Aboriginal and Torres Strait Islander children, families and communities instead of seeking to 'work with' children, families and communities, and

- under-developed in their capacity to respond to the complex issues confronting Aboriginal and Torres Strait Islander families within contemporary Queensland and Australian society, and under-developed in their acknowledgement of Indigenous agencies' capacity to deliver services and respond to those issues in the holistic, integrated manner that is required.

Matters to be attended to in the 'road map':

The following matters have been identified as ones that require attention in developing the 'road map':

- Make an unequivocal whole-of-government commitment to the achievement of cultural equity for all Queensland children. In a child protection context, cultural equity may be viewed as having been attained when all children – Indigenous and non-Indigenous - are receiving the same entitlements and benefits to their safety, well-being and life opportunities from their involvement with the child protection system. Cultural equity requires that this be achieved without compromise being caused to the rights and opportunities that should be respectfully afforded to all children to identify with, belong to and express the beliefs, customs and practices of their cultures.

- Develop and promote a comprehensive strategy to raise awareness and educate all key parties from both the government and non-government sectors who hold decision-making responsibilities and roles in delivering child protection and related services about the contributions they must make within their roles to the effective delivery of services to Aboriginal and Torres Strait Islander children and families. This would incorporate the following:

    o The recipients of the above awareness-raising and education strategies should range from government policy-makers, Child Safety Officers, Police, the judiciary, legal counsels and advocates through to education and health care providers and non-government child protection practitioners, managers, family support workers, residential care workers and foster and kinship carers.

    o Importantly, the processes used to deliver this information to the above-listed parties must go beyond simply raising their awareness about Indigenous cultures – it must also enable and encourage these parties to reflect on both the historical and current impact of a dominant white culture on the lives of Indigenous Australians and, where applicable, make use of this information to consider and challenge the influences of their own membership of the dominant white culture upon the personal values, beliefs and attitudes they have formed in relation to Aboriginal and Torres Strait Islander peoples and its impact on the performance of their roles.

- Actively support Aboriginal and Torres Strait Islander led research and evaluation to investigate the effectiveness and relevance of mainstream models and approaches currently taken to the organisation of the child protection system and the delivery of child protection responses, programs and services. For example, researching and trialling, in partnership with the Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP), Aboriginal and Torres Strait Islander service providers and communities, the application of Canadian 'self government' models of intervention.

- Realign intervention frameworks in light of specific Aboriginal and Torres Strait Islander cultural considerations including, for example, limitations of standard attachment theory in acknowledging Aboriginal and Torres Strait Islander peoples' child-rearing practices and core values of interdependence, spiritual connectedness, links to land and sea, group cohesion and community loyalty.

- Review monitoring and compliance approaches to Aboriginal and Torres Strait Islander agencies to better recognise the different approaches to working with families, carers and children.

- Review policy, practice and program development to better enable Departmental Officers, Recognised Entity, targeted family support services (e.g. Aboriginal and Torres Strait Islander Family Support Program) and Aboriginal and Torres Strait Islander Foster and Kinship Care Service representatives to:

    o work with families and children to prevent child/ren being removed from their parent's care

- o work with families and children early in the process of statutory intervention to identify an initial out-of-home care arrangement that complies with the higher priorities of the *Child Placement Principle*, and

- o if placement with kin is not possible immediately or initially, continue work with the family and child/ren to identify a full or shared care option that complies with the higher priorities of the *Child Placement Principle*.

- Evaluate the implementation and operation of the legislated and administratively ascribed functions and role of Recognised Entities to:
  - o clarify the program logic and model
  - o ascertain its effectiveness, strengths and areas where improvements can be made to the role, operations and funding, and
  - o consider the responses, programs and services that best fit with the overarching objectives of Recognised Entities in improving the experience of Aboriginal and Torres Strait Islander children and families with the child protection system and the outcomes achieved from their contact with this system.

- Evaluate the implementation, operation, service model and funding of family preservation and reunification programs targeted to Aboriginal and Torres Strait Islander children and families (e.g. Aboriginal and Torres Strait Islander Family Support Program, targeted family intervention services) to ascertain their effectiveness, strengths and areas where improvements may be made.

- Schedule regular, joint face-to-face training for Departmental caseworkers and Recognised Entity workers with the core objective of achieving a shared understanding, across the State, about the Recognised Entity role, functions and working relationships.

- Quarantine funds for responses, programs and services to Aboriginal and Torres Strait Islander children and families for disbursement to Aboriginal and Torres Strait Islander community-controlled and led organisations. The proportion of funds should be commensurate with the level of over-representation of children in contact with the tertiary system and reflect the high priority that should be assigned to the development of innovative prevention and early intervention services that are culturally relevant to Aboriginal and Torres Strait Islander peoples.

Meeting the needs of culturally and linguistically diverse children and families

The numerous complex issues that lead to families coming to the attention of child protection systems are intensified for children and families from culturally and linguistically diverse (CALD) backgrounds given the additional stressors of language barriers and varied cultural perspectives, traditions and customs including, in particular, those that apply to child rearing practices.

Further information about meeting the needs of children and families from CALD backgrounds can be obtained from PeakCare's 2010 report of our *Culture Matters* project. (Refer to http://www.peakcare.org.au/media/user_files/documents/Reports/7_Report_Culture_Matters_15.12.10.pdf).

PeakCare supports the submission made by the Ethnic Communities Council of Queensland to the Inquiry.

What did the Forde and CMC inquiries say?

Neither the Forde Inquiry nor the CMC Inquiry made specific comment or recommendations in regard to the protection of children from CALD backgrounds and the support of their families.

What progress has been made in implementing recommendations of these inquiries?

Although no specific recommendations were made, increased recognition about Queensland's diverse population and understanding of the child protection needs of children and families from CALD backgrounds has led to focused attention from the *Child Protection Partnership Forum*. To support and inform the Forum's discussions, the Ethnic Communities Council of Queensland (ECCQ) established a *Multicultural Child Protection Working Group* (MCPWG) to identify and address the concerns of CALD background communities.

Have outcomes for children and families improved?

Anecdotally, little progress has been made. While the Department's child protection information system has recently been modified to allow for the recording of cultural and ethnic background data, data will not be available until later in 2012. It is not known if or when these data will be reported publically.

Matters to be attended to in the 'road map':

The following matters have been identified as ones that require attention in developing the 'road map':

- Review policy, practice and program development to specifically recognise and reflect that children and families from CALD backgrounds often deal with complex cultural issues which can include experiences of trauma, disrupted attachments and harm, particularly given their family histories and involvement in war, persecution, escape and resettlement. Support and supervision is needed around cultural matters to ensure quality assessment and case work. Assessment frameworks and practice assumptions must also be regularly reviewed in the light of evidence of the limitations of dominant cultural assessment and practice models. There is also a need to explore culturally appropriate ways of supporting families dealing with family violence and other risk factors to address the added vulnerability of women in CALD communities living with violence.

- Review policy, practice and program development to recognise the extensive knowledge and skills required of organisations providing services to children and families from CALD backgrounds arising from their unique sets of needs and requirement to assist their clients to navigate complex immigration, family law, welfare and other service systems that are unfamiliar to them.

- Promote research in Australia on child protection that investigates cultural variability or does not approach issues in an overly-simplistic manner, such as by dividing culture into broad categories.

- Review policy, practice and program development to acknowledge the diversity of different and distinct cultural and linguistic groupings of CALD communities. In spite of culture being recognised as intrinsically related to 'who we are and how we view ourselves', few empirical models for cultural competence exist.

- Monitor the recent modification of the Department's child protection information system to allow recording of cultural and ethnic background data and utilise the data to develop structural responses, and design programs and intervention models to support children and families from CALD backgrounds. Without reliable data, anecdotal evidence and observations are likely to either over- or under-represent the experiences of contact by children and families from CALD backgrounds with the child protection system.

- Notwithstanding that the *Child Placement Principle* has a particular meaning for placing Aboriginal and Torres Strait Islander children, actively apply the principle when placing children from CALD backgrounds to prioritise placement with family to retain connections to community, language and culture. This necessitates working with children and families to identify potential kinship carers with whom a child can be placed, if not initially, as a subsequent placement. In

some jurisdictions (e.g. Western Australia), placing children from CALD backgrounds in settings consistent with their cultural needs is explicitly prescribed in legislation.

- Make an unequivocal whole-of-government commitment to the achievement of cultural equity for all Queensland children. In a child protection context, cultural equity may be viewed as having been attained when all children, irrespective of their ethnic and cultural background, are receiving the same entitlements and benefits to their safety, well-being and life opportunities from their involvement with the child protection system. Cultural equity requires that this be achieved without compromise being caused to the rights and opportunities that should be respectfully afforded to all children to identify with, belong to and express the beliefs, customs and practices of their cultures.

- Review policy, practice and program development to promote structures and processes for regional service networks that assist linked-up service delivery to ensure the relevance, effectiveness and ongoing viability of responses.

- Quarantine funds for responses, programs and services for children and families from CALD backgrounds for disbursement to organisations comprising of people from the same cultural and ethnic backgrounds.