Submission to the

Inquiry into Queensland's Child Protection System

by the

the Honourable Timothy Francis Carmody SC

21 September 2012

commission for
children and young people
and child guardian

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21 September 2012

The Honourable Tim Carmody SC
Commissioner
The Inquiry into Queensland's Child Protection System
BRISBANE QLD 4001

Dear Commissioner Carmody

I am pleased to present the following document as the formal submission from the Commission for Children and Young People and Child Guardian (CCYPCG) to the Commission of Inquiry into Queensland's Child Protection System (QCPCI).

I am hopeful that this Inquiry will provide insight into the functioning of the child protection and related monitoring systems in Queensland and chart an effective direction for the future for the overall safety and wellbeing of children and young people in, or at risk of entering, the child protection system in Queensland.

Yours sincerely

E Fraser

Elizabeth Fraser
Commissioner for Children and Young People and Child Guardian

Going forward

Since the 1999 Forde Inquiry and the 2004 CMC Inquiry, there have been significant improvements in the safety and standards of care for children placed in out-of-home care. Many of these changes can be attributed to the sharpened focus that has been directed to improving safety and standards by responsible service providers as well as to the development and application of a robust, evidence based oversight framework by the Commission for Children and Young People and Child Guardian (CCYPCG) following the previous Inquiries.

The oversight system that Queensland now has, given effect through the statutory functions of the CCYPCG, leads the way nationally in a number of domains. Critically this oversight focuses on 10 key outcome indicators for children which are informed by the CCYPCG's analyses of information obtained from three main sources, namely administrative data from service providers, assessment reports from the CCYPCG community visitors (CVs) following their visit to each child in foster, kinship or residential care and the biennial survey responses gathered directly from young people on their lived experience of out-of-home care.

The CCYPCG has monitoring agreements[1] with service providers setting out key data sets needed to inform its analyses and these agreements are reviewed regularly to promote the capture of information which increasingly focuses on enabling better understanding of outcomes for children. Queensland is also the only jurisdiction which supports regular external visiting of each child in out-of-home care to verify their safety and confirm that their statutory entitlements are being provided. This process enables the CCYPCG to advocate at an individual level with local service providers as necessary and the aggregation of CV visit reports enables the CCYPCG to independently analyse and advocate for any reform required at a locational or system wide level. Combining this information with the data captured through the CCYPCG's biennial survey series[2] of children in out-of-home care provides the CCYPCG with a child focused and significant evidence base on which to base its outcomes assessments. The triangulation of this evidence base also provides a very high level of assurance to the government and its accountable Ministers.

The safety of children in out-of-home care has also been enhanced through the application of a comprehensive independent employment screening system to carers, service providers and CVs. This system determines the eligibility of people to be recruited to perform these services and includes comprehensive national criminal history screening, ongoing daily monitoring of people's criminal histories, and the requirement that those providing these regulated statutory services to children turn their minds to the risks that children could face within the out-of-home care service environment and develop a child protection risk management strategy. Prior to the introduction of these safeguards, there was nothing in place, and should these safeguards be removed, there would be little to prevent anyone with appalling motives and track records from offering their services and having children placed in their care, or moving in and living with a carer as an adult occupant.

[1] Annexure C to the affidavit of Elizabeth Fraser dated 8 August 2012
[2] Annexures J and k to affidavit of Elizabeth Fraser dated 8 August 2012

The tragic outcomes for children placed in substandard arrangements have been documented in the earlier inquiries of abuse in institutions and foster care and live today in the memories of those who confirm their commitment each year at the remembrance service during child protection week to ensuring that opportunities for the perpetration of such atrocities against children in the care of the state are eradicated.

The changes effected to strengthen oversight of outcomes for children in out-of-home care in recent years have resulted in greater transparency of the effectiveness of the system in responding to children in need of protection, from the initial report of concern, through to interventions taken, the standards of care provided and the effectiveness of reunifications and transitions to independence.

The CCYPCG established an agreed outcome indicator reporting framework with service providers in 2005 and has been regularly reporting against this framework[3] with increasingly more useful information as service providers develop capacity to deliver on the data sets specified within their monitoring agreements. Over time this has enabled Queensland to access a highly valuable evidence base on which to assess how well the child protection system is performing and where further actions are required from the perspective of outcomes for children.

In summary this reporting indicates that the safety of children removed from their parents remains high and that actions to address children's wellbeing following their placement in out-of-home care in most areas have been improving slowly over time. It also highlights that additional effort is required to undertake more efficient risk assessments, to achieve more effective intervention options, and to ensure better support for young people transitioning from care to independence at 18 years of age.

It also indicates the need for additional effort to reduce the disadvantage and over representation of Aboriginal and Torres Strait Islander children, and the need to recognise in planning and support programs that, if Aboriginal and Torres Strait Islander children are to be placed with a carer who is of the same cultural background, we are asking the Indigenous community to provide carers at rate more than 22 times that of the non-indigenous community. This figure does not take into account the level of informal care already being provided by the Indigenous community, or the higher rate of ill-health and the levels of over-crowding, which would leave an even smaller pool of potential carers.

One of the major child protection challenges currently in Queensland relates to the increased number of children coming to the attention of the statutory system. The reasons for this increase are complex and a matter confronting all child protection systems in the western world. While there is no quick and easy solution, it is clear that identifying and analysing the needs of these children and their families and establishing more effective accountability for prevention and early intervention services are critical.

If the demand for tertiary services is to be effectively reduced over time, a more co-ordinated approach to the planning, delivery and reporting of prevention and early intervention services is needed. While support for vulnerable families would undoubtedly assist some at risk groups, currently there is a limited understanding of, and no comprehensive reporting on, the total amount of funding directed towards secondary services. Also, there is no agency responsible for coordinating these services, including the planning, coordination and delivery of the right secondary services in the right areas.

[3] Annexures D and H to the affidavit of Elizabeth Fraser date 8 August 2012

Further, there is not currently any systematic analysis undertaken to ascertain the outcomes being achieved for children and young people as a result of the significant amounts of funding which are currently directed towards this space. A careful stocktake of the current services being provided, as well as the demand for particular services in particular areas, is required to ensure funds are being best directed and that relevant services are available to the children and families who require them.

The strategic framework for driving such improvements to Queensland's secondary services infrastructure requires further development, leadership and guidance if its architecture and implementation is to result in a reduced demand for tertiary and statutory responses. There are a number of individual initiatives operating across many state and federal agencies to promote the universal development of children, address known areas of vulnerability and disadvantage and to target at-risk families who have come to the attention of various agencies.

Some work has commenced as a result of the Queensland commitment and contribution to the National Framework for Protecting Australia's children agreed through the Council of Australian Governments. The next three year action plan is currently under development which could provide Queensland with a useful framework and catalyst that has been endorsed nationally for undertaking this strategic review and planning of further improvements to be realised over the next decade.

Queensland is a large state with a number of service and demographic challenges. So achieving an effective and well-integrated child protection system will take time as there is still work to do in building consistent and shared understanding around terminology, jurisdiction, responsibilities and linkages, particularly with respect to prevention and early intervention service priorities. Also, some elements of the child protection services infrastructure in Queensland need further development in a context in which there are increases in demand for services and in many areas of the state there remain insufficient professionals in place to enable their provision.

Accordingly, while a greater focus is needed to establish more effective prevention and early intervention services, improving the safety and wellbeing of children who have been taken into state care must continue to be a priority. As attention is given to funding levels for secondary service provision, it will be important that funds required to maintain quality service provision for children in statutory care continue to be available. Ongoing appropriate funding levels for the statutory system will be necessary until there is evidence of a reduced demand for tertiary services.

For purposes of clarity in this submission, the term child protection system is used to refer to the continuum of services required by and provided to vulnerable and at-risk children and families. This includes families who are at risk of coming to the attention of child safety authorities due to a range of factors and those who are known to the system, but for whom it has been determined that statutory intervention is not required (secondary services).

The child protection system also encompasses the role for the state in providing out-of-home care services to children who have been found to have been harmed, or at significant risk of harm, and who don't have a parent who is willing and able to protect them from harm (the statutory/tertiary system).

The CCYPCG is of the view that in determining the direction for the next decade, the architecture and the practices underpinning the design of Queensland's child protection system for the future needs to:

1. establish strategy, governance, planning and clear accountability for prevention and early intervention services

2. be consistent with the focus on improving outcomes articulated in the National Framework for Protecting Australia's Children

3. give children a strong voice, through ongoing primary engagement activities, such as, visiting and surveys, and driving awareness of issues impacting children through independent advocacy

4. ensure departmental accountability for statutory services is independently assessed in terms of achievement against agreed outcome indicators for children through analysis of service provider, CV and child survey data sources, and

5. incorporate continuous improvement strategies and investments that are informed by the latest research and a robust evidence base.

A central feature of all recent inquiries with respect to sustaining effective oversight and monitoring mechanisms for child protection systems has highlighted the importance of enabling independence both in actuality and perception. The issue is about credibility, confidence and risk. In essence, it is argued that while the likelihood of ministerial interference in statutory bodies established to oversight specific functions of government may be low, the consequence of actual or perceived interference is high in terms of lost credibility and confidence in an oversight body (i.e. in the eyes of Parliament and the public). If this occurs, the investment made by the Government to establish this function will be severely devalued.

While not having a material effect to date, machinery of Government changes made in 2009 and 2012 more closely linking the CCYPCG to portfolios it oversights have weakened the perception of its independence in some parts of the community.[4] Noting the weight of evidence available (over a long period of time and in many jurisdictions) on this issue, the CCYPCG's legislation should be amended to reinforce its independence from the service delivery portfolios it oversights and strengthen its connection to Parliament.

In the matter of oversight, the CCYPCG wishes to make one further comment in the event that the service departments undertake a reform program in that they take on a purchaser-provider model in terms of service delivery. This reform will require extensive contracting skills in scope and governance of particular projects that may be funded. Assuming that commercial or NGO providers are available for the purchase of services it will be important to Government that the role of monitoring performance of the system as a whole in relation to its target children continues to be done externally. It may well be that such a reform produces significant benefits in the future but there will be a process of learning in the outsourcing of such services. It is within that context amongst others that the CCYPCG seeks to have regular reviews of its oversight functions in relation to the changed capacities of the service departments currently being oversighted.

The information and recommendations outlined in this submission address each of the terms of reference of the Inquiry and are grouped below to address the key reform areas needing consideration in planning for the next decade.

[4] Evidence of Elizabeth Fraser, line 28, page 46 and lines 35-40 and pages 47-50 of Transcript – Day 6 – Commission of Inquiry Hearings – 20/08/2012

Monitoring, oversight and screening mechanisms for the tertiary child protection system:

- the CCYPCG has implemented all of the Forde and CMC recommendations relevant to it (recommendations 1-2)
- an effective oversight model has been achieved through implementing Forde and CMC recommendations, particularly through implementation of the CCYPCG's Community Visitor function (recommendation 36)
- the oversight model also enables the CCYPCG to confirm that children in out-of-home care are far safer than they have ever been previously and that we know more about the factors impacting on children's and young people's wellbeing in care (recommendations 25, 27, 28, 29, 30, 31, 32)
- blue card screening of carers and household members has significantly contributed to the safety of children in out-of-home care (recommendation 26)
- the oversight model could be strengthened by legislating for the bi-partisan appointment of the Commissioner for Children and Young People and Child Guardian, regular formal reviews of the CCYPCG, the role of the Parliamentary committee oversighting the CCYPCG, for consultation with this committee prior to any legislative or policy process changes to the CCYPCG Act, and to assign carriage of the CCYPCG Act to a central agency for which the CCYPCG has no oversight functions (recommendations 8 to 12)
- recognise the value of having an independent review/audit process for responding to deaths of children know to the child protection system and in considering any changes in the process, move towards a nationally consistent approach (recommendation 37)
- establish consistent jurisdiction across the youth justice and child safety system (recommendation 13) and extend the jurisdiction of the CCYPCG Act to include 17 year olds in adult prisons (recommendation 14).

Improving prevention and early intervention programs:

- establish an understanding of what is currently being spent, totalled across all government agencies, on prevention and early intervention programs and supports (recommendations 15)
- create a co-ordinated and strategic approach to planning and reporting on outcomes achieved and for programs to demonstrate their effectiveness against identified performance measures including reducing demand on the tertiary system (recommendation 16) and until demand on the tertiary system is realised the tertiary system should not be scaled back (recommendation 17)
- require uniform badging across the state of programs and services that operate with Government funding, regardless of which service is the provider, and named in a way that doesn't stigmatise clients (recommendation 18)

The growing gap between the number of intakes and notifications:

- the CCYPCG does not provide guidance as to how to address the increasing number of intakes but recommends that whatever strategies are adopted a reduction in intakes should not be achieved by simply by raising the threshold of what constitutes harm or an unacceptable risk of harm (recommendation 21)

The tertiary child protection system:

- recognise that children are only placed in care after a Children's Court determination and valid decision-making process that have identified serious harm concerns except for children who are relinquished for disability reasons (recommendation 22)

- families of children with a disability should not have to relinquish the child into the child protection system as the only means of receiving adequate out-of-home care support (recommendation 24)

- involving children and young people in planning and decision-making improves the quality of the decisions made and children's sense of wellbeing (recommendation 33)

- more is known about what contributes to the wellbeing of children in out-of-home care because of CCYPCG research (recommendation 27) and more needs to be done for children in-out-of-home care in some areas of wellbeing (recommendation 28)

- the *Child Protection Act 1999* be amended to require that an outcomes framework and associated measures be developed to align with the existing national framework, to assess how practice has benefited children in out-of-home care in accordance with the *Charter of rights for a child in care* and the *Statement of standards* (recommendation 3)

- children in out-of-home care achieve the lowest educational outcomes of any other groups, including children from non-English speaking backgrounds and Aboriginal and Torres Strait Islander children; educational outcomes for children and young people in care need to be able to be tracked through linking the child safety and education databases and use a common identifier across all sectors ; and, too many children in out-of-home care are suspended and excluded from school (recommendations 28 and 29)

- large numbers of children remain on long term guardianship orders to the Chief-Executive, rather than having guardianship transferred to another suitable person (recommendations 4 and 35)

- children still experience too many moves and uncertainty within care, too many failed attempts at reunification, need better support when transitioning from care, and that support for transition to independence needs to be extended to at least 21 years of age (recommendations 4, 28 and 34)

- children and young people in residential facilities still experience a range of issues including the need for appropriate therapeutic care and treatment options and the need for alternative strategies for managing behavioural problems rather than reporting young people to police (recommendations 31 and 32)

- short term orders should not be allowed to simply expire and children be returned home without a formal decision to reunify the child, and this decision be classified as a reviewable decision (recommendation 6)

- best interest criteria need to be developed to inform decision-making around what is in a child's best interest and include a child's attachment and educational opportunities as relevant criteria (recommendation 7)

Indigenous over-representation and disadvantage

Besides the recommendations that relate to all children including Aboriginal and Torres Strait Islander children, such as addressing the educational issues for children in care, developing best interest criteria, and extending transition from care supports to 21 years of age, the following recommendations relate specifically to Aboriginal and Torres Strait Islander children.

- child and family support for Aboriginal and Torres Strait Islander children and families, need to be tailored to achieve child protection objectives (recommendation 19)

- mandate the requirement for cultural support planning for Aboriginal and Torres Strait Islander children to be incorporated into case planning processes and require case plan reviews to identify the extent to which the full range of legislative obligations to Aboriginal and Torres Strait Islander children under the Child Protection Act 1999 have been or will be actioned (recommendation 5)

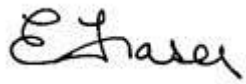
- provide additional support for diversionary programs as an alternative to detaining Aboriginal and Torres Strait Islander young people, specifically including young people on child protection orders (recommendation 20)

- recognise the higher rating on a range of risk factors experienced by Aboriginal and Torres Strait Islander for being brought to the attention of the child protection system (recommendation 23)

- recognise that the adult Indigenous community on current adult-child and child protection ratios has to provide out-of-home care at more than 22 times the rate of the non-Indigenous community in order to have all Indigenous children placed with an Indigenous carer (recommendation 28)

The majority of recommendations in this submission would incur little administrative cost and would, over time, create efficiencies to become almost cost neutral because of the clarity of purpose and focus they could drive. Others are immediately cost neutral because there are either already costs or there are even greater costs associated with not making planned changes. These recommendations are not all urgent and could be implemented with appropriate phasing in of initiatives in pursuit of a clear and agreed strategic agenda over the next decade.

Yours sincerely



Elizabeth Fraser
Commissioner for Children and Young People
and Child Guardian

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List of Abbreviations

AIFS	Australian Institute of Family Studies
CCR	Child Concern Report
CCYPCG	Commission for Children and Young People and Child Guardian (formerly the Commission for Children and Young People and prior to that the Children's Commission)
CCYPCG Act	*Commission for Children and Young People and Child Guardian Act 2000*
Chief Executive	Definition: *Means the Chief Executive for the purposes of the Child protection Act 1999 (namely the Director-General of the Department of Communities, Child Safety and Disability Services).* These terms may be used interchangeably.
Commission of Inquiry	Queensland Child Protection Commission of Inquiry
CP Act	*Child Protection Act 1999*
CDCRC	Child Death Case Review Committee
CMC	Crime and Misconduct Commission
CMC Inquiry	Crime and Misconduct Commission Inquiry into Abuse of Children in Foster Care
Notification	child protection notification
CSO	Child Safety Officer
CSPM	Child Safety Practice Manual
CV	Community Visitor
the Department	Department of Communities, Child Safety and Disability Services
ESP	education support plan
Forde Inquiry	Commission of Inquiry into Abuse of Children in Queensland Institutions
FRET	Family Risk Evaluation tool
IA	Investigation and assessment
IARP	Individual Advocacy and Resolution Program
ICMS	Integrated Client Management System
IPA	Intervention with parental agreement
NAPLAN	National Assessment Program - Literacy and Numeracy
NGO	Non-government organisation
OOHC	Out-of-home care
QCAT	Queensland Civil and Administrative Tribunal
QPS	Queensland Police Service
SAAP	Supported Accommodation Assistance Program
Views Surveys – Foster Care	Views Survey of Children and Young People in Foster Care
Views Surveys – Residential Care	Views Survey of Young People in Residential Care

Understanding the past

This Inquiry has been tasked to establish, through a process of extensive consultation and detailed examination of current practices and outcomes, how Queensland's child protection system can further reduce the need for tertiary service responses across the community and improve the focus and efficiency of the child protection system in responding to the needs of children who are at risk of harm and have no parent willing or able to protect them.

It is the third Inquiry into the Queensland child protection system since 1999, but the first that has occurred that is not in response to a crisis. This is an exceptional situation. In all other inquiries in Australia over the last twenty years, each has been established in response to the death or abuse of children in foster or institutional care or the extreme dysfunction of the system.

The fact that this Inquiry has primarily been designed to set a road map for the next ten years, rather than to respond to a crisis, provides a unique opportunity for the future, but it is also evidence of the effectiveness of the range of child safety monitoring and oversight systems that have been implemented in Queensland since the 1999 Forde *Commission of Inquiry into the Abuse of Children in Queensland Institutions* (the Forde Inquiry), and more particularly, the 2004 Crime and Misconduct Commission's *Inquiry into Abuse of Children in Foster Care* (the CMC Inquiry)[5].

To understand the improvements that are manifest in the current system, it is important to fully understand what the system was like in the past.

The 1999 Forde Inquiry, covering the period from 1911 to 1999, reported repeatedly of hearing from witnesses about the physical and sexual abuse that they had experienced as children in government and non-government institutions. This abuse spanned the decades of the Inquiry with Forde concluding that there were *'…incidents of gross excesses in physical abuse in many institutions, beyond any acceptable boundary in any period'*[6] and that in some institutions, at certain periods, there was a culture of physical punishment and brutality that was tolerated and even engendered by management.

In almost all of the 150 orphanages and detention centres under consideration by Forde there were allegations of sexual abuse, perpetrated by other residents, staff, or visitors to the institution.[7] Forde reported that many reasons were provided to the Inquiry as to how and why the abuse took place, but that none of the reasons excused the abuse or the '*failure of those in authority in government, churches and society in general to effectively deal with complaints of abuse*.'[8] Forde reported that in a small number of cases the alleged offenders had been dealt with, but in many instances they were long dead or unable to be clearly identified.[9]

The 2004 the CMC Inquiry[10] made similar findings in relation to the failure of the state, concluding that it was clear that the child protection and foster systems had failed children in many important aspects and that the failures were longstanding and did not derive from a few atypical cases where individual departmental officers had made poor decisions. Rather, they represented substantial failings in the state's capacity to respond adequately to child protection, and foster care issues.

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[5] *Protecting Children: An inquiry into abuse of children in foster care.* Brisbane: Author.

[6] Commission of Inquiry into Abuse of Children in Queensland Institutions. (1999). *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions [The Forde Inquiry.* Brisbane: Author. (iv)

[7] Commission of Inquiry into Abuse of Children in Queensland Institutions. (1999). *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions [The Forde Inquiry.* Brisbane: Author. (iv)

[8] Commission of Inquiry into Abuse of Children in Queensland Institutions. (1999). *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions [The Forde Inquiry.* Brisbane: Author. (i)

[9] Commission of Inquiry into Abuse of Children in Queensland Institutions. (1999). *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions [The Forde Inquiry.* Brisbane: Author. (iv)

[10] *Protecting Children: An inquiry into abuse of children in foster care.* Brisbane: Author.

The CMC report described a child protection and foster care system marked by serious systemic, organisational and practice failings which often did not focus on the best interests of the child, but rather, at times, gave undue weight to the needs and wishes of adults and failed to consult children about key decisions affecting their lives.

Intake and assessment procedures were inconsistent and inadequate, with a pattern of inaction or delay in recording notifications or undertaking assessments. Investigative procedures were poor with inadequate note-taking and record-keeping, internal review processes were inadequate, and communication processes between the department and other agencies were poor.

Cases were marked by a consistent lack of appropriate case planning, supervision, periodic case reviews, poor decision-making, noncompliance with specific policy and procedural requirements and broader child protection policy obligations. There was limited clinical accountability, and a widespread lack of 'ownership' of casework decisions.

There were delays in transferring files and managerial responsibility between offices and record-keeping was poor with work practices often relying on verbal communication. Information was recorded in a variety of formats and records were stored in non-standard locations with staff having to rely on memory for unrecorded information. These practices lead to significant case management difficulties.

Many children were not regularly seen by their caseworker and little attention appears to have been given to the 'non-urgent' needs of foster children, such as education or health care, until those needs become critical. Many children experienced multiple placements and children often did not receive the medical, psychiatric, allied health and education services they required.

There was a series of failures in addressing the protection needs of Indigenous children, including a lack of engagement with relevant Indigenous individual groups, a frequent failure to display cultural sensitivity, and a reluctance to take necessary action because of a misguided sense of Indigenous cultural values.

The mechanisms for external accountability were limited with both the Commission for Children and Young People and Children's Services Tribunal subject to jurisdictional limits in their capacity to investigate or review departmental decisions.

The CMC identified that the department was found wanting by key stakeholders across a very wide range of its service-delivery obligations.

The 2004 Audit of Foster Carers Subject to Child Protection Notifications[11], undertaken by Gwenn Murray at the same time of the 2004 CMC Inquiry, in its final report on phase one of the audit, reported on finding 98 distinct children placed with 28 foster carer families where there was an immediate safety risk to a child or young person. This was prior to blue card screening of foster carers and adult household members. These matters were identified as requiring the Director-General's immediate action (DGIA) and were identified where there was:

- previous and/or current indicators of sexual abuse; or
- incidents or patterns of excessive or inappropriate physical discipline, often resulting in extensive bruising to foster children.

The report identified that the immediate actions taken relating to sexual abuse varied in nature with respect to the persons alleged responsible for the abuse. '*Foster carers were identified as persons responsible for the harm in 57% of DGIA matters, while 'other persons' were recorded as persons responsible for harm in the remaining 43% of cases of these the relationship to the foster carer was recorded as:*

- *18% of DGIA matters involved foster carers' relatives*
- *11% of DGIA matters involved foster carers' children*
- *7% of DGIA matters involved other foster children.*

The remaining 7% of DGIA matters involved non relatives.' [12]

[11] Murray, G. 2004 Final Report on Phase One of the Audit of Foster Carers subject to child protection notificationshttp://www.communities.qld.gov.au/resources/childsafety/foster-care/foster-carer-audit-2003.pdf

[12] Murray, G. 2004 Final Report on Phase One of the Audit of Foster Carers subject to child protection notifications, p.39

The CCYPCG suggests that this report (link provided in footnotes) is crucial reading to inform a detailed understanding of the breadth and depth of child protection notifications relating to foster carers and members of their household prior to the implementation of current improvements of foster care assessment and oversight, including blue card screening and visits from CVs.

The child protection system that was described in the Forde, and CMC and Murray reports is very different from the current system and it is important that the improvements to the system be recognised and understood. For example, in comparing the current system with the 2004 system, which is only eight years ago, it is clear that significant improvements have been made. In particular in 2004:

- some children were literally 'lost' in the system because of the poor record keeping and absence of a centralised record keeping system; up until as recently as 2006 the CCYPCG's CVs was still 'finding' children placed with foster carers for whom the Department of Child Safety had no record and who had not been visited by a child safety officer for years
- some children were being sexually abused by carers for many years and new children placed with these carers, with no-one listening to what the children were reporting
- there was no requirement for foster carers and adult household members to hold a valid blue card
- there was no systemic process for children to be heard or be assisted to have any of their concerns addressed, and
- children in out-of-home care were provided with very inconsistent and often minimal health and education supports.

The figures on the rates of abuse at that time were identified in the first *Child Protection Queensland 2004 'Baseline' Performance Report* as being 8.1% of children in out-of-home care who were subject to a substantiation where the person responsible was in the foster carer household. However, the CCYPCG is of the view that this figure is conservative as the system, at that time, was not able to accurately collate information from its multiple sources.

The improvements for children that have occurred in the Queensland child protection system are not merely a function of modernity. These changes have occurred because a robust and independent oversight framework has been established and the improvements will only remain as long as strong independent oversight remains.

This is not because of any innate lack of care or concern on the part of those providing services, but a realistic appreciation of the fact that, when resources have to be stretched or children exhibit challenging behaviours or there is a shortage of foster carers or high staff turnover reduces the level of professional practice and experience, things begin to change; and unless there is a capacity to advocate at the individual level or quantify the change, no-one, other than the children, will know until the decline reaches the next crisis point.

There is some appeal in identifying that high levels of Ministerial accountability may in the future be able to substitute for independent oversight. However, for a Minister to be truly able to exercise his/her accountability they need to be effectively informed from multiple sources. Achieving this with respect to the child protection system is more complex because of the confidential and personal nature of the material involved. Formalised external and independent oversight can assist to ensure the information provided is more complete in terms of outcomes for children. In the absence of independently acquired information and oversight the failures of the state identified in both the Forde and CMC Inquiries will again occur

There is similar appeal in outsourcing oversight to agencies to which service responsibilities are contracted. But this approach has been tried in the past with dire consequences. Throughout the earlier history of Queensland child welfare, oversight was provided by voluntary agencies, church groups and even Magistrates. The failure of this approach, and the harm done to the many children affected, is evidenced in the range of inquiries, investigations and apologies that have resulted from these times.

Survivors of these systems, particularly through the evidence that they gave to the Forde and CMC Inquiries, identified where the systems had failed them. In particular, they stressed the importance of having independent inspectors visiting children on a regular basis and for the inspectors to see, speak with and advocate for these children regarding any issues or complaints they may have regarding their wellbeing and protection.

The CCYPCG is strongly of the view that this is one of the most important components in continuing to keep children in the statutory out-of-home care system safe. As recently as the *60 Minutes* program shown on Sunday 16 September 2012 men were coming forward to discuss the sexual abuse perpetrated on them as young boys at the BoysTown residential facility in Beaudesert in the 1980s and 1990s. When one man was asked if he had reported the abuse he commented that it had happened to other boys and no-one had done anything so there was no-one for him to report this to.

The fact that the recommendations from the Forde and CMC Inquiries have generally been implemented largely in accordance with the Governments' response could lead to the question of why the system is still not functioning well. The CCYPCG is of the view that implementation of the previous recommendations has generally given effect to the objectives behind the recommendations and that the system has improved significantly, particularly in relation to the oversight of the system and children's safety, although there are still areas of wellbeing that need further improvement. But positively, these matters are now being identified for further attention with detailed and trend information being able to inform on progress and identify where attention is still required.

Summary of recommendations

It is recommended:

Implementation of recommendations from previous Inquiries

CCYPCG implementation of the recommendations from the Forde Inquiry

- Recommendation 1. That the Commission of Inquiry recognises that the CCYPCG has effectively implemented all of its recommendations from the Forde Inquiry in accordance with the Government's response and reaffirms the importance of an independent visiting program to verify the safety and wellbeing children in residential care services and youth detention centres

CCYPCG *implementation of the recommendations from the CMC Inquiry*

- Recommendation 2. That the Commission of Inquiry recognises that the CCYPCG has effectively implemented all of its recommendations from the CMC Inquiry in accordance with the Government's Blueprint response and reaffirms the importance of an independent visiting program to verify the safety and wellbeing of children in foster care

Child Protection Act 1999

Require an outcomes framework and associated measurements to be developed for assessing application of and compliance with Charter of Rights

- Recommendation 3. That the *Child Protection Act 1999* be amended to require that an outcomes framework and associated measures be developed to align with state and national oversight frameworks already endorsed by the Council of Australian Governments and the Standing Council on Community, Housing and Disability Services to assess how practice has benefited children and young people in out-of-home care in accordance with the Charter of Rights of a Child In Care and Statement of Standards. A similar amendment to the *Youth Justice Act 1992* be made to enable assessment of adherence to the Charter of Youth Justice Principles, which currently are not subject to any compliance assessment

Require a regular review of long-term guardianship orders to the Director-General

- Recommendation 4. That the *Child Protection Act 1999* be amended so that, where a child is subject to a long term order granting guardianship to the Chief Executive, the case plan goal will be to transition the child to an order granting guardianship to a suitable person

Cultural support planning

- Recommendation 5. That the Commission of Inquiry acknowledges the importance of cultural support planning for Aboriginal and Torres Strait Islander children and mandates its incorporation into case planning processes in Chapter 2, Part 3A of the *Child Protection Act 1999*. The development and mandatory case plan review process should also identify the extent to which the full range of legislative obligations to Aboriginal and Torres Strait Islander children under the *Child Protection Act 1999* have been or will be actioned

Improving reunification processes

- Recommendation 6. Recommendation 6. That the *Child protection Act 1999* be amended to establish a legislative process to formally address reunification and to make this decision a reviewable decision

Include criteria for 'Best Interests' decision making

- Recommendation 7. The *Child Protection Act 1999* and the *Commission for Children and Young People and Child Guardian Act 2000* include direction about how to determine what is in a child's best interest in decision making, including identifying specific matters that need to be considered when determining what is in a child's best interest

Commission for Children and Young People and Child Guardian Act 2000

Independent carriage of CCYPCG Act

- Recommendation 8. That carriage of the *Commission for Children and Young People and Child Guardian Act 2000* be assigned to the Premier or a Minister of a central agency, such as the Treasurer, providing that the functions of the Minister's portfolio do not include functions for which the CCYPCG has oversight responsibilities

Legislate for bi-partisan appointments of the Commissioner

- Recommendation 9. That the *Commission for Children and Young People and Child Guardian Act 2000* be amended to incorporate the thrust of section 59 of the *Ombudsman Act 2001* relating to appointment of the Ombudsman, to promote bipartisan appointments of the Commissioner

Mandate regular, formal reviews to build public confidence

- Recommendation 10. That the *Commission for Children and Young People and Child Guardian Act 2000* be amended to incorporate the thrust of sections 83, 84 and 85 of the *Ombudsman Act 2001* related to the periodic strategic review of the Ombudsman's functions; with an additional point "(c)" under the definition of strategic review stipulating that the review should also provide recommendations for the strategic direction and funding needs of the CCYPCG for the next five year period and an additional point "(c)" in section 84 stipulating that the reviewer must consult with the Parliamentary committee oversighting the CCYPCG at that time

Legislate a strong connection to Parliament and the community

- Recommendation 11. That the *Commission for Children and Young People and Child Guardian Act 2000* be amended to incorporate the thrust of section 89 of the *Ombudsman Act 2001* relating to the oversight responsibilities of the Parliamentary committee with respect to the Ombudsman's functions to embed the responsibilities of the Parliamentary committee oversighting the CCYPCG in legislation

- Recommendation 12. That the *Commission for Children and Young People and Child Guardian Act 2000* be amended to include mandatory consultation with the Parliamentary committee oversighting the CCYPCG as a pre-requisite to any legislative or policy change process related to the *Commission for Children and Young People and Child Guardian Act 2000* or its core functions

Establish a consistent jurisdiction across youth justice and child safety systems

- Recommendation 13. That the chapters of the *Commission for Children and Young People and Child Guardian Act 2000* that relate to the Commissioner's monitoring, complaints and investigations, and Community Visitor functions be revised and amended so that the Commissioner's jurisdiction is equally applied to all children in the youth justice and child protection systems

Require 17 year olds placed in adult prisons to be within the jurisdiction of the CCYPCG Act until they are transferred to the youth justice system

- Recommendation 14. That the jurisdiction of the *Commission for Children and Young People and Child Guardian Act 2000* be extended to specifically include 17 year olds placed in adult prisons, until they come under the jurisdiction of the *Youth Justice Act 1992*, and young people subject to any youth justice programs

The effectiveness of Queensland's current child protection system in its current use of available resources

Identify the full expenditure on prevention and early intervention supports and programs

- Recommendation 15. That the total expenditure of Government on prevention and early intervention be ascertained including funding to government, non-government and corporate providers and across all departments to provide a comprehensive understanding of the available resources across the child protection system

Establish a strategic plan and corporate governance structure for prevention and early intervention planning and accountability

- Recommendation 16. That a strategic plan and corporate governance structure be developed to co-ordinate prevention and early intervention spending and improve reporting and accountability against identified outcomes with respect to reducing abuse and neglect of children and consequentially reducing the demand on the tertiary child protection system

Resources provided to the primary and secondary areas of child protection must demonstrate an effect before the tertiary system can be scaled back

- Recommendation 17. That the Commission of Inquiry recognises that, until services provided in the primary and secondary child and family support areas are able to demonstrate a clear and actual reduction in the need for tertiary interventions, the tertiary system will need to be adequately funded to meet the current and actual level of need

The effectiveness of the current Queensland government response to children and families in the child protection system

Improve processes around support for vulnerable families

- Recommendation 18. That programs designed to provide primary and secondary child and family support be made as widely available as possible across the state, be based on a public health model approach, not be obviously identified with the child protection system, have non-stigmatising names and approaches, and be consistently badged regardless of which service provider is delivering the service

Tailor child and family support for Aboriginal and Torres Strait Islander children and families

- Recommendation 19. That child and family support programs be tailored to address, and be informed by, the particular needs of Aboriginal and Torres Strait Islander children and families

Increase diversionary options for Aboriginal and Torres Strait Islander children

- Recommendation 20. That the Commission of Inquiry recognises the importance of diversionary programs as an alternative to detaining Aboriginal and Torres Strait Islander young people and that such programs be given additional support to increase uptake among this group, specifically including young people on child protection orders

Manage the gap between number of intakes and notifications

- Recommendation 21. That strategies to reduce the growing gap between the number of intakes and the number of notifications should not raise the threshold of what constitutes harm or an unacceptable risk of harm to children

Effectiveness of tertiary child protection interventions

Children are only placed in care after a valid decision making process

- Recommendation 22. That the Commission of Inquiry recognises that children in out-of-home care are there after a Children's Court determination and a valid decision-making process that have identified serious harm concerns

Factors contributing to Indigenous over-representation in the child protection system

- **Recommendation 23.** That the Commission of Inquiry recognises that Indigenous children experience a significantly higher rating on a range of risk factors for being brought to the attention of the child protection system than non-Indigenous children including family size, teenage parenting, low birth rate, foetal alcohol syndrome, alcohol and substance abuse, family violence and educational level of parents and that these factors interact to increase the vulnerability of Indigenous children as a group to a level that is far greater than for non-Indigenous children as a group

Disability support needs are not child protection issues

- Recommendation 24. That reasonably accessible out-of-home care options be made available to children and young people with a disability and be delivered outside the child protection system; with options allowing parents to continue to have a say in their child's day to day care and eligibility for access to the options being needs-based

Safety for children in out-of-home care has greatly improved

- Recommendation 25. That the Commission of Inquiry recognises that children who are living in out-of-home care are far safer and more is known about their safety than ever before due to a combination of improved service delivery and better oversight by the CCYPCG through its Community Visitors, blue card screening of carers, monitoring activities, and surveys of children in out-of-home care

Blue card system is an important component in the child protection system

- Recommendation 26. That the blue card system is recognised as providing a strong prevention and monitoring system that plays a critical role in protecting children from harm in regulated service environments, particularly those in the child protection system, and that further ongoing work may need to be done to achieve understanding and compliance in some vulnerable communities including Aboriginal and Torres Strait Islander communities or those from other cultural backgrounds

CCYPCG research identifies factors associated with children's wellbeing in care

- Recommendation 27. That the Commission of Inquiry recognises the value of the ongoing CCYPCG research on factors associated with children's wellbeing in out-of-home care and recommends that the Government takes the research into account when developing policies and practices to support a new 10 year strategy

Wellbeing of children in out-of-home care has improved in some areas but still some way to go in others

- Recommendation 28. That the Commission of Inquiry recognises that the well-being of children living in out-of-home care has improved in some areas, largely due to the oversight work of the CCYPCG and the responsiveness of the Department, but still has a long way to go in others including educational outcomes and transition from care and that these issues are magnified for young people in residential care, and in recognising the importance of the Indigenous Child Placement Principle requirements in relation to matters that must be considered when an Indigenous child is to be placed, including with a person who is not an Aboriginal person or a Torres Strait Islander

Poor educational outcomes of children in out-of-home care

- Recommendation 29. That the Commission of Inquiry recognises that children in out-of-home care, as a group, achieve lower results on national testing in literacy and numeracy than all other groups including children from non-English speaking backgrounds and Indigenous children and that strategies need to be put in place to address this issue including being able to electronically track the outcomes of children in the child protection system be enabling the Integrated Client Management System and the OneSchool system to talk to each other

Suspension and exclusions of children in out-of-home care

- Recommendation 30. That it be required that, before children in out-of-home care can be excluded from school, there be discussions between the Department of Education, Training and Employment and the Department of Communities, Child Safety and Disability Services to negotiate supports and alternative approaches to optimise the child's chances of receiving some form of ongoing education including skill based learning, and that suspension or exclusion of these children be seen as an approach of last resort

Addressing the therapeutic requirements of children and young people with complex needs

- Recommendation 31. That the Commission of Inquiry recognises that the therapeutic care and treatment needs of children with significant psychological and behavioural problems are not being met to the standard required and recommends that a process be put in place to identify how these needs will be met over the next ten years

Improving residential care provisions to the standard required

- Recommendation 32. That a greater range of appropriate placement and treatment options for young people with very high support needs be developed and the level of trauma-competence in the service sector improved

Participation of children

- Recommendation 33. That the Commission of Inquiry recognises the importance of involving children and young people in planning and decision-making for its impact on a range of outcomes but in particular, the appropriateness of the decisions made and children's sense of wellbeing

The effectiveness of transitions through and exiting the child protection system

Extend support for young people transitioning from care past 18 years

- Recommendation 34. That, in line with other Australian jurisdictions, support for young people aging out of care be extended to at least 21 years, and that research be conducted in Queensland to track young people's post-care trajectories and identify the factors that contribute to positive outcomes

Reduce the number of children on long-term guardianship to the Director-General

- Recommendation 35. That, besides a dedicated focus in the long term on this matter, a project be developed to transition the substantial number of children and young people who are on long-term guardianship orders with the Chief Executive to another person as soon possible and where appropriate, and that only where a child or young person is unable to be placed because of extremely challenging behaviours or disability should they stay under the guardianship of the Chief Executive

The effectiveness of the monitoring, investigations, oversight and complaint mechanisms

Recognise the strength of Queensland's unique model of oversight of the child protection system

- Recommendation 36. That the Commission of Inquiry recognises Queensland's unique model of independent oversight of the child protection system and confirms that the CCYPCG's Community Visitor program, established as recommended by the Forde and CMC Inquiries based on past experiences of the abuse and neglect of children while in the care of the state, is a crucial element in the oversight of, and creating public confidence in, the child protection system

Acknowledge importance of independent oversight of child deaths in the statutory system

- Recommendation 37. That the Commission of Inquiry notes and acknowledges the ongoing need for an independent review/audit process for responding to the deaths of children known to the Queensland child protection system and as an essential measure for building public confidence in the child protection system and that any changes that are implemented lean towards a more nationally consistent approach

Implementation of the recommendations from the Forde Inquiry and the Crime and Misconduct Commission Inquiry

3.a) **reviewing the progress of implementation of the recommendations of the *Commission of Inquiry into Abuse of Children in Queensland Institutions* (the Forde Inquiry) and *Protecting Children: An Inquiry into Abuse of Children in Foster Care* (Crime and Misconduct Commission Inquiry)**

CCYPCG has implemented in full all Forde Inquiry recommendations relating to it

1. The 1999 *Forde Inquiry* made ten specific recommendations that were directed at the then Children's Commission. A table of each of the recommendations and the 2001 *Report to the Queensland Parliament by the Forde Implementation Monitoring Committee's* comments, together with the CCYPCG's summary of the current position in relation to each recommendation, is attached as Appendix A.
2. In summary, the purpose of those recommendations was to:
    - develop and strengthen the then Children's Commission's existing "Official Visitor" program to include visiting and advocating for children in residential care services and youth detention centres
    - allow the then Children's Commission to provide individual advocacy services to children in residential care services and youth detention centres
    - allow the then Children's Commission to monitor the reporting of harm to children in residential care services and youth detention centres
    - extend the then Children's Commission's complaints, investigations, research and monitoring functions to include children in residential care services and youth detention centres, and
    - ensure the then Children's Commission's independence as statutory body
    - families of children with a disability should not have to relinquish the child into the child protection system as the only means of receiving adequate out-of-home care support (recommendation 24)
3. With some exceptions, as outlined in Appendix A, these recommendations have been fully implemented. The Queensland Government was responsible for making the relevant legislative amendments to the Children's Commission's legislation at the time and the Children's Commission had no specific control over the decisions that were taken in relation to those amendments. However, as indicated in Appendix A, the CCYPCG has no concerns about the specific aspects of the recommendations that were not implemented in full, although later in this submission, there are suggestions for future legislative amendments to strengthen the CCYPCG's current independent oversight role.

Recommendation 1. That the Commission of Inquiry recognises that the CCYPCG has effectively implemented all of its recommendations from the Forde Inquiry in accordance with the Government's response and reaffirms the importance of an independent visiting program to verify the safety and wellbeing of children in residential care services and youth detention centres

CCYPCG has implemented all CMC Inquiry recommendations relating to it

4. The 2004 Crime and Misconduct Commission report *Protecting Children: An Inquiry into Abuse of Children in Foster Care* (CMC Inquiry) made eight specific recommendations that were directed at the then Commission for Children and Young People. A table of each of the recommendations, relevant comments together with the CCYPCG's summary of the current position in relation to each recommendation is at Appendix B. Each of these recommendations has been fully implemented.
5. In summary, the purpose of those recommendations was to strengthen the then Commission for Children and Young People's role by:
    - extending the community visitor program to include visiting and advocating for children in foster and kinship care
    - establishing the Child Guardian function, and an Assistant Commissioner responsible to the Commissioner for the administration of the Child Guardian functions, which include an expanded community visitor program, and independent monitoring and oversight of the child protection system
    - establishing the CCYPCG child death review functions together with the independent Child Death Case Review Committee, and
    - providing for the independent monitoring of the Department's compliance with the Indigenous Child Placement Principle.
6. In its June 2007 review of implementation of all the recommendations, the CMC specifically noted (at page 66):

    The CCYPCG has now clearly established itself as the organisation that can and will ensure that the DCS [Department of Child Safety] *and other government departments promote and protect the rights, interests and wellbeing of children in Queensland.*

    Government cannot eliminate child abuse, but it can lessen the risk of child abuse occurring — and, if it does occur, perhaps reduce the harm by stopping it from happening again. It is hoped that future governments can withstand the criticism attracted by occasional lapses in the delivery of child protection services, and allow the steady pace of reform and improvement to continue.

Recommendation 2. That the Commission of Inquiry recognises that the CCYPCG has effectively implemented all of its recommendations from the CMC Inquiry in accordance with the Government's Blueprint response and reaffirms the importance of an independent visiting program to verify the safety and wellbeing of children in foster care

Child Protection Act 1999

3. b**) reviewing Queensland legislation about the protection of children, including the *Child Protection Act 1999*** and relevant parts of the *Commission for Children and Young People and Child Guardian Act 2000*

Require an outcomes framework and associated measurements to be developed for assessing application of and compliance with Charter of Rights

7. The *Child Protection Act 1999* (the CP Act) contains numerous procedural provisions for how the various stages of tertiary interventions are to occur. However, there is no legislative provision made for the outcomes which should be expected for a child or young person in the child protection system.
8. There needs to be a shift of focus from procedural compliance, to measuring outcomes for children and young people's safety and wellbeing, particularly in relation to the application of and compliance with the Charter of Rights and Statement of Standards in the CP Act and actual improvements in these children and young people's lives.
9. For example, it is more important to be able to see evidence of an actual benefit for young people, such as improved attendance and performance at school, access to therapeutic services, the ability to participate in sporting and recreational activities similar to that of their peers and access to entitlements when leaving care, rather than the quality of case plans.
10. Procedural factors will continue to be important in contributing to improved outcomes for children and young people, but they should not be the sole indicator or focus of a child's progress in the child protection system.
11. An outcomes-based approach provides the opportunity to redefine goals and objectives in terms of actual improvement in children's lives (for example, improved life chances, ensuring families get the right help at the right time, and over time breaking the cycle of child abuse and neglect) as opposed to measurement of system processes and outputs.[13]
12. The CCYPCG submits that an outcomes-driven focus underpins the *National Framework for Protecting Australia's Children*. The actions and strategies under the National Framework aim to achieve the high-level outcome that Australia's children and young people are safe and well with the ambitious target of a substantial and sustained reduction in child abuse and neglect in Australia over time. The six supporting outcomes are:
    - children live in safe and supportive families and communities
    - children and families access adequate support to promote safety and early intervention
    - risk factors for child abuse and neglect are addressed
    - children who have been abused or neglected receive the support and care they need for their safety and wellbeing
    - Indigenous children are supported and safe in their families and communities, and
    - child sexual abuse and exploitation is prevented and survivors receive adequate support.
13. These are examples of some of the broader outcomes that the system should be achieving and will be relevant in formulating specific outcomes for Queensland's child protection system.
14. The actual outcomes of the Queensland child protection system need to take account of the Charter of Rights and Statement of Standards, and the actual practical improvements that are being sought to children and young people's lives, safety and wellbeing as a result of their involvement in the child protection system.

[13] *Inverting the pyramid - Enhancing systems for protecting children*, 15 January 2009, The Australian Research Alliance for Children and Youth (ARACY) commissioned the Allen Consulting Group to produce this report.

15. While this approach is difficult to capture absolutely in legislation, an outcomes framework should be a legislative requirement. The *Child Protection Act 1999* should include a requirement that a framework be developed that takes into account how services need to be provided to children and young people in accordance with the Charter of Rights and the Statement of Standards and identify the measures that will inform the framework and what the sources of those measures will be. There should also be a legislative requirement to regularly review the framework.
16. There should be an agreed set of reports to inform the framework outcomes, and where possible, agreement on who is responsible for compiling same.

Recommendation 3. That the *Child Protection Act 1999* be amended to require that an outcomes framework and associated measures be developed to align with state and national oversight frameworks already endorsed by the Council of Australian Governments and the Standing Council on Community, Housing and Disability Services to assess how practice has benefited children and young people in out-of-home care in accordance with the Charter of Rights of a Child In Care and the Statement of Standards.

A similar amendment to the *Youth Justice Act 1992* be made to enable assessment of adherence to the Charter of Youth Justice Principles, which currently are not subject to any compliance assessment

Require a regular review of long-term guardianship orders to the Director-General

17. The CCYPCG supports stability and certainty for children and young people in care who cannot be reunified. If reunification is not possible at the end of a short-term custody or guardianship order, it is appropriate to move children to a long-term guardianship order to provide them with stability and certainty about their future.
18. The CP Act gives preference to orders that grant guardianship to a suitable person, rather than to the Chief Executive[14] and the CCYPCG continues to support this preference. Where guardianship is granted to a suitable person, children can be sure that they will remain in their placement permanently. This allows children to form stable and enduring relationships and be part of a family into adulthood. In addition, where carers assume guardianship, children are able to lead a more "normal" life with less departmental involvement and less complex decision-making processes. Costs are also reduced as Child Safety Officers (CSOs) and CVs are not required to visit children on long-term guardianship orders to a suitable person.
19. The proportion of children on long-term orders where guardianship is granted to a suitable person has increased from 16%[15] of long-term orders in 2006 to 21%[16] of long-term orders in 2012. However, the CCYPCG remains concerned that the overall proportion of children on long-term orders where guardianship is granted to a suitable person remains low.
20. A factor likely to contribute to this modest progress is that once a long-term order granting guardianship to the Chief Executive is made, there is no requirement for the Department to continue to pursue an order granting guardianship to a suitable person. As a result, children may have stable and permanent legal arrangements but not be afforded permanent care arrangements.

[14] Section 59(7) of the CP Act
[15] *Reforming Child Protection In Queensland: A review of the implementation of recommendations contained in the CMC's Protecting Children Report*', Crime and Misconduct Commission Queensland, June 2007
[16] Based on ICMS operational data provided to the Commission for Children and Young People and Child Guardian for the purpose of arranging visits.

21. Where the Children's Court makes a long-term order granting guardianship to the Chief Executive, the Department should continue to work towards achieving long-term orders granting guardianship to another suitable person. This process could be accommodated within existing case planning with a legislative change requiring the case plan goal for children subject to long-term orders granting guardianship to the Director-General to be to transition the child to an order granting guardianship to a suitable person.

Recommendation 4. That the *Child Protection Act 1999* be amended so that, where a child is subject to a long-term order granting guardianship to the Chief Executive, the case plan goal will be to transition the child to an order granting guardianship to a suitable person.

Cultural support planning

22. At the time of its commencement, the CP Act created a new focus on the delivery of child protection services to Aboriginal and Torres Strait Islander children[17]. These provisions helped highlight the unique values and cultures of Aboriginal and Torres Strait Islander peoples within the broad principles of the *Child Protection Act 1999* and identified some specific decision making processes that should take account of these principles.
23. The focus on these principles was strengthened in subsequent amendments to the CP Act.[18] This included introducing additional principles about Aboriginal and Torres Strait Islander children and case planning processes that were more encompassing of their cultural needs.
24. The increased focus was a necessary reflection of contemporary community understanding of, and commitment to, the unique values and cultures of Aboriginal and Torres Strait Islander peoples.
25. In amending the preamble of the *Queensland Constitution 2001* (in 2010), the Queensland Parliament also made an important, albeit broad, legislative statement in recognition of the importance of maintaining Aboriginal and Torres Strait Islander peoples values and cultures.

> ***Queensland Constitution 2001***
> ***Preamble—***
> *The people of Queensland, free and equal citizens of Australia—*
> *(a) …*
> *(b) …*
> *(c) honour the Aboriginal peoples and Torres Strait Islander peoples, the First Australians, whose lands, winds and waters we all now share; and pay tribute to their unique values, and their ancient and enduring cultures, which deepen and enrich the life of our community…*

26. It follows, that in circumstances where the State of Queensland elects to act (through the Chief Executive under the CP Act) as a substitute parent for Aboriginal and Torres Strait Islander children and young people, it should do its utmost to commit to, and action, those ideals.

[17] See, for example, sections 6, 7(1)(f), 7(1)(o), [formerly section 7(1)(n) (Reprint 1], 11(3), 11(4), 70(4) [17 Formerly section 67(4) (Reprint 1)] , and 83 [Formerly section 80 (Reprint 1)].
[18] See, for example, sections 5C, 21A(3), 51B(f), 51D(1)(c)(iv), 51E(6), 51L(1)(c), 51L(1)(f), 51W(1)(c), 51W(1)(f), 99H, 159K and 246I

27. While scope currently exists for the Chief Executive to develop cultural support plans as a component of case planning, this is not currently mandated by the CP Act. Cultural support plans are a relatively new initiative by the Department and are intended to form part of the case plan for Aboriginal and/or Torres Strait Islander children who are subject to an ongoing intervention. The Department advises that as at 30 June 2011, 80.6% of Indigenous children had a cultural plan on their record.[19]

28. Full implementation and use of cultural support planning has the potential to play a key role in the Department's efforts to maintain the unique values and cultures of Aboriginal and Torres Strait Islander children in its care. The evidence shows that this is particularly important for those Aboriginal and Torres Strait Islander children placed with a non-Indigenous carer.

29. For example, young people identifying as Aboriginal and/or Torres Strait Islander who responded to the CCYPCG's 2011 *Views of Children and Young People in Foster Care Survey*[20] , and who were living with a carer of a different cultural background, were significantly less likely to report having a cultural support plan than those living with a carer of the same cultural background. [21]

30. This finding is consistent with that of the CCYPCG's *Indigenous Child Placement Principle Audit Report* (2010-11) which identified that Aboriginal and Torres Strait Islander children and young people who are placed with Indigenous carers, compared with those placed with non-Indigenous carers, tend to demonstrate the same, or better, outcomes across every measure of family and community contact, and experience greater opportunities to participate in cultural activities and events. This includes greater satisfaction with parental contact, more weekly contact with family members, more weekly contact with their traditional language/tribal/totem group, and more opportunities to participate in every type of cultural activity/resource offered. [22]

31. The development and review of cultural support plans as part of the case planning process would also provide an opportunity to guide and support departmental officers in actioning the full range of legislative obligations owed to Aboriginal and Torres Strait Islander children under the *Child Protection Act 1999*.

32. Given the current understanding of the importance of maintaining links between Aboriginal and Torres Strait Islander children and their values and culture, the implementation of cultural support planning should no longer be optional under the CP Act and should be a compulsory component of case planning for Aboriginal and Torres Strait Islander children.

Recommendation 5. That the Commission of Inquiry acknowledges the importance of cultural support planning for Aboriginal and Torres Strait Islander children and mandates its incorporation into case planning processes in Chapter 2, Part 3A of the *Child Protection Act 1999.* The development and mandatory case plan review process should also identify the extent to which the full range of legislative obligations to Aboriginal and Torres Strait Islander children under the *Child Protection Act 1999* have been or will be actioned

[19] Commission for Children and Young People and Child Guardian. (2012). *Child Guardian: Child Protection System Update, 2008-11.* Brisbane, p 3.
[20] Commission for Children and Young People and Child Guardian. (in press). *2011 Views of Children and Young People in Foster Care Survey: Overview and selected findings*. Brisbane.
21 21.2% of the 364 young people identifying as Aboriginal and/or Torres Strait Islander who responded to the CCYPCG's 2011 Views of Children and Young People in Foster Care Survey reported that they had a cultural support plan.
[22] Commission for Children and Young People and Child Guardian. (2010-11). *Indigenous Child Placement Principle Audit Report 2010-11*. Brisbane, p 6.

Improving reunification processes

33. For children placed under a short term custody order (either for 12 or 24 months), the goal of the case plan will generally be reunification. The Child Safety Practice Manual (CSPM) states that a family reunification assessment will be completed:
    - as part of every case plan review (every six months) when the case plan goal is reunification, and at least one child in a family is in an out-of-home care placement and subject to a child protection order or interim order
    - for all the children in the household, when a child in out-of-home care has siblings at home who are subject to intervention with parental agreement
    - prior to any decision to reunify a child with their family.

34. The family reunification assessment assists in assessing the key areas for deciding reunification, which include assessing the family's progress with the case plan, evaluating risk in the reunification household and assessing safety. The decision to return a child home must be based upon the sufficient achievement of case plan goals and outcomes. The purpose of the family reunification assessment is to:
    - re-assess family risk, including an assessment of the case plan progress
    - evaluate parent-child contact
    - assess the safety of the child, only where the family risk is 'low' or 'moderate' and the parent/child contact is 'good' or 'excellent'
    - guide case planning to one of three permanency plan recommendations.

35. The three permanency plan recommendations with which the family reunification assessment will assist assessing are:
    - returning the child home
    - continuing to work towards reunification (i.e. the child remains in out-of-home care)
    - pursuing long-term alternative stable living arrangement or a permanent placement in out-of-home care.

36. If the family reunification assessment recommends a long-term placement in out-of-home care, the Department will apply for a long-term guardianship order, which must be granted by the Children's Court and backed by evidence to suggest that a long-term placement in out-of-home care is in the child's best interests.

37. If the family reunification assessment recommends the child should remain in out-of-home care, but that the Department continue to work towards reunification, the Department may have to apply to the Children's Court to extend the short-term custody order. In this instance, the application to the Court will be backed by evidence to suggest that an extension of short-term custody is in the child's best interests.

38. If the family reunification assessment recommends reunification, it means that:
    - the 'family reunification risk re-evaluation' is low or moderate, and
    - the parent-child contact has been evaluated as 'good' or 'excellent'.

39. In this instance, the child protection order may be allowed to expire and the child is returned to the care of their parents. Alternatively, the Department may apply to the Children's Court to revoke the order pursuant to section 65(1) of the CP Act. The Court may revoke a child protection order for a child **only** if it is satisfied the order is no longer appropriate and desirable for the child's protection (section 65(6)).

40. Accordingly, the CSPM requires the decision to reunify a child be part of a planned process that occurs as part of the assessment, planning, implementation and review cycle. For a child in out-of-home care, the decision about reunification is made as part of the review of a case plan and is dependent on the progress made by the child's parents to meet the case plan goal and outcomes.

41. While the CSPM requires the reunification process to be a planned process of assessment, under the CP Act there is no requirement for the Department to assess or make a decision about reunification at the expiry of a short-term custody order. The consequence of this is that in circumstances where the Department does not conduct an assessment and does not make a decision about reunification, the custody order will expire and the child will return to their parents.

42. In such instances, the child may reunify with their family without the Department adequately:

- assessing the family's progress with the case plan
- considering issues such as attachment and stability
- evaluating risk in the reunification household, and
- assessing the safety of the child in the care of their parents.

43. Currently there is little administrative information available about the number of times reunification attempts fail for children and the impacts these may have on their sense of wellbeing. The *Views survey* report series provides some insights with respect to young people's responses to the question: ***How many times have you gone back to live with your own family (reunified) since you first came into care (not counting visits or holidays)?***

44. Figure 1 sets out the distribution of times young people have reported being returned home for the three groups (young people, children, and carers on behalf of young children) combined. It shows that 2042 (81.4%) of the total of 2509 respondents report not having been returned home but 467 children have experienced one or more failed reunification attempts. 306 children have experienced one failed reunification, 95 have experienced two failed reunification attempts, 9 have been returned home four times and 10 returned home five times. The largest number of times children have reported being returned home is nine times, with this reported by two children.

Figure 1 - Times returned home - total group (n=2509)

Times returned	Number	Percentage
0	2042	81.4
1	306	12.2
2	95	3.8
3	37	1.5
4	9	.4
5	10	.4
6	4	.2
7	2	.1
8	2	.1
9	2	.1
Total	2509	100

45. To address the instability and disruption for those children subject to failed reunification attempts and thereby improve the reunification process, it is recommended that the CP Act be amended to establish a legislative process for the Department to formally address reunification. As part of this process, the CP Act should state that the Department must make a decision about whether to reunify a child no later than three months prior to the expiry date of a short-term custody order. At the time a decision about reunification is made, and no later than three months prior to the expiry date of the short-term custody order, the Department should also be required to communicate its decision and provide a written statement of reasons to the child, the child's parents and the child's carer.

46. In addition, Schedule 2 of the CP Act should be amended to make this decision a reviewable decision. The CP Act should clearly state, that the Department's failure to make a decision about whether to reunify a child no later than three months from the expiry date of a short-term custody order, and provide a written statement of reasons to the child, the child's parents and the child's carer, is also a reviewable decision. The child, the child's parents and carer should be stated as aggrieved persons regarding this decision.
47. Furthermore it is recommended that data about the success or otherwise of these reunification processes be captured and reported so that more effective monitoring can occur of the effectiveness of the system in enabling this legislative objective to be fulfilled.

Recommendation 6. That the *Child protection Act 1999* be amended to establish a legislative process to formally address reunification and to make this decision a reviewable decision

Include criteria for 'Best Interests' decision-making

48. The CP Act states that the powers in the CP Act are to be administered under the paramount principle that the safety, wellbeing and best interests of a child are paramount.
49. In addition to the overarching principle that decision-making must be in the best interests of a child, the CP Act also requires certain specific decisions to be made in the best interests of a child. Generally, these include decisions about:
    - placement decisions for a child while in out-of-home care
    - a child's contact with their parents while in out-of-home care
    - ensuring a court hears an application for an order about a child as soon as possible
    - provisions relating to a child's privacy and use of confidential information
    - a person's involvement in a family group meeting and ensuring case plans are appropriate
    - information to be provided to a child's parents about the outcome of an investigation of harm and when a child's parents should be informed about an investigation of harm
    - provisions relating to applications to the QCAT, and
    - decision-making in interstate transfers.
50. The CCYPCG Act also requires that powers in the CCYPCG Act are to be administered under the principle that the welfare and best interests of a child are paramount.
51. The CCYPCG Act also requires that certain decisions must be in the best interests of a child. Generally, these include:
    - ending an investigation in the best interests of a child and providing a confidential investigation report to the Minister responsible for Child Safety
    - specific decisions about issuing a positive or negative notice, and
    - specific decisions about applications to the QCAT.
52. See Appendix C for the specific provisions in the CCYPCG Act where a child's best interests must be taken into account.
53. Although decision-making in a child's best interest is an integral aspect of the use of powers under both the CP Act and the CCYPCG Act, neither Act provides any guidance about matters to consider when determining what is in a child's best interests.

54. In contrast, section 60CC of the *Family Law Act 1975* sets out primary and additional considerations the Family Court should consider when determining what is in a child's best interests for family law matters. Primary considerations the Family Court must consider are:

- the benefit to the child of having a meaningful relationship with both of the child's parents, and
- the need to protect the child from physical or psychological harm and from being subjected to, or exposed to abuse, neglect or family violence.

55. Additional considerations which the Family Court must consider when determining what is in a child's best interest are:

- any view expressed by the child and any factors that the Family Court thinks are relevant to the weight it should give to the child's view
- the nature of the child's relationship with each of their parents and other persons such as a grandparent or relative of the child
- the extent each of the child's parents have taken the opportunity to participate in decisions about major long-term issues about the child, spend time with the child and communicate with the child
- the extent to which each of the child's parents has fulfilled, or failed to fulfil, the parent's obligations to maintain the child
- the likely effect of any changes in the child's circumstances, including the likely effect on the child of any separation from either of his or her parents, or any other child, or other person (including any grandparent or other relative of the child) with whom the child has been living
- the practical difficulty and expense of a child spending time with and communicating with a parent and whether that difficulty or expense will substantially affect the child's right to maintain personal relations and direct contact with both parents on a regular basis
- the capacity of each of the child's parents, and any other person (including any grandparent or other relative of the child), to provide for the needs of the child, including emotional and intellectual needs
- the maturity, sex, lifestyle and background (including lifestyle, culture and traditions) of the child and of either of the child's parents, and any other characteristics of the child that the court thinks are relevant
- if the child is an Aboriginal or a Torres Strait Islander child:
  - the child's right to enjoy his or her Aboriginal or Torres Strait Islander culture (including the right to enjoy that culture with other people who share that culture) and
  - the likely impact any proposed parenting order will have on that right
- the attitude to the child, and to the responsibilities of parenthood, demonstrated by each of the child's parents
- any family violence involving the child or a member of the child's family
- if a family violence order applies, or has applied, to the child or a member of the child's family – any relevant inferences that can be drawn from the order
- whether it would be preferable to make the order that would be least likely to lead to the institution of further proceedings in relation to the child, and
- any other fact or circumstance that the court thinks is relevant.

56. While many aspects of this list are specific to family law proceedings, there are a number of criteria which would be relevant to guiding considerations about what is in the best interests of a child within the child protection system, including its oversight. These include:

- the need to protect the child from physical or psychological harm from being subjected to, or exposed to abuse, neglect or family violence
- the benefit to the child of having a meaningful relationship with both of the child's parents
- any view expressed by the child
- the nature of the child's relationship with each of their parents and other persons such as a grandparent or relative of the child

- the likely effect of any changes in the child's circumstances, including the likely effect on the child of any separation from any other child or other person (including any grandparent or other relative of the child) with whom the child has been living)
- the needs of the child, including emotional and intellectual needs
- the maturity, sex, lifestyle and background (including lifestyle, culture and traditions) of the child and of either of the child's parents and
- if the child is an Aboriginal or a Torres Strait Islander child:
  - the child's right to enjoy his or her Aboriginal or Torres Strait Islander culture (including the right to enjoy that culture with other people who share that culture) and
  - the likely impact any proposed parenting order will have on that right.

57. Because of the significantly poorer educational outcomes for children in out-of-home care, the CCYPCG is of the view that the educational opportunities available to a child should be included in any list of best interest criteria.
58. Inclusion of specific criteria in the CP Act and the CCYPCG Act would assist officers in decision-making about what is in a child's best interest. Inclusion of criteria would have the additional benefit of standardising 'best interest' decision-making across agencies, Courts and Tribunals, and ensure that legislated considerations are taken into account, including the importance of taking in account the views of children.

Recommendation 7. The *Child Protection Act 1999* and the *Commission for Children and Young People and Child Guardian Act 2000* include direction about how to determine what is in a child's best interest in decision-making, including identifying specific matters that need to be considered when determining what is in a child's best interest

Commission for Children and Young People and Child Guardian Act 2000

3. b**) reviewing** Queensland legislation about the protection of children, including the *Child Protection Act 1999* and **relevant parts of the *Commission for Children and Young People and Child Guardian Act 2000***

Independent carriage of *Commission for Children and Young People and Child Guardian Act 2000*

59. Independent evidence-based oversight has an important role to play in improving the transparency of the child protection system. Reporting the outcomes of this oversight activity can provide Parliament, Cabinet and the community with critical information about the performance of the system and outcomes for children. Establishing such a mechanism which inspires public confidence is a long-term proposition related to perceptions of independence and the credibility that the oversight authority can establish.

60. When introducing the Commission for Children and Young People Bill in June 2000, it was clearly stated that the transfer of the Commission to the Premier's portfolio was effected to strengthen its independence and ensure that the "voice of our younger citizens will be heard at the highest level of Government". Hansard records indicate that during the final debate of the Bill in November 2000, there was bi-partisan support for the Commissioner's mandate to control the CCYPCG, the Commissioner's powers and the Commissioner's independence from ministerial control.[23] The relevant sections[24] were agreed to without debate.

61. The adoption of this position was guided by both the 1999 Forde Inquiry[25] (recommendation 25) and the 1999 Briton Report[26]. Both reports recommended that the CCYPCG's independence be assured and that the agency be connected to the Department of the Premier and Cabinet. In his report, John Briton noted that children's rights commissions need secure independence in both "*actuality and perception*"[27]

62. The rationale given for Recommendation 25 in the Forde Inquiry was that the Commission's linkage to the then Department of Families, Youth and Community Care, gave the perception of ministerial control and created the potential for conflicts of interest. Briton (and supported by Forde) clearly stated that *"…the Commission should report not to the Minister, or any other Minister with portfolio responsibilities for direct service provision to children and young people, but to the Premier."*

63. The December 2008 (Part A) report *A Public Interest Map: An Independent Review of Queensland Government Boards, Committees and Statutory Authorities* by reviewers Ms Simone Webbe and Professor Patrick Weller AO[28], is consistent with this view. Webbe and Weller make the point that the decision about whether to create a non-departmental body is in part about risk. They make the point that *"it is not just a determination of the likelihood that ministerial interference might occur but the magnitude of the consequences should that event occur".*[29]

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[23] Hansard, Committee Cognate Debate, 14 November 2000, pp4384-4386

[24] Sections 13, 16 and 17

[25] Forde L, Thomason J, and Heilpern H, *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions*, May 1999 (The Forde Inquiry)

[26] Briton J, Gordon P, Parker S and Airo-Farulla G, *Review of the Queensland Children's Commissioner and Children's Services Appeals Tribunals Act 1996*, April 1999 (The Briton Report)

[27] Briton J, Gordon P, Parker S and Airo-Farulla G, *Review of the Queensland Children's Commissioner and Children's Services Appeals Tribunals Act 1996*, April 1999 (The Briton Report) pp 17-18.

[28] http://www.premiers.qld.gov.au/government/assets/part-a-report-independent-review-of-govt-bodies.pdf

[29] Webbe S, Weller P, *A Public Interest Map: An Independent Review of Queensland Government Boards, Committees and Statutory Authorities,* Part A, December 2008, p 20, paragraph 4.1.1

64. In the CCYPCG's case, the magnitude of potential consequences identified by Forde and Briton were clearly real enough for the independence provisions within the 2000 Bill to go through unquestioned (and reinforced in the 2004 Crime and Misconduct Commission report[30] and subsequent Government response[31]).

65. This approach is further supported in the similar finding of the *Protecting Victoria's Vulnerable Children Inquiry*[32] that there was insufficient independent oversight of Victoria's system for protecting vulnerable children.[33] The Victorian Government subsequently committed to the creation of an independent Children's Commissioner (reporting directly to the Parliament) with powers "*to initiate reviews about the safety of children who have been abused or neglected*."[34] The Inquiry's final report also recommended that the Commissioner be appointed by the Governor-in-Council for five years, report to Parliament annually and be at arm's length to the department being oversighted.

66. To return to the Queensland experience, administrative responsibility for the CCYPCG's Act stayed within the Premier's portfolio until 2009. After the election that year it was transferred to the Minister for Community Services and Housing and Minister for Women. Predictably, the transfer of administrative responsibility drew immediate adverse reaction from the then Opposition, the media and a number of non-government organisations (NGOs).

67. Following the election in 2012 administrative responsibility for the CCYPCG's Act has been placed with the Minister for Communities, Child Safety and Disability Services.

68. Of further interest is that Briton also noted that if the CCYPCG has a broad cross portfolio jurisdiction to advocate for children and young people who "*fall through the cracks*" between departmental responsibilities, the CCYPCG's role in bringing agencies together to solve problems would not be helped by it being attached to any one agency.[35] Given that the CCYPCG also has a broad remit to promote the interests of all children and young people in Queensland, not just those in the tertiary child protection and youth justice systems and a duty to report on the progress of children more generally, there is arguably value in having strong linkages with central agency ministers who have responsibilities for the broader whole of government strategic agenda and governance arrangements.

69. In summary, it is submitted that the most appropriate administrative responsibility option for ensuring optimal alignment with legislative intent is to return administration of the CCYPCG's legislation to the Premier or to a minister of a central agency portfolio (e.g. Treasury) provided the functions within the Minister's portfolio do not include any that the CCYPCG oversights.

Recommendation 8. That carriage of the *Commission for Children and Young People and Child Guardian Act 2000* be assigned to the Premier or a Minister of a central agency, such as the Treasurer, provided the functions of the Minister's portfolio do not include functions for which the CCYPCG has oversight responsibilities

[30] Crime and Misconduct Commission, *Protecting Children an Inquiry Into Abuse of Children in Foster Care*, January 2004

[31] Queensland Government, *A Blueprint for implementing the recommendations of the January 2004 Crime and Misconduct Commission Report "Protecting Children: An Inquiry Into Abuse of Children in Foster Care*", March 2004

[32] Cummins P, Scott D, Scales B, *Report of the Protecting Victoria's Vulnerable Children Inquiry*, January 2012 (http://www.childprotectioninquiry.vic.gov.au/).

[33] Cummins P, Scott D, Scales B, *Report of the Protecting Victoria's Vulnerable Children Inquiry*, January 2012, Volume 2 Part 7, p512

[34] http://www.budget.vic.gov.au/domino/Web_Notes/budgets/budget11.nsf/d6e571e551bef80eca2572bb002bcea7/02991e5cb330a544ca25788500066214!OpenDocument

[35] Briton J, Gordon P, Parker S and Airo-Farulla G, *Review of* the *Queensland Children's Commissioner and Children's Services Appeals Tribunals Act 1996*, April 1999 (The Briton Report) p19

Legislate for bi-partisan appointment of Commissioner

70. Currently the Commissioner is appointed by the Governor in Council on the recommendation of the Government of the day. This practice has not caused any controversy since the independence of the CCYPCG was strengthened in 2000 however it is suggested a more appropriate approach would be to mandate a bipartisan appointment process,

71. Section 59 of the *Ombudsman Act 2001* provides some useful guidance on this issue. This section requires national advertising and consultation with the Parliamentary committee as part of the process of appointing a new Ombudsman. This arrangement promotes a sense of political bi-partisanship and strengthens the Ombudsman's relationship with Parliament.

72. A joint Parliamentary committee became responsible for oversight of the performance of the CCYPCG following the 2009 election. The Health and Community Services Committee is the latest iteration of this arrangement. Noting the roles and responsibilities of this Committee (see recommendations 11 and 12 below), it would seem appropriate to include the thrust of Section 59 of the *Ombudsman Act 2001* into the CCYPCG's Act to encourage bi-partisan support for this independent oversight body and promote public confidence in its work.

Recommendation 9. That the *Commission for Children and Young People and Child Guardian Act 2000* be amended to incorporate the thrust of section 59 of the *Ombudsman Act 2001* relating to appointment of the Ombudsman, to promote bipartisan appointments of the Commissioner

Mandate regular, formal reviews to build public confidence

73. The CCYPCG's Act does not currently include a requirement for a periodic review of the strategic direction of the agency.

74. Both the *Ombudsman Act 2001* and the *Auditor-General Act 2009* contain sections requiring a strategic review of their respective agency's functions and performance to assess whether they are being performed economically, effectively and efficiently.

75. This is considered to be a strong measure to promote public confidence that the powers invested in these entities and their exercise of these powers has been effective and efficient. The periodic review mechanism also provides public assurance that the invested powers are still contemporary and adequate.

76. It is proposed a similar review mechanism be incorporated in the CCYPCG's Act. In effect, it would provide an appropriate legislated timeframe to review the effectiveness of the organisation in meeting its accountabilities under the Act, and also the effectiveness of the provisions within the Act itself. A clause should also be added requiring the appointed reviewer to consult with the Parliamentary committee oversighting the CCYPCG's Act. This requirement will promote openness, accountability and a bi-partisan approach to the recommendations made by the reviewer.

Recommendation 10. That the *Commission for Children and Young People and Child Guardian Act 2000* be amended to incorporate the thrust of sections 83, 84 and 85 of the *Ombudsman Act 2001* related to the periodic strategic review of the Ombudsman's functions; with an additional point "(c)" under the definition of strategic review stipulating that the review should also provide recommendations for the strategic direction and funding needs of the CCYPCG for the next five year period and an additional point "(c)" in section 84 stipulating that the reviewer must consult with the Parliamentary committee oversighting the CCYPCG at that time

Legislate a strong connection to Parliament and the community

77. Section 89 of the *Ombudsman Act 2001* enshrines the responsibilities of the Parliamentary committee oversighting the Ombudsman's functions in the Act. At present, the Parliamentary committee oversighting the CCYPCG is a creation of the current Parliament i.e. it is not a standing committee.

78. Nevertheless, the committee's role is to:

- monitor and review the performance by the CCYPCG of its functions
- report to the Legislative Assembly on:
  - any matter concerning the CCYPCG, its functions or the performance of its functions
  - any changes to the functions, structures and procedures of the CCYPCG that are desirable for more effective operation of the CCYPCG or the *Commission for Children and Young People and Child Guardian Act 2000*
- examine the annual report of the CCYPCG and, if appropriate, comment on any aspect of the report."

79. Noting the argument made above about a five year strategic review cycle for the CCYPCG, and suggestions made elsewhere in this submission about the role the Parliamentary committee should play in promoting and ensuring the independence of the CCYPCG, it would be prudent to incorporate the Parliamentary committee's accountabilities in the CCYPCG Act. This action will ensure the roles and responsibilities of the Committee are clearly defined and can be assessed as part of the proposed strategic reviews.

80. Similarly, it should be noted that there is no express provision for the current Parliamentary committee oversighting the CCYPCG to be included in any legislative or policy development process related to the CCYPCG Act. In the interests of open, accountable and efficient government, it may be useful to include mandatory consultation with the Committee as a pre-requisite to any legislative or policy change process related to the CCYPCG Act or its core functions (no matter to which portfolio the CCYPCG is eventually attached).

Recommendation 11. That the *Commission for Children and Young People and Child Guardian Act 2000* be amended to incorporate the thrust of section 89 of the *Ombudsman Act 2001* relating to the oversight responsibilities of the Parliamentary committee with respect to the Ombudsman's functions to embed the responsibilities of the Parliamentary committee oversighting the CCYPCG in legislation

Recommendation 12. That the *Commission for Children and Young People and Child Guardian Act 2000* be amended to include mandatory consultation with the Parliamentary committee oversighting the CCYPCG as a pre-requisite to any legislative or policy change process related to the *Commission for Children and Young People and Child Guardian Act 2000* or its core functions

Establish a consistent jurisdiction across youth justice and child safety systems

81. The application of jurisdiction regarding the child safety and youth justice systems across the CCYPCG's functions is inconsistent. A summary of the relevant provisions is included at Appendix D to this submission.

82. Section 23(1)(e)(i) of the CCYPCG Act provides that in performing the Commissioner's Child Guardian functions, the Commissioner must give priority to the needs and interests of children who are in, or may enter, out-of-home care or detention in a detention centre.

83. However, while the CCYPCG has express powers to receive, resolve and/or investigate complaints about children in both the child protection and youth justice systems[36] and to visit children in out-of-home care, including youth detention,[37] the systemic monitoring powers are targeted more clearly at children in the child protection system.

84. Given the vulnerabilities and risk factors of young people entering out-of-home care (whether under child protection or youth detention orders) are known to be similar, and a proportion of the children are under dual orders, the CCYPCG recommends that its Child Guardian function and powers should apply equally to both statutory systems. This could be achieved by amending the investigative and systemic monitoring and review provisions of the CCYPCG Act to combine both into one Chapter, which would simplify and streamline processes for conducting investigations, audits and reviews.

Recommendation 13. That the chapters of the *Commission for Children and Young People and Child Guardian Act 2000* that relate to the Commissioner's monitoring, complaints and investigations, and Community Visitor functions be revised and amended so that the Commissioner's jurisdiction is equally applied to all children in the youth justice and child protection systems

Require 17 year olds placed in adult prisons to be within the jurisdiction of the CCYPCG Act until they come under the jurisdiction of the *Youth Justice Act 1992*

85. The CCYPCG does not currently have statutory powers to receive, resolve and/or investigate complaints about 17 year olds in adult detention centres or to visit those young people.

86. The CCYPCG has advocated for the removal of 17 year olds from Queensland's adult prisons since 2006, recommending that they be treated in accordance with the provisions of the *Youth Justice Act 1992.* This would provide them with full access to the Charter of Youth Justice Principles, which not only enshrines special protections for young people on the basis that they are more vulnerable than adults, but also importantly includes principles of accountability and responsibility for young people.[38]

87. However, given that this situation has not changed, the CCYPCG has recently commenced visiting 17 year olds in adult detention centres with the approval of the Department of Community Safety under an administrative agreement. As it appears that 17 year olds are unlikely to be moved to the youth justice system in the near future, it is recommended that these young people are also specifically identified within the CCYPCG's advocacy, complaints, monitoring, investigative and visiting jurisdictions.

88. Further, should the Government proceed with plans to implement alternate arrangements for young people in the youth justice system, including "boot camps", the CCYPCG is keen to ensure that its Child Guardian functions are also extended to offer young people in those programs the benefit of its advocacy, complaints, monitoring, investigative and visiting jurisdictions.

Recommendation 14. That the jurisdiction of the *Commission for Children and Young People and Child Guardian Act 2000* be extended to specifically include 17 year olds placed in adult prisons, until they come under the jurisdiction of the *Youth Justice Act 1992*, and young people subject to any youth justice programs

[36] Section 54, *Commission for Children and Young People and Child Guardian Act 2000*
[37] Section 86, *Commission for Children and Young People and Child Guardian Act 2000*
[38] Commission for Children and Young People and Child Guardian (2006), *Child Guardian Report*. Brisbane, p75 and Commission for Children and Young People and Child Guardian (2010), *Removing 17 year olds from Queensland prisons and placing them in youth detention Policy Position Paper,* Brisbane. Accessed at http://www.ccypcg.qld.gov.au/pdf/publications/papers/17-year-olds-Policy-Position-Paper.pdf

The effectiveness of Queensland's current child protection system in its current use of available resources

3.c) reviewing the effectiveness of Queensland's current child protection system in the following areas: i. whether the current use of available resources across the child protection system is adequate and whether resources could be used more efficiently

Identify the full expenditure on prevention and early intervention supports and programs

89. Although there are billions of dollars spent on prevention and early intervention supports and programs in Queensland, there is no reporting of the total Queensland Government expenditure on prevention and early intervention, and possibly no knowledge of what the total amount is.

90. The Commission of Inquiry's emerging issues paper of September 2012, made reference to observations in the Productivity Commission's Report on Government Services for 2010–11 where it was indicated that despite the flagship programs, which include Referral for Active Intervention, Helping Out Families, and the establishment of Family Support Alliances, that '…Queensland still spends substantially less on secondary support services than NSW and Victoria[39]. The CCYPCG is of the view that there is a significant amount of funding provided to support a range of prevention and early intervention programs, which are not flagship programs, across a number of portfolio areas which is currently not collated into a total amount.

91. Mr Brad Swan, Executive-Director of Child Safety in the Department of Communities, Child Safety and Disability Services in his evidence to the Commission of Inquiry on 16 August 2012 said that $2.1 billion of the then Department of Communities' total budget of approximately $4 billion for 2010-11 was for grants to non-government organisations to provide various family support, intervention, and domestic violence services.

92. This constitutes more than half the total of the then Department of Communities' budget. However, prevention and early intervention programs and support services are also funded by Queensland Health, the Department of Education, Training and Employment, and the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs and there appears to be no calculation of the total Queensland Government's expenditure on prevention and early intervention strategies or programs.

93. There is also no overall strategic agenda to set the direction and identify the required outcomes for this expenditure, and no overall governance structure to improve reporting and accountability. There is a consistent argument that 'more' needs to be spent on primary and secondary family support, but without knowing how much in total is currently being spent, and what outcomes current and future expenditure needs to achieve, it is unlikely that significant outcomes will be achieved or that there will be value for money in this expenditure.

Recommendation 15. That the total expenditure of Government on prevention and early intervention be ascertained including funding to government, non-government and corporate providers and across all departments to provide a comprehensive understanding of the available resources across the child protection system

[39] Queensland Child Protection Commission of Inquiry: emerging issues, September 2012.

Establish a strategic plan and corporate governance structure for prevention and early intervention planning and accountability

94. The CCYPCG is of the view that there should be a clearly defined governance structure for co-ordinating and planning the types of prevention and early intervention programs and supports needed to reduce the demand for tertiary services in each area across the state and determining who is responsible for providing these services. This should include a planning for the short, medium and longer term, using existing data to identify areas of need and developing a planned strategy for which needs will be addressed in which areas over a given time frame and budget.

95. Outcome measures based on key social indicators such as a reduction in abuse and neglect in the community, a reduction in demand for tertiary child protection services, greater school attendance and school retention rates need to be clearly identified, measured and reported on. The indicators for measuring the National Child Protection Framework would provide a sensible and nationally consistent basis on which to measure the effectiveness of the programs and supports provided.

96. This governance structure could be similar to the Directors-General Coordinating Committee recommended (recommendation 4.2) by the CMC Inquiry in 2004 which was chaired by the Director-General of the Department of Premier and Cabinet, but instead of being established to coordinate the delivery of multi-agency child protection services, is to be tasked with coordinating the delivery of multi-agency prevention and early intervention services.

Recommendation 16. That a strategic plan and corporate governance structure be developed to co-ordinate prevention and early intervention spending and improve reporting and accountability against identified outcomes with respect to reducing abuse and neglect of children and consequentially reducing the demand on the tertiary child protection system

Resources provided to the primary and secondary areas of child protection must demonstrate an effect before the tertiary system can be scaled back

97. Inquiries into the child protection system in Victoria[40] in 2012 and Queensland[41] in 2004 similarly emphasised the role primary and secondary prevention and early intervention programs can play in reducing the number of children requiring tertiary intervention.

98. Children and families who are at risk of, or who come into contact with the child protection system often have complex and multi-dimensional histories of disadvantage, including neglect, abuse, domestic and family violence and physical and mental health problems. Many of these problems are inter-generationally entrenched. The multi-faceted nature of these families' needs mean that they can require a combination of different types and degrees of support over extended periods of time. It also means that the service responses required vary according to families' changing circumstances and the impact of situational stresses.

99. In Queensland, non-government agencies are funded to deliver child and family support and intervention programs on behalf of the Queensland Government. However as the ultimate responsibility and accountability for the performance of these agencies is retained by the Queensland Government, the government has a responsibility to monitor and assess the effectiveness of non-government services provided to vulnerable children and their families.[42]

[40] *Report of the Victoria's Vulnerable Children Inquiry* (2012). Victorian Government at http://www.childprotectioninquiry.vic.gov.au/report-pvvc-inquiry.html)
[41] *Protecting Children*: *Inquiry into Abuse of Children in Foster Care*, (2004). Queensland Crime and Misconduct Commission Report.
[42] *Protecting Children*: *Inquiry into Abuse of Children in Foster Care*, (2004). Queensland Crime and Misconduct Commission Report.

100. While government has a clear responsibility to ensure child and family support and intervention programs produce positive, cost-efficient outcomes, there is a paucity of evidence supporting the effectiveness of many programs in the Australian context.[43] For example, the recent *Protecting Victoria's Vulnerable Children Inquiry* found where evidence existed for program effectiveness; this most often came only from overseas contexts.

101. Where local evaluations did exist the findings were far less conclusive than the rigorous and extensive longitudinal evaluations of international programs. Specifically, the *Protecting Victoria's Vulnerable Children Inquiry* concluded that the data reported by government and non-government agencies did not provide the basis for making a comprehensive assessment of the effectiveness of family services and particularly with regard to their effect on the incidence of child abuse and neglect.[44]

102. This is problematic as an important outcome or underlying goal for most child and family support and intervention programs is to reduce participant children's subsequent need for tertiary child protection intervention. Currently, the criteria to measure program effectiveness, often focuses on measures of participant attendance and satisfaction which provide no consistent information about program effectiveness, particularly in reducing demand on the tertiary system.

103. It is therefore difficult to compare outcomes across programs to determine relative levels of effectiveness. The CCYPCG is of the view that outcomes data on an identified range of key social indicators, but with a particular emphasis on reduction of harm to children and a reduced demand on the tertiary child protection system, should be recorded. Evidence on program effectiveness should also be part of a cycle of the ongoing development and improvement of programs.[45]

104. The 2012 *Report of the Victoria's Vulnerable Children Inquiry* found that while Victoria already has a substantial range of early intervention programs targeting vulnerable children and young people, *they do not come together to form a comprehensive, coherent and coordinated system of early interventions that addresses the needs of vulnerable children and their families*.[46]

105. The Victorian experience has revealed, there is no 'silver bullet' when it comes to child protection and the existence of primary and secondary support services alone does not overcome the need for tertiary interventions.

106. Consequently, it is crucial that adequate resources are available to support the Department of Communities, Child Safety Services and other relevant agencies to maintain an effective and independently monitored tertiary child protection system and that any reduction in funding to the tertiary system is conditional upon a demonstrated effectiveness of secondary services resulting in an actual reduction in the tertiary interventions required.

107. Simply increasing funding to the primary and secondary services does not of itself amount to an automatic reduction in the funding required by the tertiary system, especially because the nature and needs of child protection matters are often ongoing, varied and complex. It is also important to note that implementing effective primary and secondary preventive programs can be a lengthy process, and it is likely to be quite some time before the benefits of such expenditure become apparent.[47]

Recommendation 17. That the Commission of Inquiry recognises that, until services provided in the primary and secondary child and family support areas are able to demonstrate a clear and actual reduction in the need for tertiary interventions, the tertiary system will need to be adequately funded to meet the current and actual level of need

[43] *Report of the Victoria's Vulnerable Children Inquiry* (2012). Victorian Government at http://www.childprotectioninquiry.vic.gov.au/report-pvvc-inquiry.html); *Protecting Children*: *Inquiry into Abuse of Children in Foster Care*, (2004). Queensland Crime and Misconduct Commission Report.
[44] *Report of the Victoria's Vulnerable Children Inquiry* (2012). Victorian Government at http://www.childprotectioninquiry.vic.gov.au/report-pvvc-inquiry.html)
[45] Lamont, A. (2009). Evaluating child abuse and neglect intervention programs. *National Child Protection Clearinghouse,* Resource Sheet No. 5 Parker, R. (2010). Evaluation in family support services: Part B. Broader issues: Evidence-based practice, service-based evaluation, and ethics in evaluation. *Australian Family Relationships Clearinghouse*, Issues, No. 6.
[46] See fully copy of Victorian report at http://www.childprotectioninquiry.vic.gov.au/report-pvvc-inquiry.html
[47] *Protecting Children*: *Inquiry into Abuse of Children in Foster Care*, Queensland Crime and Misconduct Commission Report, 2004

The effectiveness of the current Queensland government response to children and families in the child protection system

3. c) reviewing the effectiveness of Queensland's current child protection system in the following areas:
ii. **the current Queensland government response to children and families in the child protection system** including the appropriateness of the level of, and support for, front line staffing

108. The CCYPCG is treating this term of reference to include all services provided in the prevention and early intervention frame up to when a child is formally taken into the tertiary child protection system by way of a Court Order or an Intervention with Parental Agreement. The CCYPCG will address matters relating to tertiary system in the term of reference (3. c) iii.) following:

Improve processes around support for vulnerable families

109. The protection of children involves more than responding, through statutory intervention, to child abuse and neglect which has already occurred. In addition to statutory intervention and services, Queensland's child protection system also includes non-statutory secondary services (early intervention and prevention services to families with identified problems to assist in preventing child abuse and neglect) and non-statutory primary services (universal services available to support all families such as parenting programs, schools and child care).

110. Participation in universal services such as those provided by frontline health and education professionals, including maternal child health, kindergartens and schools; helps bring families together and reduce social isolation. Moreover, universal services increase the 'visibility' of vulnerable children and families to the broader community, which in turn have an opportunity to respond to the needs of these children and families.[48]

111. It is suggested that by increasing participation at this primary level, vulnerable families can be connected with targeted secondary services ensuring intervention at an early stage with the view to reducing the number of cases requiring statutory intervention. It is acknowledged that in Queensland that there have been a number of initiatives aimed at providing support for vulnerable children and their families. However, at present these initiatives do not appear to form a comprehensive, coherent and coordinated system of early interventions to adequately address the varying needs of vulnerable children and their families across the state and prevent their escalation to more serious concerns.

112. As noted above, there needs to be a comprehensive understanding of the total of current expenditure on prevention and early intervention services across all government departments in Queensland and a more strategic and co-ordinated approach to the planning of these services, the outcomes to be achieved and the allocation of funding. There also needs to be a greater accountability for achieving identified outcomes for funding provided.

113. Besides a lack of widespread availability and accessibility to support, there is a potential stigma attached to families who need to access these services. The existing secondary services are often branded in a way which suggests an obvious connection with the child protection system. This issue is compounded by the fact that many vulnerable families have had adverse experiences with authorities, resulting in a distrust of health and welfare agencies.[49]

[48] Protecting Victoria's Vulnerable Children Inquiry. (2012). *Report of the Protecting Victoria's Vulnerable Children Inquiry Volume 2.* State Government Victoria.
[49] National Child Abuse Clearing House, Australian Institute of Family Studies. (2008). Child Abuse Prevention Issues No 29 http://dbayfamilies.org/content_media/documents/childrenlivinginfamilieswithparentalsubstanceabuse.pdf

114. In order to better facilitate and encourage engagement at an early stage by families in need, it is suggested that the secondary targeted services need to be named in a non-stigmatising way. In addition these services need to be available in all regions and be branded consistently, allowing families to easily re-engage with the same service if they move home. The standard and quality of service provided must also be consistent no matter which service or in which location it is provided. In addition it is essential there are appropriate structures in place to link families to services which they see as relevant to them further encouraging active participation.

115. Many families experience a range of issues in their family life which make them vulnerable and in need of support. These issues are often complex and cover many different areas of family life including possible substance misuse, psychological problems, domestic violence as well as external stressors, such as housing and financial strains and unemployment, often resulting in feelings of social isolation.[50] By ensuring that universal and secondary services are accessible, consistently provided across the state and that there is a structured system to link families to relevant services, some of these complex multifaceted issues may be adequately addressed before intervention is required by the statutory child protection system.

Recommendation 18. That programs designed to provide primary and secondary child and family support be made as widely available as possible across the state, be based on a public health model approach, not be obviously identified with the child protection system, have non-stigmatising names and approaches, and be consistently badged regardless of which service provider is delivering the service

Tailor child and family support for Aboriginal and Torres Strait Islander children and families

116. Aboriginal and Torres Strait Islander children and families are significantly over-represented at every stage of the child protection system and these young people are increasing their contact with the child protection system at rates disproportionate to non-Indigenous children.[51] See Figure 2.

Figure 2 - Indigenous comparison rates in child protection

Measures	2010–11		2010-11
Rate of Aboriginal and Torres Strait Islander children subject to a notification (per 1000) (Departmental data)	70.7	Rate of Non-Indigenous children subject to a notification (per 1000) (Departmental data)	14.1
Rate of Aboriginal and Torres Strait Islander children subject to a substantiation (per 1000) (Departmental data)	24.7	Rate of Non-Indigenous children subject to a substantiation (per 1000) (Departmental data)	4.1
Rate of Aboriginal and Torres Strait Islander children in out-of-home care (per 1000)	40.7	Rate of non-Indigenous children in out-of-home care (per 1000)	4.7

[50] National Child Abuse Clearing House, Australian Institute of Family Studies. (2008). Child Abuse Prevention Issues No 29 http://dbayfamilies.org/content_media/documents/childrenlivinginfamilieswithparentalsubstanceabuse.pdf

[51] *Queensland Child Guardian Key Outcome Indicator Update – Queensland Child Protection Report 2008-2011*

117. The reasons for the over-representation of Indigenous children in the child protection system are extremely complex. Research suggests that factors such as historical abuse, disadvantaged socioeconomic status, drug and alcohol abuse and related violence, and inadequate housing may be associated with heightened risk of child abuse and neglect amongst Indigenous children.[52] The challenges faced by some communities, such as poverty, unemployment, poor health, and social dysfunction, have not been addressed through traditional models of government service provision, and have failed to draw on the strengths of communities.[53]

118. Involving Aboriginal and Torres Strait Islander people in processes to achieve change in a genuine and comprehensive way is vital. The Productivity Commission's *Overcoming Indigenous Disadvantage*[54] report notes the importance of good governance in providing high quality services. In conjunction with good governance, a place-based planning process achieves the best results and these processes require sufficient time and a commitment to build positive relationships and engage in genuine community consultation. Recent Australian and international literature suggests that place-based initiatives should involve all levels of government and the local community.[55] As the situational needs of every community will be different, the nature and type of service delivery should be tailored to these needs.[56]

119. The importance of Indigenous participation in governance of these processes was a resounding message in the Australian Institute of Family Studies'(AIFS) research paper '*Safe and supportive Indigenous families and communities for children: A synopsis and critique of Australian research*' (August 2012).[57] This paper reviewed the research on building safe and supportive families and communities for Indigenous children in Australia and based on assessments of 22 research and evaluation reports, it examined the evidence base in the areas of building safe and supportive Indigenous communities for children and families; support for vulnerable and at-risk Indigenous families, and prevention of child abuse and neglect in Indigenous families and communities.

120. With respect to Indigenous participation, AIFS' key messages included:
- Indigenous participation in the planning, delivery and measurement of programs is critical in fostering greater trust and connectivity and enhancing community awareness
- Engagement strategies work best when Indigenous families are consulted about their needs, and services respond using holistic approaches that are delivered in a culturally sensitive manner, and
- A collaborative approach to service delivery has resulted in a reduction of service duplication, more efficient use of resources and the promotion of shared goals. It is unclear whether these benefits will result in positive outcomes for Indigenous families in the longer-term.

121. AIFS also found in relation to the services, that:
- Longer time-frames than those currently provided are required for programs and services to:
  - build trusting relationships with Indigenous families and community partners
  - identify client needs and to plan and implement appropriate responses
  - devise and deliver effective engagement strategies
  - foster Indigenous cultural understandings for service staff and for the broader community, and
  - develop evaluation strategies that identify longer-term outcomes for Indigenous families.
- When Indigenous clients exit from programs there is little known about the impact that services have had on their families beyond their engagement with the program.

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[52] Berlyn and Bromfield (2009) cited in Aboriginal and Torres Strait Islander child safety, May 2011, Australian Institute of Health and Welfare Canberra Australian Institute of Family Studies. Retrieved from http://www.aihw.gov.au/publication-detail/?id=10737418980

[53] *Place-based initiatives and Indigenous justice*, Robyn Gilbert, June 2012, Indigenous Justice Clearinghouse, Brief 13.

[54] (http://www.pc.gov.au/gsp/indigenous/)

[55] Australian Social Inclusion Board (ASIB) 2011. *Governance models for location based initiatives*. Australian Social Inclusion Board, Department of the Prime Minister and Cabinet: Canberra. http://www.socialinclusion. gov.au/resources/asib-publications; Bradford N 2005. *Place-based public policy: towards a new urban and community agenda forCanada*. Canadian Policy Research Network. http://www.cprn.org/doc.cfm?l=en&doc=1186

[56] As noted in the Commission's submission to the Senate Education, Employment and Workplace Relations Committee in September 2009 regarding the Senate Inquiry into the Provision of Child Care.

[57] *Safe and supportive Indigenous families and communities for children A synopsis and critique of Australian research,* Shaun Lohoar**,** Published by the Australian Institute of Family Studies, August 2012, 23 (http://www.aifs.gov.au/cfca/pubs/papers/a142302/index.html)

- Short funding periods and limited resources for programs have restricted the capacity of some services to provide appropriate support to Indigenous families.
- Indigenous perspectives about how child abuse prevention information is shared among the community can help to identify where, when and how child prevention interventions could be delivered.
- Program evaluation data are rarely linked to population-wide data to establish the longer-term impact of programs on Indigenous families and communities. Improved data linkage may help to establish a solid evidence base to inform child protection strategies for Indigenous families and communities.

Recommendation 19. That child and family support programs be tailored to address, and be informed by, the particular needs of Aboriginal and Torres Strait Islander children and families

Increase diversionary options for Aboriginal and Torres Strait Islander children

122. In 2009-10, 169 children subject to a finalised child protection order for more than 12 months were admitted to a supervised youth justice order at some time during the year. This represents 4.8% of all children aged 10 to 17 years subject to a finalised child protection order during 2009–10 and subject to this order for more than 12 months.

123. Young people subject to dual youth justice and child protection orders are amongst the most vulnerable and disadvantaged, requiring intensive support to address their specific needs and behaviours. Aboriginal and Torres Strait Islander young people on dual orders (youth justice and child protection orders) are a particularly vulnerable group, hence monitoring the availability and effectiveness of diversionary programs for these young people will be a key focus for the CCYPCG in the future.

124. Aboriginal and Torres Strait Islander youth have been found less likely to access diversions (including cautioning and youth justice conferencing), even after controlling for the effects of age, sex, offence type and prior history.[58] Explanations put forward for the disparity include potential racial bias, indigenous youths' unwillingness to engage in a police interview and plead guilty thereby making them ineligible for diversion, and the lack of trained officers in remote regions.[59]

125. The *Youth Justice Act 1992* places an emphasis on diversionary measures to avoid young people proceeding further into the criminal justice system, rehabilitation and the use of detention only as a last resort and for the shortest amount of time possible.[60] In particular, the *Youth Justice Act 1992* outlines specific diversionary measures to consider before proceeding with a charge, such as cautioning and youth justice conferencing.[61]

126. Additionally, the *Forde Inquiry* recommended that there be a concerted whole-of-government effort to reduce the gross over-representation of Aboriginal and Torres Strait Islander young people in the youth justice system and recommended that action be taken to address the issue of the large numbers of young people on remand in order to reduce the number placed in youth detention centres.

[58] Allard, T., Stewart, A., Chrzanowski, A., Ogilvie, J., Birks, D., & Little, S. (2010). *Police diversion of young offenders and Indigenous over-representation.* Canberra: Australian Institute of Criminology.
[59] Allard, T., Stewart, A., Chrzanowski, A., Ogilvie, J., Birks, D., & Little, S. (2010). *Police diversion of young offenders and Indigenous over-representation.* Canberra: Australian Institute of Criminology.
[60] Schedule 1 'Charter of Youth Justice' of the *Youth Justice Act 1992*.
[61] *Parts 2 to 3 of the Youth Justice Act 1992.*

127. The CCYPCG's inaugural *Child Guardian Report: Youth Justice System 2010-11* indicates that formal cautioning was the most common police action outcome for young people aged 10 to 15 years, which is appropriate and in accordance with the *Youth Justice Act 1992*. However, Aboriginal and Torres Strait Islander young people were far more likely to be arrested, and far less likely to be cautioned, than non-Indigenous young people subject to Queensland Police Service action. This requires further analysis, but is immediately suggestive of the fact that much more needs to be done to support the provision of diversionary options to Aboriginal and Torres Strait Islander young people who offend.

128. The *Child Guardian Report: Youth Justice System 2010-11* also shows that Aboriginal and Torres Strait Islander young people represented 49.2% of all 10 to 17-year-old young people subject to youth justice supervision in 2010–11 (which includes community based orders and detention). They were subject to youth justice supervision orders at a rate of 20.7 per 1000 Aboriginal and Torres Strait Islander young people aged 10 to 17 in Queensland, in contrast to non-Indigenous young people who were subject to a youth justice supervision order at a rate of 1.4 per 1000 non-Indigenous young people in Queensland.

Recommendation 20. That the Commission of Inquiry recognises the importance of diversionary programs as an alternative to detaining Aboriginal and Torres Strait Islander young people and that such programs be given additional support to increase uptake among this group, specifically including young people on child protection orders

Manage the growing gap between number of intakes and notifications

129. For a number of years Queensland has been experiencing a significant increase in the number of reports of suspected child abuse and neglect to the statutory child protection authorities. The majority of reports (intakes) to Child Safety Services do not reach the threshold required to become a notification of abuse and neglect.

130. There is a growing gap between the number of intakes and notifications. Data from Child Safety Services (cited in the CCYPCG's *Snapshot* report) show that, in 2010-11, there were:
- 112,518 intakes received in relation to potential child abuse or neglect, a 60.5% increase in the number of intakes since 2006-07
- 6,598 allegations of child abuse or neglect substantiated, a 34.7% decline in the number of substantiated allegations of harm since 2006-07, and
- 4,237 children and young people assessed to be in need of ongoing protection from harm, with no significant changes in the number of children assessed to be in need of protection since 2007-08.

131. It is important to note that the growth in intakes relates exclusively to child concern reports with notifications falling 24.0% between 2006-07 and 2010-11. From 2007-08 through to 2010-11, the Queensland Police Service was by far the most common source of intakes, accounting for 32.3% of intakes over this period, and was also the most rapidly growing source of intakes, increasing by 98.5% over this time.[62] In 2010-11 over 63.5% of reports were made by staff in the education, health and police sectors; 19.7% of reports come from family members (parents, subject child, sibling, other relative), and the remaining 16.8% of reports come from 'the community' (friend/neighbour, other, anonymous, NGOs, not stated, childcare personnel).

132. Increased levels of reporting and the related issue of the growing gap between the number of intakes and notifications have been raised as systemic issues of concern in child protection research and inquiries within Australia and overseas.

[62] Commission for Children and Young People and Child Guardian (2012) Snapshot (in press)

133. Research suggests that increased reporting is most likely the result of a combination of factors over time, which include: the broadening scope of what is defined as child abuse; the changing thresholds for statutory intervention; the pressures on some child protection services to become increasingly risk-averse; increased public awareness of child maltreatment and its effects; a wider understanding of children's rights; mandatory reporting requirements and the shifting responsibility for the protection of children to the Department rather than being a broader community, health and welfare responsibility.[63]

134. A national research project conducted in 2008 asked state and territory child protection departments and the national Department of Families, Housing, Community Services and Indigenous Affairs to describe the key challenges for their jurisdiction in enhancing the protection of children. The major challenge of the eleven listed challenges was responding to the pressure of demand at the "front end" of child protection services.[64]

135. When a large volume of reports of possible harm have to be managed by a child protection system, in practice the increasing workload and attendant pressures can result in some children being misdiagnosed as being in danger when they are not, while others in serious and sometimes immediate danger of harm are not identified early enough, or at all.

136. A further compounding factor is that some of the children and families who are reported and not in need of a statutory response, may be 'in need' of secondary support services. In the current system in Queensland, referral to the Department does not necessarily link the child or family with support services or any other assistance until the child's need of protection reaches the threshold for statutory intervention.

137. The CCYPCG recognises that the Department has done a significant amount of work looking at options to manage the growing volume of intakes that are not tertiary protection issues without inadvertently placing vulnerable children at risk of harm. Because the gap between intakes and notification is a systemic and multifaceted issue that is fundamentally connected to a range of related systemic functions, this problem cannot be addressed in isolation.

138. For example, the Helping Out Families pilot program introduced by the Department in three sites in south-east Queensland in 2010 is aimed at addressing a number of interrelated issues, including working with partner agencies to develop strategies to change referral patterns. Other aspects of this model include the development of a more effective intake model and funding for coordinated support services for those families where a report does not meet the tertiary threshold, but the family requires some form of secondary service support.

139. An independent, rigorous evaluation of the HOF pilot program could contribute evidence to determine whether or not this model has delivered improvements to the functioning of the child protection system and subsequent improved outcomes for children living in those areas.

140. The CCYPCG is of the view that whatever strategies or model is proposed to address changes in this area they should not raise the threshold of what constitutes harm or an unacceptable risk of harm to children. Legislative and related policy changes may be required to ensure consistent and efficient reporting models are implemented by all mandatory reporters.

Recommendation 21. That strategies to reduce the growing gap between the number of intakes and the number of notifications should not raise the threshold of what constitutes harm or an unacceptable risk of harm to children

[63] Bromfield, L. and Holzer, P. (2008) *Protecting Australian Children Analysis of challenges and strategic directions: CDSMC National Approach for Child Protection Project.*

[64] Bromfield, L. and Holzer, P. (2008) *Protecting Australian Children Analysis of challenges and strategic directions: CDSMC National Approach for Child Protection Project.*

The effectiveness of tertiary child protection interventions

3. c) reviewing the effectiveness of Queensland's current child protection system in the following areas: iii. tertiary child protection interventions, case management, service standards, decision making frameworks and child protection court and tribunal processes

Children are only placed in care after a valid decision making process

141. The decision to remove a child from their parents and place them in out-of-home care is a significant one with potentially long-term impacts on the child's functioning and wellbeing. It is therefore appropriate that such action only occurs after a significant decision making process by the Department and the Children's Court has granted a child protection order.

142. A summary of the current process is:

- When a report (intake) is received by the Department, it is assessed against certain criteria to determine if what is being alleged would constitute 'harm or unacceptable risk of harm' under the CP Act. Where the intake does not meet the threshold, a Child Concern Report (CCR) is recorded.
- A child protection notification (notification) is recorded where the Chief Executive has a reasonable suspicion that a child "is in need of protection", that is, where the child has suffered harm, is suffering harm or is at unacceptable risk of suffering harm and there is no parent able and willing to protect the child (CP Act, section 10). The CSO recommends a response timeframe for investigation and assessment (IA) (24 hours, 5 days or 10 days) based on the child's immediate level of safety, and an IA process is carried out.
- Intakes classified through the screening process as CPNs are investigated by the Chief Executive through departmental officers. The Department generally conducts IAs with the cooperation of parents; however, where parents refuse to consent to actions essential to the IA or to ensure the safety of the child during the investigation, the Chief Executive may apply to the court or a magistrate for assessment orders.
- Where a child is assessed to be in need of protection during an IA, the Chief Executive is required to engage the family in ongoing intervention. Preference is given to less invasive interventions beginning with intervention with parental agreement (IPA). Where an IPA is not appropriate, the Chief Executive can seek a court order to undertake intervention.
- The Children's Court may grant directive or supervision orders where the child remains living at home while the family is supported or it may transfer custody or guardianship to the Department to allow the child to be placed in out-of-home care for a set period of time.

143. It is clear that, with the possible exception of children relinquished to the Chief Executive due to their disability, children may only be removed from their parents' care and placed under a child protection order after the Children's Court has been satisfied that that action is necessary to protect them child from harm.

144. The CCYPCG has no evidence to suggest that children are routinely being taken into care inappropriately or without established protection needs.

145. Over the past four years, the overall numbers of intakes in Queensland have steadily risen. In 2006-07, there were 70,126 intakes (including 28,511 notifications and 41,615 CCRs) compared to 112,518 in 2010-11 (including 21,655 notifications and 90,863 CCRs). Overall, this represents a 60% increase.

146. However, the growth in intakes relates exclusively to CCRs, with notifications falling 24% between 2006-07 and 2010-11. Over that same time, the number of CCRs recorded grew by 118%.[65]

147. As at 30 June 2011, the rate of children in care in Queensland (7.0 children per 1000 children) was below the national average (7.3 children per 1000 children) and significantly lower than the number of children in out-of-home care in New South Wales (9.9 children per 1000 children).[66]

Recommendation 22. That the Commission of Inquiry recognises that children in out-of-home care are there after a Children's Court determination and a valid decision-making process that have identified serious harm concerns

Factors contributing to Indigenous over-representation in the child protection system

148. The over-representation of Aboriginal and Torres Strait Islander children and young people in the child protection system has been increasing over time[67], as can be seen in Figure 3 below. The reasons for this are complex and long standing.

Figure 3 - Increasing rate of Indigenous over-representation in child protection (2007-08 to 2009-10)

Key indicators	2007–08	2008–09	2009–10
Rate of Aboriginal and Torres Strait Islander children subject to a notification (per 1000)	63.3	67.2	69.2
Rate of Aboriginal and Torres Strait Islander children living away from home[68] (per 1000)	33.5	38.5	41.5
Aboriginal and Torres Strait Islander children to Aboriginal and Torres Strait Islander carer ratio	3.7:1	4.1:1	4.5:1
Number of Aboriginal and Torres Strait Islander children subject to a substantiated Matter of Concern	63	102	80

149. Factors which are known to correlate highly with risk of harm to children include family size, young parenting, low birth weight and having a child with a disability. Indigenous families are over-represented on all of these factors.
- The overall Queensland fertility rate increased from 1.8 to 2.0 babies per woman in the ten years from 2001 to 2011. This is an increase of 11%. In contrast for the same period, the Indigenous fertility rate increased from 2.3 to 3.2 babies per woman, an increase of 39% in just 10 years.[69]
- The teenage fertility rate for Indigenous females aged 19 years and under was 94.7 per 1,000 in 2010, almost four times the general population rate. Almost one in five Indigenous babies were born to teenage mothers in 2010 (19.4% of all Indigenous births) compared to less than one in twenty babies in the general population (5.7% of all births).[70]

[65] All data in the section above is from Snapshot 2011: Children and Young People in Queensland, unless otherwise stated
[66] Protection and Support Services: Report on Government Services 2011
[67] *Child Guardian Report: Child Protection System 2009-2010*
[68] This measure includes all children in out-of-home care (including foster care, kinship care, provisionally approved care and residential care services) or other locations such as hospitals, Queensland youth detention centres and independent living
[69] Australian Bureau of Statistics. (2011). *Births, Australia, 2010*. Canberra: Australian Bureau of Statistics – Note: The Queensland Registry of Births, Deaths and Marriages undertook a 'Retrospective Births Project' during 2009 resulting in the registration of a large number (1,780) of births where there was previously incomplete information. As a result, the total fertility rates for 2009 are likely to be overestimated, particularly for Aboriginal and Torres Strait Islander births
[70] Australian Bureau of Statistics. (2011). *Births, Australia, 2010*. Canberra: Australian Bureau of Statistics

- In 2010, infants that were born to Indigenous mothers were more likely to have a low birth weight and shorter gestation period, with 9.7% of infants born to Indigenous mothers recording a birth weight under 2,500g compared to 6.9% of infants overall, and 10.9% born at less than 37 weeks gestation compared to 8.7% overall.[71]
- There are limited data on the prevalence of Foetal Alcohol Syndrome, although some research indicates the prevalence in Australia to be between 0.06 and 0.68 per 1,000 births and between 2.76 and 4.70 per 1,000 births among Indigenous Australians.[72]

150. Home and family life are also factors which may result in a higher rate of Aboriginal and Torres Strait Islander children and young people being brought to the attention of the Department, including for example:
    - Surveys of alcohol and other drug use indicate that levels of harmful use among Indigenous Australians are about twice those in the non-Indigenous population.[73]
    - Higher levels of family violence and more severe violence recorded in some Aboriginal and Torres Strait Islander communities, in comparison with the general population,[74] indicate an elevated level of related morbidity, disability and mortality for these families and communities.[75]
    - Primary school attendance rates for Indigenous children are lower than those for their non-Indigenous peers. In 2010, government school attendance rates for Indigenous students in Year 1 to Year 7 ranged from 86.0% to 88.0% compared with 93.0% across these same year levels for non-Indigenous students.[76]

151. It is these and many other complex risk factors which increase the risk of Aboriginal and Torres Strait Islander children and young people being brought to the attention of the child protection system. It is these factors which need to be addressed through culturally appropriate primary and secondary child and family support services to prevent the need for tertiary intervention.

Recommendation 23. That the Commission of Inquiry recognises that Indigenous children experience a significantly higher rating on a range of risk factors for being brought to the attention of the child protection system than non-Indigenous children including family size, teenage parenting, low birth rate, foetal alcohol syndrome, alcohol and substance abuse, family violence and educational level of parents and that these factors interact to increase the vulnerability of Indigenous children as a group to a level that is far greater than for non-Indigenous children as a group

Disability support needs are not child protection issues

152. The CCYPCG is aware that a small number of children in Queensland's child protection system are there by virtue of their disability, rather than issues of abuse or neglect, and that this situation exists because the statutory child protection system is the only regulated out-of-home care system for children in Queensland.

[71] Queensland Health. (2012). *Perinatal Statistics, Queensland, 2010*. Brisbane: Queensland Health

[72] Peadon, E., Fremantle, E., Bower, C., & Elliott. E. (2008). *International Survey of Diagnostic Services for Children with Foetal Alcohol Spectrum Disorders,* BMC Pediatrics, 8, 1–8.

[73] *Closing the gap clearing house - Reducing alcohol and other drug related harm*, Resource sheet no. 3 produced for the Closing the Gap Clearinghouse, Dennis Gray and Edward Wilkes, December 2010.
It is also important to note that a review of the evidence, conducted for the World Health Organization, found a clear link between socioeconomic deprivation and risk of dependence on alcohol, nicotine and other drugs (Wilkinson & Marmot 2003).

[74] Al-Yaman, Van Doeland and Wallis, (2006), *Family violence among Aboriginal and Torres Strait Islander peoples*, Australian Institute of Health and Welfare, Canberra. Retrieved from http://www.aihw.gov.au/WorkArea/DownloadAsset.aspx?id=6442458608

[75] *Closing the Gap on Family Violence: Driving Prevention and Intervention Through Health Policy*, V. Hovane, D. Cox, Australian Domestic & Family Violence Clearinghouse, June 2011, Issues Paper21

[76] Steering Committee for the Review of Government Service Provision (2012) Report on Government Services 2012, Indigenous Compendium, Productivity Commission, Canberra.

153. Caring for a child with a severe disability and high support needs can be physically, emotionally, socially and financially demanding on parents and families. In some cases caring for the child in the family home can become unsustainable, even with the intervention of government funded disability services and time-limited respite care.

154. Factors such as the child's natural maturation, the progression of their disability, associated medical conditions or illness can intensify their support needs, and circumstances such as parents separating, sibling issues, low family income, carer ill-health or exhaustion can diminish the family's capacity to provide the necessary ongoing support. Often times, in-home or facility-based family and disability services programs may be absent or inadequate, such is the level of unmet need in the community.

155. When parents can no longer cope or access the support needed, some seek an out-of-home care arrangement. Currently however, the only long-term out-of-home care option available to parents is to relinquish the child into the child protection system through a child protection order. Parents take this step as a last resort, knowing it means they will lose custody and consequently a say in their child's day to day care and possibly be tainted with the abusive parent tag associated with the child protection system.

156. In the CCYPCG's view, non-stigmatised out-of-home options for children and young people with a severe disability should be developed within a framework of providing appropriate disability supports along a continuum of care. These options should be delivered outside the statutory child protection system and parents allowed to retain a say in their day to day care if they wish to do so.

157. Out-of-home options should be accessible in terms of responsiveness in order to avoid the risks associated with lengthy delays. Options should also be geographically accessible to facilitate an ongoing parent-child relationship.

158. Eligibility for long-term out-of-home options for children and young people with a severe disability should be needs-based and not prioritised by age, disability-type or behaviours. This would require a range of placement options to accommodate, for example, young children with high care medical and/or high physical support needs through to adolescents who exhibit extremely challenging behaviours.

159. In making these recommendations, the CCYPCG acknowledges that addressing the voluntary relinquishment of children with a disability into the child protection system will require reforms beyond the system itself.

160. The CCYPCG also acknowledges that the issue of relinquishment is not confined to Queensland. In this regard, the Inquiry may wish to refer to a recently-released report by the Victorian Equal Opportunity and Human Rights Commission titled: *Desperate measures: the relinquishment of children with a disability into state care in Victoria*[77].

Recommendation 24. That reasonably accessible out-of-home care options be made available to children and young people with a severe disability and be delivered outside the child protection system; with options allowing parents to continue to have a say in their child's day to day care and eligibility for access to the options being needs-based

[77] *www.humanrightscommission.vic.gov.au/index.php?option=com_k2&view=item&id=1650:desperate-measures-new-report-shines-a-light-on-children-relinquished-into-state-care-21-may-2012&Itemid=3#*

Safety for children in out-of-home care has greatly improved

161. Departmental data about substantiated 'matters of concern' (harm in care) show a significant decrease from 2004, where 8.1% of children in care were subject to a substantiated matter of concern, to 2011 (2.3%). These data align with the CCYPCG's Community Visitors, who identified 'serious issues' in slightly less than 2% of their visit reports.

162. Almost all the children (97.9%) and young people (98.4%) who responded to the CCYPCG's latest *Views of Children and Young People in Foster Care Survey: 2011* also reported feeling safe in their current placement. These findings are consistent with those reported in the *Views of Children and Young People in Foster Care, Queensland, 2010* survey, where 97.5% of children and 98.6% of young people reported feeling safe in their current placement.

163. The improvement in safety is considered by the CCYPCG to be due to the combination of:
- improved service delivery arising from recommendations in the previous Inquiries into the Queensland child protection system
- the introduction of blue card employment screening of foster carers, kinship carers, adult occupants and residential care workers, and
- the increased level of oversight by the CCYPCG.

164. The CCYPCG provides an effective safety net for children and young people in out-of-home care by monitoring, investigating and reporting on the safety and wellbeing of individual children and providing an independent assessment of the overall performance of the child safety and youth justice systems. This safety net is provided in a cost effective way when considered in light of the potential for long-term impacts on children who are harmed in out-of-home care. Safe out-of-home care placements are crucially important for children's wellbeing, development and life trajectories as well as for government, which carries a significant responsibility, and liability, for children in statutory care and which must demonstrate that it has done all that can be done to ensure their safety and wellbeing.[78]

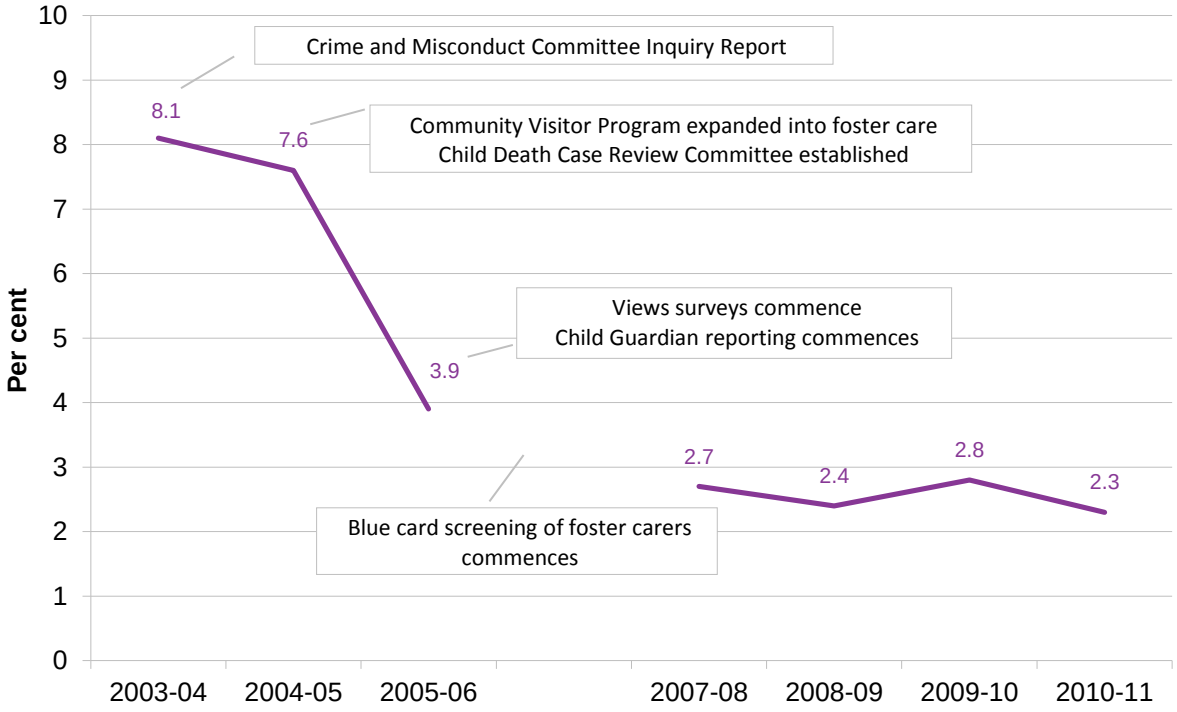
165. Figure 4 below shows the marked reduction in the rate of substantiations that has occurred over the years since the CCYPCG's Community Visitors commenced visiting children in foster homes.

166. The Department argues that data across the years 2003-2004 to 2010-2011, which the CCYPCG displays in Figure 4, cannot be compared due to differing scopes brought about by Departmental policy and recording changes (see below for a summary of these changes) and that the only comparable data are for the periods 2009-2010 and 2010-2011.

167. The CCYPCG is of the view that it is important to try to understand the changes in the rates of substantiations in-out-of-home that have occurred since the CMC Inquiry. Whilst the CCYPCG acknowledges the difficulties and even the limitations of comparing the measures over the years, as each count was an attempt to measure in some way the rate of abuse of children in out-of-home care and as these are the only data available, the CCYPCG will continue to display these measures. The CCYPCG is of the view that there is sufficient evidence to show that in 2004 children in out-of-home care experienced harm at much higher rates than they do now.

[78] Commission for Children and Young People and Child Guardian. (in press). *Annual Report: Commission for Children and Young People and Child Guardian, 2011-12*. Brisbane.

Figure 4 - Proportion of children in out-of-home care subject to substantiations, Queensland 2003-04 to 2010-11



Source: Department of Communities, *Our Performance*

Note: Counts children in the custody or guardianship of the Chief Executive who were placed in out-of-home care as per section 82(1) of the *Child Protection Act 1999*, and who were the subject of a matter of concern substantiation during the reference period.

Figures relate to the financial year during which the alleged abuse was recorded, which is not necessarily when the abuse actually occurred.

Counts the number of children in out-of-home care (including foster carers, provisionally approved carers, kinship carers and residential services) and who were subject to a child protection order or court assessment order granting custody/guardianship to the chief executive at any time during the reference period.

Data from 2007-08 onwards refer specifically to Matter of Concern substantiations and are not directly comparable to previous years.

Data for 2006-07 are not available.

Summary of Departmental policy and recording changes relating to measuring harm of children in out-of-home care

- ***2003-2004 and 2004-2005*** *Reporting is limited to notifications of children placed in departmentally funded out-of-home care that resulted in a substantiated outcome where the person believed responsible was living in the household. Reporting is not able to separately distinguish those substantiations in out-of-home care that constitute a Matter of Concern (MOC). Rather, figures include all children substantiated in out-of-home care, not just those children in the custody or guardianship of the chief executive.*
  All alleged breaches of the Standards of Care are automatically recorded as notifications. Where a breach of the standards is determined to occur, the matter is substantiated regardless of whether the child had experienced significant harm or is likely to experience future harm.
- ***2005-2006*** *A revised MOC policy comes into effect. The policy applies to those children in the custody/guardianship of the chief executive. The department is now able to distinguish between breaches of the Standards of Care that do not reach the threshold for a notification (as would apply to the public) and those that do. A breach of the Standards of Care can now be recorded as unsubstantiated.*
- ***2006-2007*** *The Integrated Client Management System is introduced. From March 2007, the department is able to report the number of MOC substantiations as per the revised MOC policy (i.e 3 months worth of data).*

- ***2007-2008 and 2008-2009*** *The number of MOC substantiations is reported. However, an appropriate denominator is not yet developed. Instead , a proxy denominator (all children in out-of-home care during the year regardless of custody/guardianship arrangements) is used.*
- ***2009-2010 and 2010-2011*** *A new (more accurate) denominator is introduced that reflects the scope of the MOC policy. The denominator refers to children in the custody/guardianship of the chief executive at any time during the year.*

168. Since 2000, every jurisdiction in Australia has embarked on at least one substantial review of the way in which child protection services are delivered. Recently, the Victorian Government's *Directions Paper May 2012 Victoria's Vulnerable Children – Our Shared responsibility* and the New South Wales (NSW) Government's *Report of the Special Commission of Inquiry into Child Protection Services in NSW* were both initiated as a result of allegations of significant abuse either in residential and/or foster care.

169. Recommendations for reform to child protection systems across Australia have highlighted the significant work already being undertaken by the Queensland CCYPCG in pursuing effective oversight mechanisms for the State's most disadvantaged children. Specifically, and in recognition of the current Queensland position, the recent Victorian review recommended the establishment of a new Commission for Children and Young People to provide regular external oversight and reporting across the sector.

Recommendation 25. That the Commission of Inquiry recognises that children who are living in out-of-home care are far safer and more is known about their safety than ever before due to a combination of improved service delivery and better oversight by the CCYPCG through its Community Visitors, blue card screening of carers, monitoring activities, and regular surveys of children in out-of-home care

Blue card system is an important component in the child protection system

Overview of Blue Card System

170. The blue card system plays a critical part in the early intervention and prevention of abuse and practices that may place children at risk of harm when they are receiving services and participating in activities which are essential to their development and wellbeing. These include environments such as child care, education, sport and cultural activities and where children may be particularly vulnerable such as foster care, residential care, detention and mental health facilities.

171. Following recommendations from the Forde Inquiry and the Briton Review, the CCYPCG's employment screening function (later to be called the blue card system) was introduced in 2001 to address widespread community concerns about emerging evidence that numbers of children had been exposed over many years to appalling levels of abuse in service environments intended to promote their safety and wellbeing. The evidence indicated that while most people working in these environments were there for all the right reasons and did a commendable job, a small number were misusing their positions of trust and causing inestimable damage to children in environments where often they had to be without their parents.

172. Many service providers were also concerned that the safeguards they were able to apply within existing regulations were insufficient and that the emerging evidence of sustained abuse of children was damaging to their organisation's reputation. This in turn was affecting public confidence in these services, which all agreed were important to children and their families. The blue card system recognises the vulnerability of children and the obligations of employers, the government, and the community as a whole, to protect them from harm or the likely risk of harm.

173. The system is now one of the most comprehensive of its type in Australia and is the only system that incorporates the management of past, present and future risks of harm to children. It operates as a strong preventative and monitoring system through:

- undertaking an initial eligibility assessment, based on an applicant's previous police or disciplinary history. It prevents people from working with children in regulated service environments if their past behaviour indicates that they are unable to protect a child from harm and promote their wellbeing. In addition, certain people are disqualified upfront from applying for a blue card (i.e. those convicted of a serious child-related sex, or child pornography offence or the murder of a child),
- ongoing monitoring of all blue card applicants and card holders for changes in their police information, which enables the CCYPCG to take steps to immediately protect children from harm if the person is charged with an offence which is relevant to their child-related employment, including suspending or cancelling a card. The CCYPCG also monitors and audits service providers' compliance with blue card screening requirements, and
- requiring organisations providing services to children to develop, implement and maintain a child focused risk management strategy (RMS) and review it annually. These strategies aim to ensure that there are appropriate policies and procedures in place to identify and minimise the potential risk of harm to children. Elements required in an RMS include codes of conduct, procedures for recruitment, management and training of staff, and policies for identifying and reporting disclosures or suspicions of harm. The CCYPCG educates organisations on the identification and management of risks to children, including, where applicable, reinforcing their obligation to report to relevant authorities suspicions and disclosures of harm to a child; monitoring organisations' compliance with the requirement to develop, implement and maintain an RMS and assisting organisations to strengthen the requirements by providing comprehensive feedback and support to service providers when their RMS has been reviewed following a complaint about a possible breach of these requirements.

174. The combination of these monitoring and compliance activities provides a strong, proactive response to day-to-day risks that can arise in these environments.

History of screening foster carers and adult household members

175. There has been legislative provision for the screening (including criminal history checking) of foster carers and adult household members since at least 1999 when the *Child Protection Act 1999* was introduced. Section 134 of that Act provided that the Chief Executive (of the then Department of Families, Youth and Community Care (DFYCC)) must not grant an application for carer approval unless the Chief Executive was satisfied the applicant was 'a suitable person to be an approved foster carer, and all members of the applicant's household are suitable persons to associate on a daily basis with children'.

176. Section 143 of the same Act provided that the Chief Executive was able to apply to the Queensland Police Service for a written report about a person's criminal history and domestic violence history and to the Chief Executive for Transport about a person's traffic history. This information was able to be sought for applicants or holders of a foster carer certificate or the adult members of the household.

177. The Explanatory Notes for the *Child Protection Bill 1998* provided:[79]

> *'It is considered that the State's duty of care to children who have been found by the court to be in need of protection cannot be properly discharged if significant information about persons in whose care these children may be placed cannot be made available to the DFYCC. These children are especially vulnerable because of their history of abuse or neglect and it is imperative that precautions are taken to ensure that they are not placed in further danger by arrangements made by the court or the DFYCC for their care.'*

178. In its subsequent Inquiry, the CMC highlighted the important role for the proposed new department to have responsibility for final approval of carers and their households to provide foster or kinship care to children, observing:

> *'To fulfil its statutory obligations, the Department of Child Safety must maintain a core capacity to license carers. Currently, when carers are assessed by a non-government agency, regional managers within the Department of Families are required to give the final approval for carers. The evidence suggests that, in practice, most managers simply 'sign off' on the decisions that have already been made by agencies."*[80]

179. This finding was relevant to CMC Recommendation No 7.1, which was implemented incrementally through the following two pieces of legislation:

- In 2005, Parliament passed the *Child Safety Legislative Amendment Act 2005*. This Act amended the *Child Protection Act 1999* to require relative/kinship carers to undergo similar screening to that applicable to foster carers, and aligned the powers of the Chief Executive to obtain the same police information about potential carers as that available to the CCYPCG in the blue card screening process;
- In 2006, the criminal history screening of carers and adult members of carer households was transferred to the CCYPCG pursuant to the *Child Safety (Carers) Amendment Act 2006*. The Explanatory Notes indicate that the purpose of the Act was to:[81]

  'preserve the role of the Department as being responsible for other stages of assessment and final approval of carers and licenced care services. The blue card represents the benchmark for determining the appropriateness of individuals to engage in child related employment. The application of the blue card regime, as a minimum screening threshold for relevant persons will enhance consistency between employment screening for persons providing care to children on behalf of the chief executive of the Department and persons engaged in other child related employment'.

180. The Explanatory Notes further detailed the intent that:[82]

> *'The chief executive will continue to access the criminal histories of persons approved as provisionally approved carers, members of their households and new household members joining the household of either carer applicants or already approved carers (foster and kinship). New household members of foster and kinship carers will be required to apply for and be issued with a blue card, but a check of their criminal history initially by the chief executive will allow them to join the household while their blue card application is being processed'.*

[79] Page 7 and 8.
[80] Pages 187 and 188.
[81] At Page 2.
[82] At Page 7.

181. As a result of the above, the blue card clearance has formed part of the approval process for foster and kinship carers since 31 May 2006.[83] The centralised nature of the CCYPCG's assessment process promotes consistency and objectivity in its decision making. Therefore, the practical result of requiring carers and adult household members to be screened under the blue card system is that they are subject to the same independent, robust, evidence based and child-focused employment screening assessments as those undertaken for individuals providing other essential and developmentally focussed services to children and young people.

182. The daily monitoring of applicants and cardholders through an electronic interface with QPS allows for changes in criminal history to be assessed and in circumstances where a blue card is suspended or cancelled or a negative notice issued, then that decision is notified to the CEO to take appropriate action to ensure the safety of the child/children. It also means that an individual who has a criminal history check completed as a carer or adult member can then use their blue card clearance for other child-related activities regulated under the blue card system, reducing duplication of screening efforts.

Blue card system and carer recruitment

183. Anecdotal evidence has suggested that the requirement to obtain a blue card presents challenges in the recruitment of carers, particularly in remote Indigenous communities. While the blue card requirement may be a deterrent to some applicants who have a criminal history, overall it is only one factor in the multi-stage recruitment and approval process which includes but is not limited to assessing family history (including criminal and child protection history), family interactions, parenting skills, motivation to provide care and pre-service training. It is unclear whether any of these requirements or other unknown factors act as a deterrent and accordingly all aspects of the recruitment process should be explored to determine their impact on the ability to recruit suitable carers. For example, it would be useful to understand the stages at which individuals opt out of the system – that is, do potential carers who have expressed interest opt out at the initial application stage; during the approval process due to the length of time taken to be approved; due to training commitments; or after taking on children do they cease to be carers citing lack of respite or for other reasons.

184. To inform the future direction of recruitment initiatives it may be useful to review the success or otherwise of recruitment strategies that have previously been implemented by the department and non-government organisations bearing in mind that the difficulty in recruiting and retaining carers has been a longstanding issue for the Queensland child protection system. The CMC Inquiry Report noted:[84]

> *"The CMC was told that the ability to find suitable carers (both general and relative) is difficult in the general community and very difficult in some Indigenous communities, for various and complex reasons. Those reasons include:*
>
> - *inadequate training, support and respite for carers*
> - *criminal history checks preventing approval of some carers.*
>
> *The CMC consultations indicated that in some communities training for carers is non-existent or inappropriate. Again, in the Indigenous community context, there is a pressing need for more appropriate training and support for foster carers. In particular, carers need specific training to deal with especially challenging placements such as children with disabilities and special needs.*

[83] This includes the primary carers and the adult members in their household.

[84] CMC Inquiry, p. 237

A further reason why it may be difficult to recruit Indigenous carers may be the lack of respite in some communities. Comments made to the CMC included the following:

> *If carers ask for respite, the department will put it on their record as not being able to look after kids. The department offers no respite to carers.*
>
> *Relative carers are treated like victims — asking for respite — the department uses this against them. The department responds to carers who want respite with 'You obviously can't look after them.' It seems they are trying to cut carers altogether. (confidential consultation)*

…

It was also suggested to the CMC that the lack of Indigenous carers may in part be a consequence of the rigour of the criminal history checks conducted by the department. Departmental policies provide a framework for interpreting personal history information (Department of Families 2003e). While the policy states that information must be considered in a fair and consistent way, the CMC heard that this did not always appear to be the case to those concerned.

Other consultations, however, suggested that the department will make inappropriate allowances when carrying out criminal history checks on Indigenous relative carers. This was not always seen as being in the best interests of children. The CMC was told of instances where the department has allegedly placed children in high-risk placements where there is known violence occurring in that family."

Ongoing need for criminal history screening

185. A review of blue card applications for foster and kinship carers and their adult household members readily demonstrates the critical nature of this screening activity as a safeguard for children and young people reliant on the children protection system:

- since 2006-07[85], over a quarter (26.22%) of child protection applications have returned criminal history information, compared to all applications in that period, for which just over one in ten (10.71%) returned criminal history information,
- in the 2011-12 financial year, 31.47% of child protection applications returned a criminal history, compared to 14.69% for all applications, and
- of all negative notices[86] issued since 2006-07, the proportion of child protection applicants being issued with a negative notice (0.47%) is three times higher than that for all applicants (0.15%). The types of offences that prevented applicants from becoming carers or residing in a carer's home included violent, sexual or other concerning histories including drug-related offending.

186. While certain persons are excluded from the system the large majority of blue card applications are approved. Figure 5 below identifies the number of blue card clearances issued to individuals working or volunteering in the statutory child protection system over the last six financial years.

[85] Between 1 July 2006 and 30 June 2012.
[86] This includes blue cards cancelled following a change in police or disciplinary information.

Figure 5 - Blue card clearances issued to child protection applicants

	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12
Adult members (Foster/Kinship)	1,192	1,083	2,006	1,347	849	1,229
Carers (Foster/Kinship)	5,662	2,937	5,098	3,473	5,468	4,855
Licensed Care Services	282	581	1,111	1,726	3,201	3,880

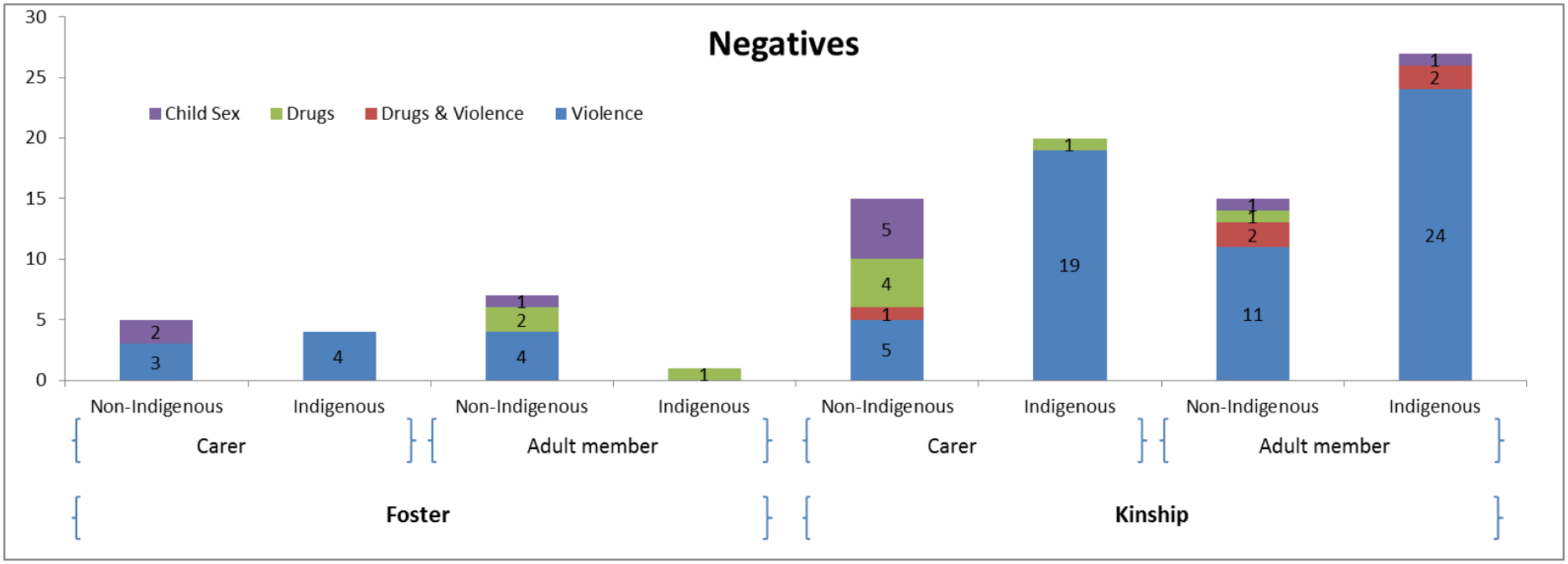
187. Figure 6 below shows the numbers of Aboriginal and Torres Strait Islander applicants who have been issued with a blue card clearance (these numbers are a subset of those in the table above).

Figure 6 - Blue card clearances issued to Indigenous child protection applicants

	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12
Adult members (Foster/Kinship)	169	208	343	251	120	182
Carers (Foster/Kinship)	715	345	493	417	537	598
Licensed Care Services	19	52	102	128	149	182

188. The CCYPCG has undertaken an audit of all child protection individuals since commencement of child protection screening in May 2006 whose last known status was the issue of a negative notice, cancelled positive notice blue card, or suspended positive notice blue card. Figure 7 shows the predominant type/s of offending that resulted in the decision to issue a negative notice on an initial application.

Figure 7 - Offence type for negative notices - child protection applicants (31 May 2006 to 30 June 2012)



From Figure 7, it is evident that higher numbers of kinship carers and adult members have been issued with negative notices than foster carers, with violent offending representing the major offending category precluding individuals from the issue of a blue card.

189. As noted above, a key strength of the blue card system is the daily monitoring of card holders, which results in the CCYPCG being advised of changes to individuals' police and disciplinary information requiring a reassessment of their eligibility to continue to hold a blue card. Depending on the nature of any change in police or disciplinary information, a person's blue card may be suspended or cancelled following which the Department would be notified so that appropriate action is taken to ensure the safety of the child/children. Figure 8 below shows the predominant type/s of offending that resulted in an individual's blue card being suspended or cancelled.

Figure 8 - Offence types for cancelled and suspended blue cards - child protection applicants (31 May 2006 to 30 June 2012)

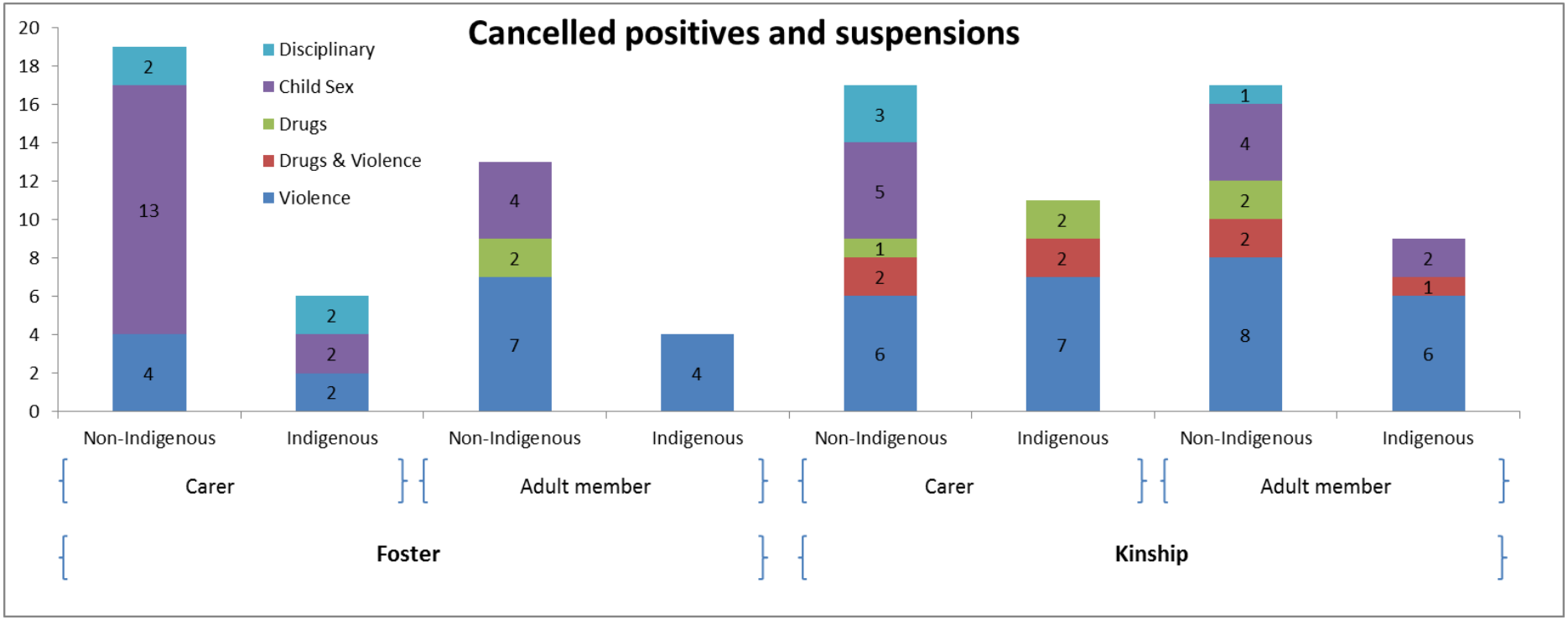


Figure 8 highlights that child sex offences and offences of violence are the key categories of offending likely to result in the cancellation or suspension of a blue card.

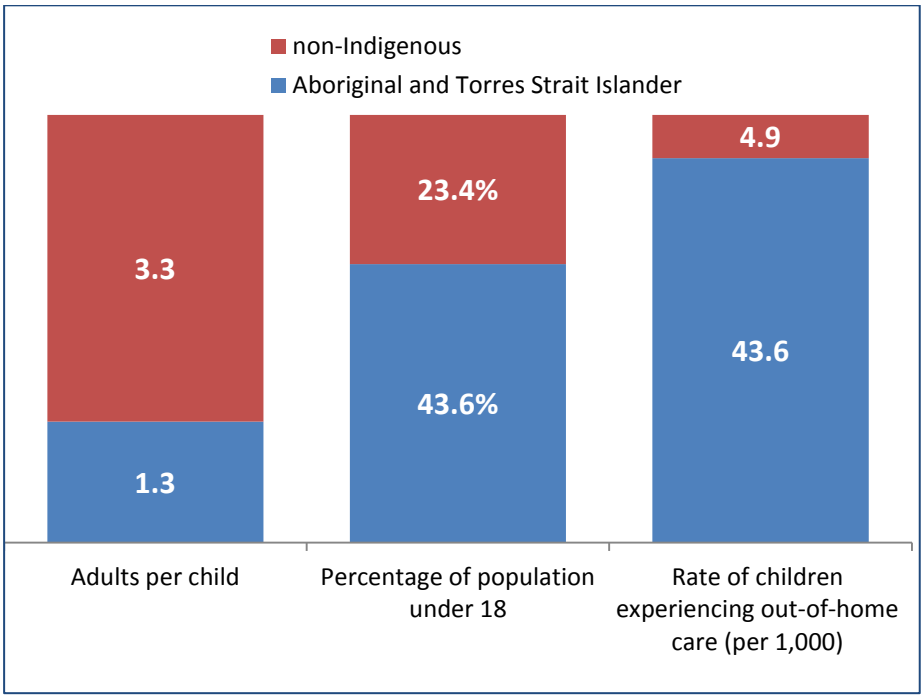
Aboriginal and Torres Strait Islander applicants

190. As noted above, anecdotal evidence has suggested that the blue card process presents a challenge to the recruitment of suitable carers, particularly for Aboriginal and Torres Strait Islander applicants and while the blue card requirement may be a deterrent to some applicants who have a criminal history, an analysis of the CCYPCG's records indicate that, at present, 14.9% of all Aboriginal and Torres Strait Islander adults in Queensland hold a blue card, which is higher than the percentage for all Queensland adults (14.6%). In fact, due to the CCYPCG's engagement activities in Indigenous communities and the collaborative work with peak stakeholder groups there has been a 15.4% increase in blue card clearances for Aboriginal and Torres Strait Islanders in the past year.

191. Despite the positive gains for Aboriginal and Torres Strait Islander applicants, a review of blue card applications indicates that some issues require ongoing attention:
    - While the percentage of active Indigenous blue card holders has been growing over the last few years, the number of Aboriginal and Torres Strait Islander blue card applicants who are issued with a negative notice continues to be higher than average (0.9% compared to 0.1% for all applicants[87]),
    - The number of Aboriginal and Torres Strait Islander applicants withdrawing from the process after being challenged about their criminal history continues to be higher than the overall withdrawal rate for all applicants (1.58% compared to 0.26% for all applicants).

192. The flow on effect of these issues for the child protection system is that there is increased pressure on adults from Aboriginal and Torres Strait Islander communities to be carers, which is highlighted in Figure 9 below. A challenge faced in trying to recruit and retain Aboriginal and Torres Strait Islander carers relates to the fact that, as noted elsewhere in this submission, Indigenous adults would need to come forward at more than 22 times the rate of non-Indigenous adults for all Indigenous children to be able to be cared for by an Indigenous carer given the non-Indigenous adult to child ratio is 2.5 times greater than Aboriginal and Torres Strait Islander adult to child ratio and Indigenous children are almost 9 times more likely to be in care than non-Indigenous children.

Figure 9 - Indigenous/non-Indigenous ratios



Source: Queensland Treasury, 2010 and Department of Communities, 30 June 2011

[87] This is the proportion of negative notices issued since inception of the blue card system (1 May 2001) to 30 June 2012.

193. The review of blue card applications for Aboriginal and Torres Strait Islander adults also indicates that further work may need to be done in some vulnerable communities to achieve ongoing understanding of and compliance with the blue card system. To actively support and encourage participation of Aboriginal and Torres Strait Islander people in the blue card system, the CCYPCG has:
    - established an Aboriginal and Torres Strait Islander blue card reference group, consisting of representatives from key federal government, state government and non-government organisations. The intent is to identify more "on the ground" and sustainable strategies to increase communities' access to and participation in the blue card system.
    - partnered with the Aboriginal and Torres Strait Island Legal Service (ATSILS) to assist people to overcome some of the misconceptions relating to the system (e.g. that having a criminal history prevents an individual getting a card) and to respond to invitations to make submissions about their criminal history. These strategies should reduce the rate of withdrawals and provide the CCYPCG with greater context about a person's history to enhance its risk assessment process.
    - attended round table discussions and community events and established regular teleconferences with Aboriginal and Torres Strait Islander communities including Mornington Island, Cherbourg and the Torres Strait Islands, and
    - visited, over the last 12 months, Indigenous communities including Mornington Island, Doomadgee, Palm Island, Woorabinda, Yarrabah, Cherbourg, to participate in yarning circles, provide blue card education sessions and help individuals understand their blue card obligations, and
    - will be visiting in the last week of September the Kowanyama and Pormpuraaw communities, with a visit scheduled in mid-November to Aurukun.
194. In summary, the CCYPCG submits that blue card screening for foster and kinship carers and adult occupants:
    - prevents persons with histories of sex, violence and serious drug offending from caring for or residing with children in statutory care, and
    - through ongoing monitoring, enables appropriate action to be taken promptly where there is a concerning change in the police or disciplinary information of a blue card holder.
195. While a small number of carers and/or adult members are precluded from providing care due to their criminal history, analysis of CCYPCG data highlights the importance of the continuing need for robust and independent criminal history checking of people caring for or residing with children in statutory care and it would not be appropriate to relax standards in this regard.

Recommendation 26. That the blue card system is recognised as providing a strong prevention and monitoring system that plays a critical role in protecting children from harm in regulated service environments, particularly those in the child protection system, and that further work may need to be done to achieve ongoing understanding and compliance in some vulnerable communities including Aboriginal and Torres Strait Islander communities or those from other cultural backgrounds

CCYPCG research identifies factors associated with children's wellbeing in care

196. Historically, successive Queensland governments have faced challenges in providing an effective child protection system which enhances the safety and wellbeing of children and young people. When the Crime and Misconduct Commission (CMC) conducted the last Inquiry into the child protection system in 2004 it concluded that the system had failed many children.[88]

[88] Crime and Misconduct Commission. (2004). *Protecting Children: An inquiry into abuse of children in foster care.* Brisbane: Author.

197. The CMC found many systemic and practice failures which had, in some cases, lasted for several years. Such failures had significant human costs for the children involved, which according to the CMC, "*should not be tolerated as part of any modern state-administered child protection service*".[89] To address these failures the CMC made a series of recommendations for a new strategic focus on a child-focused, evidence-based, best-practice approach which it maintained would most effectively protect the interests of children and young people, and facilitate their wellbeing.

198. The subsequent government blueprint for implementing the CMC recommendations proposed a system directed to achieving better outcomes for children at risk, and particularly focused on the wellbeing of children for whom the government had statutory responsibilities through child-centred case management and processes and systems to manage risk, monitor progress and evaluate outcomes.[90] The blueprint specifically envisaged a system with professional staff that listen to the child's concerns and points of view and encourages their participation in key decisions. The new system would also provide a consistent caseworker who visits children regularly, and improved risks and needs assessment, which were to be linked to a more responsive government and non-government service system providing better support and therapeutic services to children.

199. These changes were envisaged to result in clear benefits for children including increased safety, consistency in decision-making, and improvements in children's wellbeing.[91]

200. When the CMC reviewed the effectiveness of the government's implementations of its recommendations in 2007 and found that while many of the Inquiry recommendations had been implemented through legislative and procedural amendment, often the new practices were not yet 'the norm'.[92] Hence, there remained a gap between legislative and policy intent and actual practices. However, the CMC expressed confidence that if there was ongoing evaluation and monitoring of the child protection system and specifically the wellbeing of children, it was likely that errors would be isolated cases, rather than symptomatic of broader failings in the child protection system.[93]

201. The CP Act also reinforces the importance of fostering the wellbeing of children. It states that the paramount principle for administering the Act is the safety, wellbeing and best interests of the child. Specifically, the Act sets out the standards of care children are to receive while in the care of the State.[94] Hence, children in care not only have a right to have their physical and material needs met, but there are further provisions obliging the State to facilitate children's wellbeing.

202. Children in care have the right to have their cultural needs met, to be provided with appropriate education, training or employment and with health and therapeutic services. They also have a right to receive positive guidance to change inappropriate behavior without being exposed to disciplinary techniques that may cause them emotional harm such as corporal punishment, or behavior that threatens or humiliates them. Children in care should also have the capacity to maintain significant personal relationships and be given opportunities to engage in social and recreational activities. Importantly, children in the care of the State also have the right to "*receive emotional care*" so they "experience being cared about and valued" which "*contributes to the child's positive self-regard*." The *CP Act* further stipulates that "*the child's dignity and rights will be respected at all times*".[95]

[89] Crime and Misconduct Commission. (2004). *Protecting Children: An inquiry into abuse of children in foster care.* Brisbane: Author. p. xii
[90] A blueprint for implementing the recommendations of the January 2004 Crime and Misconduct Commission report, "Protecting children: An inquiry into abuse of children in foster care". (2004). Queensland Government.
[91] A blueprint for implementing the recommendations of the January 2004 Crime and Misconduct Commission report, "Protecting children: An inquiry into abuse of children in foster care". (2004). Queensland Government.
[92] Crime and Misconduct Commission. (2007). *Reforming child protection in Queensland: A review of the implementation of recommendations contained in the CMC's Protecting children report.* Brisbane: Author.
[93] Crime and Misconduct Commission. (2007). *Reforming child protection in Queensland: A review of the implementation of recommendations contained in the CMC's Protecting children report.* Brisbane: Author.
[94] *Child Protection Act. 1999* (Section 122).
[95] *Child Protection Act. 1999* (Section 122).

203. Given these statutory obligations on the State it is imperative to monitor children's wellbeing and identify which factors facilitate wellbeing for children in care. As noted by the CMC, it is important that evidence on children's wellbeing be obtained from the children and young people themselves, and not only from the adults involved in their lives.[96] The CCYPCG's ongoing *Views* survey series gathers the views and experiences of children and young people in foster care, residential care and youth detention with more than 13,000 children and young people responding to surveys since 2006.

204. The surveys represent the largest cross-sectional longitudinal study of its kind involving the direct participation of children and young people in state care and provide invaluable evidence for monitoring their safety and wellbeing, allowing children and young people to have direct input into important areas of child protection policy and practice. Further, the surveys contribute to knowledge about the needs and circumstances of children and young people in state care, the extent to which their needs are being met and highlight areas of personal and social disadvantage.

205. Responses to the latest 2011 *Views* surveys of children and young people in foster care identify which aspects of the current out-of-home care system appear to be working well for many children and young people and highlight the areas of the child protection system that are sources of discontent for significant numbers. Further, the longitudinal data monitors changes in children's and young people's experiences of out-of-home care since the first survey in 2006.

206. The *Views* survey series has provided invaluable information for evaluating the effectiveness of the child protection system. For example, when the CMC evaluated the Government's implementation of the recommendations of the Protecting Children Inquiry, it used data from the *Views* survey as evidence of the successful implementation of some recommendations and to highlight areas where further improvements were required.[97]

207. The *Views* survey series can also provide more detailed information on the factors which contribute to children's and young people's wellbeing in care. Specifically, data from the 2011 survey has been used to investigate the factors associated with children's and young people's wellbeing as measured by their feelings of happiness, happiness in their current placement and whether they reported being better or worse off since coming into care.

208. Those with higher levels of wellbeing were more likely to:
- have entered care at a younger age
- have had fewer placements and
- have a carer of the same cultural background
- report feeling cared for
- report having fewer worries and being able to get support and assistance with problems
- have positive experiences at school and attended fewer primary schools
- their current care placement is a 'good fit' where they feel safe, their carer listens, and treats them well, they feel important to their foster family and are not worried about moving.

209. These children and young people are also more likely to have positive relationships with:
- their carer
- teacher
- peers, and
- CSO.

[96] Crime and Misconduct Commission. (2004). *Protecting Children: An inquiry into abuse of children in foster care.* Brisbane: Author.
[97] Crime and Misconduct Commission. (2007). *Reforming child protection in Queensland: A review of the implementation of recommendations contained in the CMC's Protecting children report.* Brisbane: Author.

210. Specifically, those reporting greater levels of wellbeing indicated their CSO listened to them and was helpful. They were satisfied with how often they saw their CSO and found them easy to contact when they needed to. These children and young people were more likely to be satisfied with their contact with their biological family. They were also more likely to say they were listened to, and involved in, and/or informed of decisions about their lives and knew they had the capacity to challenge departmental decisions. The impacts of being in care were lessened for these children and young people so they had confidence in the Department, permission requirements were considered reasonable and were given in time.

211. They were less likely to report having to do things they did not want to (e.g. attend meetings), missing out on activities, feeling different because they were in care and were more likely to do extra-curricular activities. Overall, these findings highlight the importance of creating a sense of security and facilitating a sense of agency for children and young people through placement and school stability, facilitating supportive stable, and positive relationships with carers, CVs, peers, CSOs and teachers, participation in decision-making, and lessening the impact of being in care. The results also provide evidence that the State is able to enhance children's and young people's wellbeing by meeting its statutory obligations to those in care.

Recommendation 27. That the Commission of Inquiry recognises the value of the ongoing CCYPCG research on factors associated with children's wellbeing in out-of-home care and recommends that the Government takes the research into account when developing policies and practices to support a new 10 year strategy

Wellbeing of children in out-of-home care has improved in some areas but still some way to go in others

212. Data from the CCYPCG's *Views s*urveys*,* CV reports and Complaints team provide important insights into the wellbeing of children in care.

Health

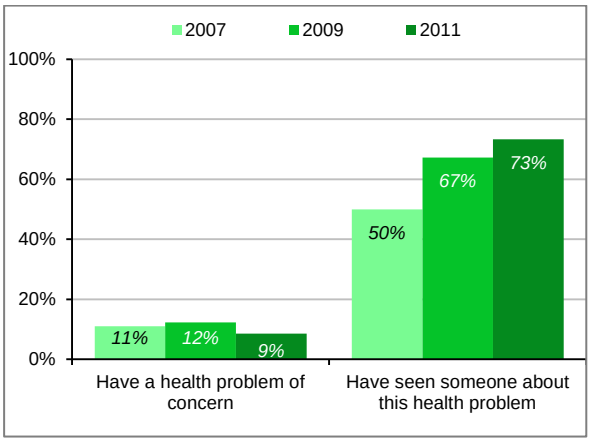
213. Of the 1180 young people who completed the current *Views Foster Care Survey*[98], 8.5% reported having a problem of concern to them. Figure 10 shows that the reporting of problems has decreased significantly since 2007 and 2009 when 10.8% and 12.3% reported having a health problem of concern. Of those who reported having a problem, 73.3% indicated that they had seen someone about it.

214. Figure 10 shows the steady improvement over the years in receiving help. More than one-fifth (22.8%) of the 745 carers who responded indicated that the child in their care had a problem. Around 85% of carers indicated that their child has seen someone about their problem.

215. In 2010-11, majority of children in out-of-home care (93%) told their CVs they felt adequately involved in decisions regarding their health concerns and treatment.[99]

[98] Commission for Children and Young People and Child Guardian *2011 Views of Children and Young People in Foster Care Survey: Overview and selected findings*. Brisbane.
[99] The CCYPCG's *Queensland Child Guardian Key Outcome Indicators Update, Queensland Child Protection System 2008-11*

Figure 10 - Have a health problem - young people (2007, 2009, 2011)



216. Young people and carers identified a broad range of health problems, the most common relating to weight, diet, eating or gastrointestinal disorders, ear, nose, throat, and respiratory conditions and mental health problems such as depression and anxiety. Other problems mentioned include asthma, allergies and skin complaints, oral health concerns, headaches as well as coronary problems.

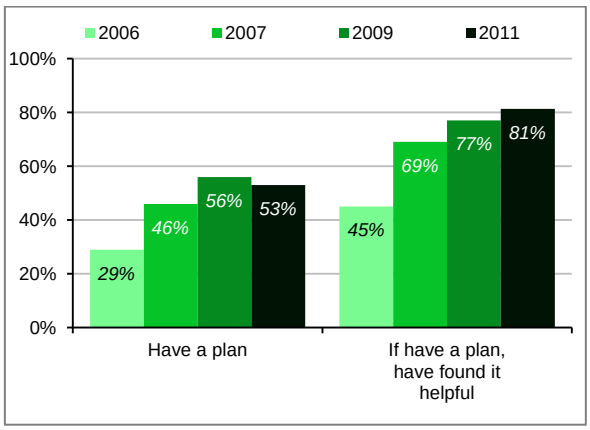
217. Health concerns were very evident among the *Views Residential Care* cohort. Of the 211 young people who responded to the 2011 survey, a substantial proportion reported needing help with physical (74%) or emotional or mental health problems (69%). At least 20% of these young people reported needing more help with these problems.

218. The lack of departmental child health passport data confirming that health needs assessments and planning is occurring remains a significant concern.

Education

219. The official Departmental percentage of eligible children with a completed education support plan (ESP) at August 2011 is 82.8%. This is higher than the self-reported level from the young people who participated in the current *Views Foster Care Survey* where 53.2% reported having an ESP. The difference may be because some young people may not be aware that they have an ESP. The *Views* surveys have found that the proportion of young people reporting having an ESP have improved significantly over the years. See Figure 11. Of those who reported having an ESP, 81.3% indicated that it had been helpful. This proportion has also improved significantly since 2006 when only 45.0% reported finding their ESP helpful.

Figure 11 - Educational Support Plans - young people (2006, 2007, 2009, 2011)



220. Along with improvements in rates of ESPs, the proportion of young people and children reporting to have unresolved problems at school has decreased significantly since the previous survey. Despite this, a considerable proportion of young people (25.6%) and children (26.9%) continue to report having unresolved problems. The most commonly reported problems for both groups were problems with schoolwork, followed by problems with being teased or bullied, teachers not listening or understanding them, and not having the things needed for school.

221. Of the residential care cohort, 62% reported experiencing problems at school. Of this group, 25% reported needing more help with these problems.

222. Information from the CCYPCG's Complaints team and CVs also highlight the difficulties that children and young people report experiencing at school. In 2010-11, more than 1000 education related issues were dealt with most commonly concerning ESPs, behaviour, support for education services and extra-curricular activities; and school attendance.

223. (See sections on *Educational outcomes of children in out-of-home care* and *Suspensions and exclusions of children in out-of-home care* for further detailed discussion in relation to educational matters).

Stability

224. Stability: While there has been a relatively minor decrease in the number of children experiencing three or less placements since 2008-09, there has been an increase in those children and young people experiencing seven or more placements while in care and too many children leave their placements.

Transition from care

225. Transition from care planning for young people ageing out of care remains a significant issue. Although the rates of young people reporting having a transition from care plan have consistently increased in each of the four *Views of Children and Young People in Foster Care* surveys (22% in 2006, 34% in 2007, 37% in 2009 and 55% in 2011), more needs to be done to ensure that all children ready to transition out of care have an adequate plan and supports in place.

Aboriginal and Torres Strait Islander children

226. Aboriginal and Torres Strait Islander children continue to fare poorly on a range of safety, health, education and social measures compared to their non-Indigenous peers, and more work needs to be done in the interests of the wellbeing of this cohort. There are still issues[100] with the number of children who are not recorded as having their placements made according to the processes detailed in section 83 of the CP Act in relation to the additional provisions for placing Aboriginal and Torres Strait Islander children in care provisions for placed according to the requirements.

227. It also needs to be recognised however, that there is a far greater demand on the Aboriginal and Torres Strait Islander communities to provide sufficient foster or kinship carers to support their children. When only two factors are taken into account, that is the adult to child ratio[101], and the rate of children needing out-of-home placements[102], the Indigenous population would have to be prepared to provide out-of-home care at over 22 times the rate[103] of the non-Indigenous community in order to have all Indigenous children placed with an Indigenous carer.

- This ratio does not take into account the other challenges that the adult Indigenous population faces which would further reduce the potential pool of adult carers, and consequently make this rate much greater still, such as:
- higher rates of illness, and alcohol and substance abuse problems
- higher rates of incarceration

[100] Issues have been identified in the CCYPCG's *Indigenous Child Placement Principle Audit Report* (2010-11) and the *Indigenous Child Placement Principle Audit Report* (2008).

[101] There are only 1.3 Indigenous adults for every 1 Indigenous child; compared with 3.3 non-Indigenous adults for every 1 non-Indigenous child. This means that the non-Indigenous adult to child ratio is **2.5 times greater** than Indigenous adult to child ratio [43.6% of ATSI population is under 18, compared with 23.4% of non-ATSI population (Queensland Treasury, 2010)]

[102] Indigenous children experience out-of-home care at a rate of **9 times** the rate of non-Indigenous children. [43.6 per 1,000 for ATSI children; compared with 4.9 per 1,000 for non-ATSI children – (as at 30 June 2011 DOC, 2011)

[103] 2.5X9=22.5 (see the two footnotes above for how the factors are derived)

- already high rates of informal care being provided by Indigenous adults
- already large family sizes and levels of overcrowding that would make it very difficult or impossible to take another child

228. This highlights the importance of section 83(7) of the CP Act where, if a child is not able to be placed with an Aboriginal person or a Torres Strait Islander and has to be placed with another person, there is a requirement that proper consideration be given to whether the person is committed to facilitating contact between the child and their parents and other family members, helping the child to maintain contact with their community or language group; and helping the child to maintain a connection with the their Aboriginal or Torres Strait Islander culture; and preserving and enhancing the child's sense of Aboriginal or Torres Strait Islander identity.

229. We need to recognise this ratio as part of all planning and support processes to assist Aboriginal and Torres Strait Islander children and their carers considering the disadvantage these children already face and the need to work to help them reach their potential.

Missing out on things that other kids can do

230. Responses to the current *Views Foster Care Survey* revealed that, although the majority of young people (83%) and children (81.0%) reported not missing out on things, a considerable proportion (17% of young people and 19.0% of children) reported that they do. When asked to state what they have missed out on lately, the most commonly mentioned things were sleepovers, sporting and other social activities and school excursions and camps.

231. For instance:

- *Not going swimming, and not participating in things.*
- *Football training.*
- *School excursions because sometimes Nan doesn't want to pay or if just going over the border the dept won't let me.*
- *Inter-school sport because of CSO.*

232. Comments about departmental approvals underscore a major source of discontent for those who responded to the survey. When asked if the things that they need departmental permissions for are fair, 47.7% of young people reported that they are not, and when asked if they are able to get permission in time to do things, 27.8% reported that they are not. As some young people stated:

- *It sucks because they limit so much you can do and I just wanna be a normal kid.*
- *They are always late in returning forms.*
- *It's annoying! We missed out on my Pops 60th!*
- *I call but I can never get in touch.*

Recommendation 28. That the Commission of Inquiry recognises that the wellbeing of children living in out-of-home care has improved in some areas, largely due to the oversight work of the CCYPCG and the responsiveness of the Department, but still has a long way to go in others including educational outcomes and transition from care and that these issues are magnified for young people in residential care, and in recognising the importance of the Indigenous Child Placement Principle requirements in relation to matters that must be considered when an Indigenous child is to be placed, including with a person who is not an Aboriginal person or a Torres Strait Islander

Educational outcomes of children in out-of-home care

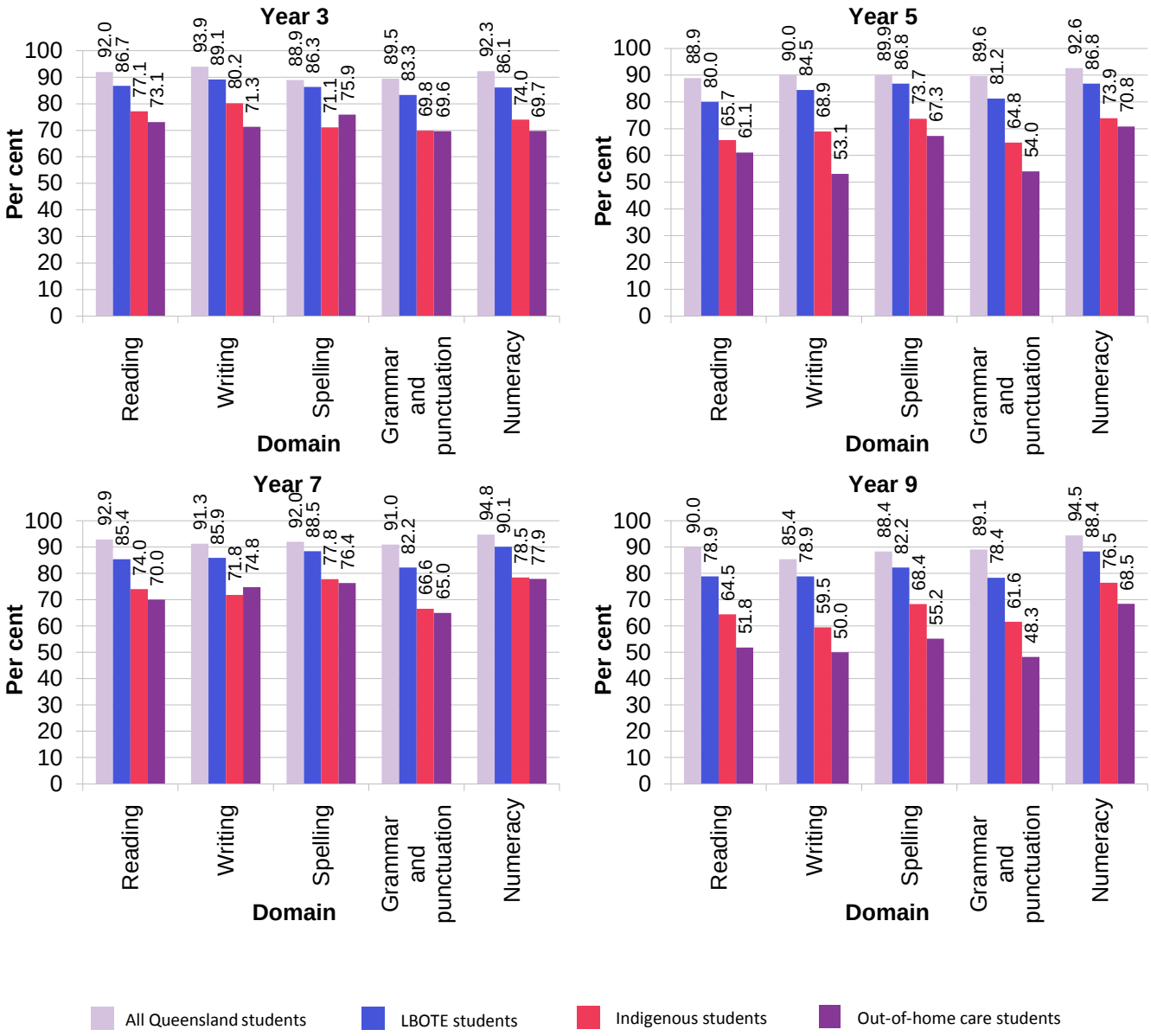
233. Positive educational experiences and good educational outcomes are vitally important for children and young people in care, both for their daily lived experience as well as for their future life trajectories. Unfortunately, the limited evidence that is available indicates that many children in care are performing worse than their peers and continue to face a range of barriers in successfully engaging with all aspects of their school life.

234. For example, in 2007 none of the 369 young people aged 17 to 18 years who were in the custody or guardianship of the Chief Executive of the then Department of Child Safety and living in care received or were eligible for an OP.[104]

235. National Assessment Program - Literacy and Numeracy (NAPLAN) 2009 data are also particularly concerning (See Figure 11 below) as they indicate that children in care are less likely to reach the national minimum standards than their peers across all year levels and subject domains. As a group, children in care are also less likely to reach the minimum standards than Indigenous students as a group, across the vast majority of year levels and subject domains, with the exception of Year 3 spelling and Year 7 writing**.**

[104] Due to limitations with the data collection and matching processes, the Commission was unable to identify the specific young people who were enrolled in Year 12 in 2007. Therefore, it is possible that not all of the 369 young people were enrolled at school.

Figure 12 - Students achieving national minimum academic standards by child protection, language background and Indigenous status, Queensland, 2009



Source: Department of Communities, *Child Safety Services 2009-10 Child Protection Partnerships Report* and Australian Curriculum, Assessment and Reporting Authority, *National Assessment Program – Literacy and Numeracy Achievement in Reading, Writing, Language Conventions and Numeracy: National Report for 2009.*

Note: Proportions exclude students who were absent or who withdrew from the tests. LBOTE refers to children and young people with a language background other than English

236. Academic research and the CCYPCG's research and data on children and young people in care highlight many of the contributing factors that result in this group of children and young people being among the most vulnerable students in the school system. For example, pre-care experiences of abuse; being separated from family members on coming into out-of-home-care; physical and mental health needs that may not have been diagnosed or are diagnosed but remain untreated; placement instability and related school disruptions and changing schools; and high rates of school absences, truancy, suspensions and exclusions.[105]

237. CCYPCG data on children and young people in care indicate that while there have been some improvements in recent years in the provision of supports, more needs to be done. In 2010-11 the CCYPCG's Complaints team closed 87 operational issues and Community Visitors closed 922 locally resolvable issues relating to education, yielding a total of 1,009 issues closed. Some of the recurring issues include the development, review or implementation of Educational Support Plans; school behaviour (including truancy and bullying); provision of support for education services and extra-curricular activities; school attendance and general education support.

238. Children's responses to the *Views of Children and Young People in Foster Care Survey 2011* indicate that of the 1862 children who answered the survey question on the number of primary schools they had attended, 37 reported attending between ten and twenty schools and 746 reported attending between three and nine schools. Survey responses relating to secondary school attendance reveal that of the 1104 young people enrolled in secondary schools, 59 reported attending three secondary schools and 54 reported attending between four and nine secondary schools.

239. Young people living in residential care who completed a CCYPCG *Views Survey* in 2011 were asked whether or not they need help in various areas and if so, whether or not the support they have received is sufficient. Of the 211 young people who responded to these questions, 60% identified requiring support with their school work and 30% of these young people reported they needed more help than they were currently receiving. In addition, 62% reported requiring support with school problems and 28% of these young people indicated they needed more help than they were currently receiving. There can be a direct relationship between the emotional or mental health needs of young people in residential care and their ability to successfully engage with school. For example, 69% of the 211 young people identified requiring support for emotional or mental health issues and of these 23% reported needing more help than they were currently receiving.

240. Educational support strategies designed to assist children and young people in care need to be more systematically implemented, particularly where it is recognised that the carer or residential care service is not in a position to support the child's educational needs. Once a child in care has been identified as in need of further educational supports, the Department and DETE should work together to implement specific programs to address these needs.

241. In order to determine whether or not educational outcomes for children and young people in care are improving over time, it will be necessary to have accurate and useful data. For example, the comparative information on NAPLAN results of children in care that was provided by the data matching exercise carried out by the Department; DETE and the Queensland Studies Authority (See Figure 11 above) should be made available each year.

242. The linking of de-identified data from the Integrated Client Management System (ICMS) and DETE's OneSchool database could potentially provide a range of useful information over and above NAPLAN results. For example, information such as attendance rates and suspensions and exclusions could provide data to inform and enhance ongoing policy and program development to support educational improvements for children and young people in care.

[105] Townsend, M. L. (2011) Are we making the grade? The education of children and young people in out-of-home care. PhD Thesis, Southern Cross University.

Recommendation 29. That the Commission of Inquiry recognises that children in out-of-home care, as a group, achieve lower results on national testing in literacy and numeracy than all other groups including children from non-English speaking backgrounds and Indigenous children and that strategies need to be put in place to address this issue including being able to electronically track the outcomes of children in the child protection system be enabling the Integrated Client Management System and the OneSchool system to talk to each other

Suspension and exclusions for children in out-of-home care

243. Educational achievement is widely regarded as a key to social inclusion and a positive life trajectory. A growing body of literature confirms, however, that children and young people in care often fare poorly when it comes to educational outcomes. Many are struggling with personal, familial and educational problems [106] associated with maltreatment or neglect, lack of support from family members and caseworkers, as well as frequent school disruptions.[107] Worldwide, numerous studies have revealed that students living in care are at greater risk of poor academic performance, grade retention and the need for special education services.[108] In Australia, recent research has found that children in foster care are more likely to experience significant difficulties at school in relation to attention, social interactions, anxiety, and aggression.[109]

244. School absenteeism has also been found to be a major problem among those in care. International experience also supports this. For example, in the UK, a recent report revealed that 0.9% of children in care were permanently excluded from school compared to 0.1% of all children[110], while a study in Scotland found that almost three quarters of care leavers reported having been temporarily or permanently excluded from school during their time in care. An Australian study of children in care with high needs found similar rates of school absenteeism with three quarters reporting having been suspended from school in the previous six months and 13% reporting having been permanently excluded.[111] In addition to formal exclusions, Bruskas[112] points out that many school days are lost when a child has to transition from one placement to another.

245. Given these obstacles it is hardly surprising that rates of school completion and participation in further education are considerably lower among those who are, or have been, in care. In one United States study, only 1.8% of care leavers continued to post-secondary education compared to 24% of the general population.[113]

246. In Queensland, departmental data confirm that compared with the general Queensland student population, children and young people in care are less likely to meet national benchmarks for literacy and numeracy and have higher rates of school disciplinary absences in the form of suspensions and exclusions.[114]

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[106] Fram, M.S., & Altshuler, S.J. (2009). Social Capital Theory: Another lens for school social workers to use to support students living in foster care. *School Social Work Journal, 33*(2), 1-25.
[107] Havalchak, A., White, C.R., O'Brien, K., Pecora, P.J., & Sepulveda, M. (2009). Foster care experiences and educational outcomes of young adults formerly placed in foster care. *School Social Work Journal, 34*(1), 1-28.
[108] Fram, M.S., & Altshuler, S.J. (2009). Social Capital Theory: Another lens for school social workers to use to support students living in foster care. *School Social Work Journal, 33*(2), 1-25; Havalchak, A., White, C.R., O'Brien, K., Pecora, P.J., & Sepulveda, M. (2009). Foster care experiences and educational outcomes of young adults formerly placed in foster care. *School Social Work Journal, 34*(1), 1-28.
[109] Fernandez, E. (2008). Unravelling emotional, behavioural and educational outcomes in a longitudinal study of children in foster care. *British Journal of Social Work, 38*, 1283-1301.
[110] Department for Education and Skills. (2007). *Care Matters: Transforming the lives of children and young people in care*. UK: Author
[111] Osborn, A., & Delfabbro, P. (2006). *National comparative study of children and young people with high support needs in Australian out-of-home care.* A report prepared for the South Australian Government. School of Psychology. University of Adelaide.
[112] Bruskas, D 2008, 'Children in foster care: A vulnerable population', *Journal of Child and Adolescent Psychiatric Nursing.* 21(2), 70-77.
[113] Bruskas, D 2008, 'Children in foster care: A vulnerable population', *Journal of Child and Adolescent Psychiatric Nursing.* 21(2), 70-77.
[114] Commission for Children and Young People and Child Guardian. (2009a). Child Guardian Report 2007-08. Brisbane: Author.

CCYPCG's *Views* surveys and Community Visitor reports

247. Data collected by the CCYPCG provides important insights into school disciplinary absences among young people in care. According to Community Visitor reports, 13.6% of children and young people who were visited during 2010-2011 had been suspended or excluded from school[115]. In 2008, findings from the CCYPCG's *Views* Survey of young people in residential care revealed that 61% of the 211 respondents reported having been excluded from school at some time. When young people in foster care were asked if they have ever been suspended from school, almost one in four (38.6%) of the 1180 respondents to the 2011 survey reported that they had. A further 6.4% (73 students) reported having been formally excluded from school at some time. These figures remain largely unchanged from the previous survey in 2009.

248. Further analyses of *Views* foster care data reveal that those reporting to have been suspended from school are significantly **more** likely to report:
    - experiencing problems at school, particularly problems associated with their behaviour or problems with teachers not listening to or understanding them
    - having experienced more placement changes and more primary and secondary school changes.

249. On the other hand, those reporting to have been suspended from school are significantly less likely to report that:
    - they enjoy school
    - that teachers are positive about their schoolwork
    - they think they will complete Year 12.

250. Some guidance could be found in England's experience, where, as part of its comprehensive reforms to address poor educational outcomes for children in care, the Department for Children, Schools and Families has outlined explicit guidelines to address the high rate of school exclusions among children in care. In its 2010 publication, *Promoting the Educational Achievement of Looked After Children: Statutory Guidance for Local Authorities*, the department stipulates that children in care are not to be excluded from school until a number of steps have been gone through. Guidelines specifically related to exclusions state:

> *In the case where a looked after child is excluded, anyone who is seen as a parent has the right to make representations and appeal. This includes the local authority where they have a care order in respect of the child and any person with whom the child lives.*
>
> *No looked after child should be excluded from a school/Pupil Referral Unit without discussion with the local authority to ensure that there is suitable alternative provision available elsewhere. In the event of a child being permanently excluded from school the local authority has a duty to provide full time alternative education from the sixth day following the exclusion. In the case of a looked after child it is recommended that such provision should be in place from the first day following the exclusion.*[116]

Recommendation 30. That it be required that, before children in out-of-home care can be excluded from school, there be discussions between the Department of Education, Training and Employment and the Department of Communities, Child Safety and Disability Services to negotiate supports and alternative approaches to optimise the child's chances of receiving some form of ongoing education including skill based learning, and that suspension or exclusion of these children be seen as an approach of last resort

[115] http://www.ccypcg.qld.gov.au/reportsCP/index.aspx

[116] Department for Children, Schools and Families *[England] Promoting the Educational Achievement of Looked After Children: Statutory Guidance for Local Authorities* [guidelines 68 and 69]

Addressing the therapeutic requirements of children and young people with complex needs

251. Understanding of how children and young people in out-of-home care are faring and the factors contributing to their wellbeing has greatly increased through the work of the CCYPCG. As safety for children in out-of-home care has improved significantly and their basic needs are now being met, it is time to consider ways to seriously address some of the factors that impact on children's wellbeing. One area that particularly stands out for further attention is providing therapeutic support for children and young people with complex needs.

252. In recent years the capacity of the child protection system to respond to the therapeutic needs of young people has been enhanced through the establishment of EVOLVE Therapeutic and Behaviour Support Services and options for "flexible funding" to supplement support provided to children and young people with complex or extreme needs in certain grant-funded placements. The Department has expanded its provision of specialist (now intensive) foster care and has dramatically increased the number of residential care placements as a proportion of all out-of-home care placements.

253. Different models of residential care have been established with a view to meeting the needs of different groups in the population, including the Indigenous Safe House model and the model for Therapeutic Residential Care. A model for generalist residential care has also been articulated (*The Contemporary Model of Residential Care for Children and Young People in Care*) specifying that every aspect of residential care is to be informed by trauma, attachment and child development theories to meet the needs of each young person placed. This follows from recognition that the vast majority of young people placed in statutory residential care have experienced significant trauma and attachment problems in their early childhood and typically demonstrate the emotional and behavioural sequelae of what is known as complex trauma.

254. Despite these considerable developments, the CCYPCG believes much still needs to be done in the following areas to address the therapeutic needs of children and young people.

A. There continues to be a serious lack of appropriate placement and treatment options for young people with severe behavioural and emotional problems

255. Even with developments in intensive foster care and therapeutic residential care, the CCYPCG is of the view that there remains a profound shortfall in appropriate placement and treatment options for young people exhibiting behaviours that cause serious risk to their own safety and the safety of others. Referring these young people to placements that cannot meet their needs sooner or later results in another placement breakdown for the young person, compounding their trauma and attachment related difficulties with trust and positive self-regard. Their inappropriate placement in generalist residential care with other vulnerable trauma-affected young people in the absence of a sufficiently intensive program structure and specialist supports is also very likely to compound the trauma-related problems of the other young people (see next section).

256. This population of young people is highly mobile and often unable/unwilling to stay in an approved placement due to their psychological state. Being outside an approved placement precludes their access to funded therapeutic and other support services – a serious gap in service delivery about which that the CCYPCG has previously advocated to the Department. The CCYPCG has documented the personal circumstances and child protection system experiences of a number of these young people in its *High Risk Young People in Out-of-home Care Concern Report* submitted to the Department in 2010. These case studies indicate that a lack of appropriate placement, support and treatment options and/or inadequate coordination in service delivery surrounded the death or serious injury of these individuals.

B. Emerging models of care lack adequate specification leading to poor implementation, monitoring and evaluation

257. For example, the *Contemporary Model of Residential Care* puts forward broad principles for trauma and attachment informed residential care, but does not specify in concrete terms what trauma and attachment responsive care constitutes or what such care definitively precludes. This situation is not clarified in the minimum service standards. There are no service design specifications relating to trauma and attachment informed care, neither is there a requirement on service providers to evidence the application of these frameworks in program design. Similarly, service providers are not required to show evidence of staff knowledge, skill, personal attributes and support/supervision in line with those that current research suggests are necessary for providing effective trauma and attachment informed care – there are currently *no* minimum qualifications specified. Neither are services required to specify or demonstrate therapeutic or developmental outcomes for young people in line with the broad objectives of such care, such as improvements in young people's emotional, social and cognitive functioning over time.

258. The lack of service design and outcome specification makes it impossible to confirm or deny that these model of care are being practiced and prevents them being subject to meaningful evaluation and continuous improvement.[117] At present, we do not know if the models developed are meeting the needs of the target populations or how they could be improved.

C. There is concerning evidence about the lack of therapeutic environments in residential care

259. While the Department's policy is that residential care will be informed by trauma, attachment and child development theories to meet the needs of each child placed, there is evidence that key therapeutic tasks of trauma and attachment informed care – including providing a safe, soothing physical, social and emotional environment in the program/household and a sensitive relationship-based developmentally-focused response to behaviour issues – are not being carried by some residential care providers resulting in counter-therapeutic outcomes. Evidence for concern is presented in the next section – Alternative strategies for behaviour management in residential care.

D. Unmet therapeutic needs are a common focus of the CCYPCG's individual advocacy work

260. As with previous years, a common focus of the individual advocacy work undertaken by the CCYPCG's Community Visitor and Complaints functions in 2010-11 was unmet therapeutic support needs of children and young people in care. In this period, 8.6% of all issues closed where advocacy was required by Community Visitors relating to the needs and rights of children in care pertained to the provision of therapeutic services (equating to 946 individual issues). In the same period, 10.5% of all issues closed by the Complaints team relating to the needs and rights of children in care pertained to the provision of therapeutic services (equating to 178 individual issues).

E. A significant minority of young people with therapeutic needs indicate they are not receiving adequate support

261. Of the 6% of young people in care visited by Community Visitors in 2010-11 who demonstrated high risk behaviours such as sexualised behaviours and self-harm, only half (52%) indicated receiving effective support from the Department and/or their care provider, 33% reported receiving support that was not effective, while 15% reported that no support had been provided to them.

[117] Cf. equivalent Victorian model which is highly specified. Department of Human Services (2010). Essential Service Design Elements: Therapeutic residential care, *National Therapeutic Residential Care Workshop*. http://www.dhs.vic.gov.au/__data/assets/pdf_file/0010/587908/national-therapeutic-residential-care-essential-elements.pdf

262. In the CCYPCG's 2011 *Views of Young People in Residential Care Survey*, 62% of respondents identified themselves as having behaviour support needs and 22% of these said they need more help with their behaviour. Similarly, 69% reported having emotional/mental health support needs, and 23% of these said they need more help with their emotional/mental health.

Recommendation 31. That the Commission of Inquiry recognises that the therapeutic care and treatment needs of children with significant psychological and behavioural problems are not being met to the standards required and recommends that a process be put in place to identify how these needs will be met over the next ten years

Improving residential care provisions to the standards required

263. The CCYPCG is concerned that the emotional and behavioural problems of young people in residential care are often not responded to in a manner that is consistent with trauma and attachment therapeutic principles. This compounds the psychological and behavioural problems of young people and those accommodated with them and in some cases results in other serious negative consequences, including young people's entry into the criminal justice system.

1. Behavioural characteristics and needs of young people in residential care

264. The vast majority of young people in residential care have experienced significant trauma and attachment problems in their early childhood and typically demonstrate the emotional and behavioural sequelae of what is known as complex trauma.[118] This can include problems with aggression, self-harm, suicidal ideation, depression, labile moods, impulsiveness and risk-taking, hyper-vigilance, irritability, dissociation and/or difficulty modulating sexual involvement.[119]

265. Even where traumatised young people do not exhibit high-risk behaviours, all will struggle with highly reactive stress arousal systems due to neurological adaptations to trauma. This means they will be prone to react suddenly, dramatically and defensively to all kinds of stimuli in their environments which are associated in some way with past trauma.[120] Chronically elevated stress arousal can also significantly compromise all aspects of normal development as well as constantly impairing general cognitive functioning such as the ability to process information, think logically and learn from experience.[121]

266. Trauma and attachment theories provide a sound platform for interpreting and guiding responses to the behavioural and emotional problems of young people in residential care. The therapeutic literature indicates that key to trauma recovery is firstly providing young people with safe, stable, predictable, non-threatening environments that over time promote emotional regulation and optimise cognitive functioning.[122]

267. Also critical is providing them with stable, consistent, nurturing care-giving which includes highly sensitive, developmentally-focused responses to behavioural issues.[123]

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[118] Bath, H. (2008). Residential care in Australia, Part I: Service trends, the young people in care, and needs-based responses. *Children Australia, 33*(2), 6-17.

[119] Morton, J., Clark, R., & Pead, J. (1999). *When Care is Not Enough. A review of intensive therapeutic and residential service options for young people in out-of-home care who manifest severe emotional and behavioural disturbance and have suffered serious abuse or neglect in early childhood.* Melbourne: Department of Human Services, Victoria. http://olvc.chisholm.vic.edu.au/civics/library/Care_not_Enough.pdf

[120] Perry, B. D., Pollard, R. A., Blakley, T. L., Baker, W. L., & Vigilante, D. (1995). Childhood trauma, the neurobiology of adaptation, and "use-dependent" development of the brain: How "states" become "traits". *Infant Mental Health Journal, 16*(4), 271-291.

[121] For a summary of developmental consequences, see Streeck-Fischer, A., & van de Kolk, B. (2000). Down will come baby, cradle and all: Diagnostic and therapeutic implications of chronic trauma on child development. *Australian and New Zealand Journal of Psychiatry, 34*, 903-918.

[122] Streeck-Fischer, A., & van de Kolk, B. (2000). Down will come baby, cradle and all: Diagnostic and therapeutic implications of chronic trauma on child development. *Australian and New Zealand Journal of Psychiatry, 34*, 903-918..

[123] Cairns, K. (2002). *Attachment, Trauma and Resilience: Therapeutic caring for children.* London: British Association for Adoption and Fostering. Cimmarusti, R. A., & Gamero, S. L. (2009). Compassionate accountability in residential care: A trauma informed model. *Residential Treatment for Children and Youth, 26*, 181-193.

268. Trauma/attachment-informed behaviour interventions radically depart from traditional behaviour management practices in residential care.[124] They are designed to hold young people accountable for their behaviour but to avoid shaming and re-traumatising them in the process and to build their understanding of and ability to cope with the overwhelming emotions that underlie their behaviour – i.e. fear, shame, guilt, anger, grief, etc. This kind of work requires a sophisticated knowledge and skill-set on the part of carers as well as a high level of professional support/supervision and other supporting organisational elements (trauma-informed policies, procedures, design of care environment, therapeutic organisational culture, etc.).[125]

2. Issues of concern in current practice

269. While the Department's policy is that all aspects of residential care will be informed by trauma, attachment and child development theories to respond to the needs of each young person placed, the CCYPCG believes many young people are not experiencing a therapeutic care environment in residential care and many are not receiving effective, sensitive, trauma-informed responses to their behavioural problems. Some of the evidence for this view includes:

a. Care environments are often not experienced as safe, predictable, calming and non-threatening

270. In the CCYPCG's 2011 *Views of Young People in Residential Care Survey*, of the 211 respondents:

- 1 in 8 indicated they do not feel safe where they are living and 60% indicated they do not feel safe all the time. The most common source of feeling unsafe described by young people is intimidation, threats or violence from other young people they live with, followed by threatening disturbances that occur in the care environment, such as people fighting, arguing, perpetrating violence against each other and/or outbursts of anger. A number of young people also cited a lack of effective intervention by care staff in relation to such disturbances.
- 79% responded *very true* or *a bit true* to the statement "there's often fighting between young people in this place"
- 54% responded *very true* or *a bit true* to the statements "some of the young people here make me feel nervous" and "some of the young people here are bullies".

271. Young people's experience of residential care environments as unsafe and/or threatening is also routinely apparent in issues responded to by the CCYPCG's Complaints Team and CVs. Case studies can be provided on request.

272. A non-soothing, threatening environment will compound young people's difficulty with regulating their emotions and behaviour as well as preventing them from undertaking higher-order therapeutic and developmental work.[126]

[124] As discussed in Cimmarusti & Gamero (2009) (above).

[125] See Barton, S., Gonzalez, R., & Tomlinson, P. (2012). *Therapeutic Residential Care for Children and Young People: An attachment and trauma-informed model for practice*. London: Jessica Kingsley Publishers; Hodas, G. R. (2006). *Responding to Childhood Trauma: The promise and practice of trauma informed care*. Philadelphia: Pennsylvania Office of Mental Health and Substance Abuse Services. http://www.dpw.state.pa.us/ucmprd/groups/public/documents/manual/s_001585.pdf

[126] Streeck-Fischer, A., & van de Kolk, B. (2000). Down will come baby, cradle and all: Diagnostic and therapeutic implications of chronic trauma on child development. *Australian and New Zealand Journal of Psychiatry, 34*, 903-918.

b. Responses to young people's behaviour are not experienced as sensitive or supportive by a significant minority of young people

273. In the 2011 *Views of Young People in Residential Care Survey*, of the 211 respondents:
- 51% of respondents answered *very true* or *a bit true* to the statement "when young people behave in the wrong way, the workers often yell at them"
- 33% of respondents answered *very true* or *a bit true* to the statement "I'm scared of breaking the rules because of what happens"
- 36% of respondents answered *not at all true* or only *a bit true* to the statement "the workers help me understand and cope better with my feelings"
- 31% of respondents answered *not at all true* or only *a bit true* to the statement "the workers try to help young people with their behaviour"

c. Standard responses to young people's behaviour in some facilities are counter-therapeutic and harmful

274. The CCYPCG has received feedback through a range of its functions (Complaints, Investigations, CVs, *Views* Survey) that it is common practice in some residential care facilities to call the police to respond to behavioural incidents, including fairly minor everyday disciplinary issues, resulting in young people being brought into the criminal justice system, often without appropriate legal advocacy and support. The Queensland Law Society has written to the CCYPCG about this issue and it was also reported by the ABC's Lateline program earlier this year, adding weight to the impression that these practices are common.

275. In addition to potentially burdening highly vulnerable young people with a criminal justice record, such punitive and shaming responses to behaviour will compound their psychological problems with emotional regulation, trust and positive self-regard. Witnessing such an incident will also undermine the sense of calm and safety of other residents with potential negative impacts on their development and recovery from trauma.

3. Contributing factors

276. In undertaking its various functions and consulting with stakeholders, the CCYPCG has formed a view about the systemic issues contributing to inappropriate and harmful responses to the behavioural problems of young people in residential care. These include the following:

- There is a lack of appropriate placement and treatment options for young people with severe behavioural and emotional problems (e.g. intensive foster care, therapeutic residential care) so that generalist residential care services are routinely pressured to accept the placement of young people who are unlikely to benefit from the placement while being very likely to cause distress/harm to others. This makes it extremely difficult for services to provide residents with the kinds of soothing environments they need to stabilise and begin a process of recovery.
- There is a lack of service design specification in minimum service standards and service delivery agreements to support trauma and attachment informed practice in residential care, and accordingly no systemic monitoring or evaluation of the therapeutic quality of care is being undertaken.[127]
- Related to this, trauma-competence in the residential care service sector is generally low.[128] Many organisations do not have a sophisticated understanding of trauma, attachment and

[127] Cf. specifications for therapeutic residential care in Victoria. Department of Human Services (2010). Essential Service Design Elements: Therapeutic residential care, *National Therapeutic Residential Care Workshop*. http://www.dhs.vic.gov.au/__data/assets/pdf_file/0010/587908/national-therapeutic-residential-care-essential-elements.pdf

[128] For more on concept of trauma competence, see Hodas, G. R. (2006). *Responding to Childhood Trauma: The promise and practice of trauma informed care*. Philadelphia: Pennsylvania Office of Mental Health and Substance Abuse Services. http://www.dpw.state.pa.us/ucmprd/groups/public/documents/manual/s_001585.pdf

child development theories and/or this knowledge is not adequately integrated into program design and service delivery – including policies, procedures, the design and management of the care environment, staffing models, staff recruitment and training, supervision and support of staff, program activities and specific therapeutic interventions, program objectives, etc.[129] Accordingly, staff in many facilities are ill-equipped to respond effectively and therapeutically to young people's challenging behaviour and may have to rely on the police to ensure their safety and that of residents. The rapid growth in the residential care sector in recent years may also be a factor in the low level of trauma-competence in the sector.

277. Various system development activities are underway which may contribute to addressing some of these factors in the future. For example, a review of the Department's licensing model and minimum service standards, a project mapping the skills and training requirements of staff in residential facilities, the establishment of a committee of stakeholders to identify options to reduce the criminalisation of young people in residential facilities, and a project by the Statewide Mental Health Network to enhance service responses to meet the needs of high risk, difficult to engage young people.

278. The CCYPCG would like the child protection system to focus on these issues going forward, given their long standing nature and the seriousness of their implications for the future health and wellbeing of young people in the system.

Recommendation 32. That a greater range of appropriate placement and treatment options for young people with very high support needs be developed, and the level of trauma-competence in the service sector improved

Participation of children

279. Under the *United Nations Convention on the Rights of the Child*, to which Australia is a signatory, children and young people have the right to participation in decisions affecting them.[130] Article 12 specifies that children have the right to freely express their views on all matters affecting them and for their views to be given "due weight in accordance with the age and maturity of the child." Clearly the intention of the Convention is that the child's participation is expected to have some effect on decisions.[131]

280. For children and young people in care in Queensland, their right to participation in decision-making is enshrined in the *Charter of rights for a child in care* in the CP Act (Schedule 1, section 74).

281. The charter states that children have a right to be consulted about, and take part in making decisions affecting them, and particularly those involving where they live, family contact, their health and schooling. It also stipulates that children are to be informed about plans and decisions concerning them as well as their own personal history, "having regard to the child's age or ability to understand".

[129] For an example of the complexity of thinking that goes into designing an effective trauma and attachment informed statutory residential care environment, see Barton, S., Gonzalez, R., & Tomlinson, P. (2012). *Therapeutic Residential Care for Children and Young People: An attachment and trauma-informed model for practice*. London: Jessica Kingsley Publishers.

[130] Fernandez, E. (2009). Children's wellbeing in care: Evidence from a longitudinal study of outcomes. *Children and Youth Services Review, 31*, 1092-1100.

[131] Bessell, S. (2011). Participation in decision-making in out-of-home care in Australia: What do young people say? *Children and Youth Services Review, 33,* 496-501.

282. Since the 1990s, there has been growing recognition in social research that children's perspectives can and should be elicited on a range of issues that affect them[132]. This view is underpinned not only by the *United Nations Convention on the Rights of the Child*, but by the sociology of childhood, a theoretical understanding of childhood which considers children to be reliable informants of their own experience, and, as such, capable of participation in research. As Boyden and Ennew (1997) note;

> *there is a pressing need for appropriate and well planned research with children…research about children's lives is also essential if policies and programs are to become more responsive and relevant to their concerns and needs.*[133]

283. Children have unique and diverse perspectives on their experiences in care. It is not possible to act in the 'best interests of the child', or fulfil their human rights without knowing, and seriously considering their views.[134] Research consistently finds that children and young people want to be involved in decision-making about their lives. [135] However, there is often a gap between the policy on participation and actual practice, with evidence indicating children's participation at times is tokenistic, or occurs within age-based power hierarchies.[136] In such instances children may see the child protection system as unresponsive and failing to 'care' about their welfare.[137]

284. They may be left believing their views are not valued, so that they feel excluded, disillusioned, powerless and frustrated at having no control or say in their lives.[138] Similarly, children may be confused about decisions that have been made on their behalf when they are given inadequate information about what is going to happen, or the reasons for decisions.

285. Lack of meaningful participation and failure to provide adequate explanations for decisions contribute to children's uncertainty, lack of felt security, and increase their feelings of powerlessness and anxiety which may undermine efforts to achieve positive outcomes for these children.[139]

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[132] Morrow, V. (2005). Ethical issues in collaborative research with children. In A. Farrell (Ed). *Ethical Research with Children* (pp. 150-165). Open University Press: UK.

[133] Boyden, J., & Ennew, J. (1997). *Children in Research: A Manual for Participatory Research with Children.* Stockholm: Radda Barnen.

[134] Bessell, S. (2011). Participation in decision-making in out-of-home care in Australia: What do young people say? *Children and Youth Services Review, 33,* 496-501.

[135] Dunn, D.M., Culhane, S.E., & Taussig, H.N. (2010). Children's appraisals of their experiences in out-of-home care. *Children and Youth Services Review, 32,* 1324-1330; Gaskell, C. (2010). 'If the social worker had called at least it would show they cared. Young care leavers' perspectives on the importance of care. *Children and Society, 24,* 136-147; Mitchell, M., Kuczynski, L., Tubbs, C.Y., & Ross, C. (2009). We care about care: Advice by children in care for children in care, foster parents and child welfare workers about the transition into foster care. *Child and Family Social Work, 13,* 176-183; Selwyn, J., Saunders, H., & Farmer, E. (2010). The views of children and young people on being cared for by an independent foster care provider. *British Journal of Social Work, 40,* 696-713; Winter, K. (2009). The perspectives of young children in care about their circumstances and implications for social practice. *Child and Family Social Work, 13,* 186-193.

[136] Bessell, S. (2011). Participation in decision-making in out-of-home care in Australia: What do young people say? *Children and Youth Services Review, 33,* 496-501; Fernandez, E. (2009). Children's wellbeing in care: Evidence from a longitudinal study of outcomes. *Children and Youth Services Review, 31*, 1092-1100.

[137] Gaskell, C. (2010). 'If the social worker had called at least it would show they cared. Young care leavers' perspectives on the importance of care. *Children and Society, 24,* 136-147.

[138] Bessell, S. (2011). Participation in decision-making in out-of-home care in Australia: What do young people say? *Children and Youth Services Review, 33,* 496-501; Fernandez, E. (2009). Children's wellbeing in care: Evidence from a longitudinal study of outcomes. *Children and Youth Services Review, 31*, 1092-1100; Fox, A., & Berrick, J.D. (2007). A response to no one ever asked us: A review of children's experiences in out-of-home care. *Child and Adolescent Social Work Journal, 24*(1), 23-51.

[139] Bessell, S. (2011). Participation in decision-making in out-of-home care in Australia: What do young people say? *Children and Youth Services Review, 33,* 496-501; Fox, A., & Berrick, J.D. (2007). A response to no one ever asked us: A review of children's experiences in out-of-home care. *Child and Adolescent Social Work Journal, 24*(1), 23-51; Gaskell, C. (2010). 'If the social worker had called at least it would show they cared. Young care leavers' perspectives on the importance of care. Children and Society, 24, 136-147.

286. Enabling children and young people to have meaningful involvement in decisions about their lives facilitates more responsive policy, and has several benefits for children's and young people's wellbeing. Participation can build children and young people's self-esteem, sense of self-worth, agency and enhance their dignity.[140] To realise these benefits, however, it is necessary for young people to feel that their input is valued and that decision makers will follow through on promises.[141] Young people are also more likely to adhere to decisions when they have participated in the process. Meaningful participation also increases the likelihood of a stable placement for the child and enhances their educational, health and behavioural outcomes.[142] Yet case workers face specific challenges in involving children in decision-making. Children's participation is time consuming and competes with other demands on case workers. Further, workers' skills in engaging with children vary widely and there is often limited opportunity to acquire these skills.[143]

287. In 2004, the Crime and Misconduct Commission's (CMC) *Inquiry into the abuse of children in foster care* raised concerns that although children's right to participation in decision-making was specified in the CP Act, in practice this was not occurring in many cases.[144] To address this problem, the CMC made several recommendations to facilitate children's participation in decisions about their lives. In their later review of the implementation of the inquiry recommendations in 2007, the CMC concluded that based on information they had received, the then Department of Child Safety still faced challenges in meeting its obligations to provide adequate participation for children and young people.[145]

288. In response to the CMC's inquiry, the CCYPCG established the *Views* surveys to allow children and young people to make their own assessment of the quality of their care, to share their lived experience of care in their own words, and to have direct input into important areas of child protection policy and practice. While many have found accessing children's views particularly challenging,[146] the CCYPCG's ongoing *Views survey* series has been successful in gathering the views and experiences of children and young people in foster care, residential care and youth detention with more than 13,000 children and young people responding to surveys since 2006.

289. The *Views* surveys fulfil several functions. Firstly, children and young people's survey responses serve as a mechanism for monitoring their safety and wellbeing in state care by providing an effective mechanism to communicate their needs and concerns and voice complaints about the services provided to them.

290. Secondly, the surveys contribute to knowledge about the needs and circumstances of children and young people in state care, the extent to which their needs are being met and highlight areas of personal and social disadvantage. Thirdly, the surveys allow the CCYPCG to consult with, listen to, and seriously consider, the views of children in its decision making processes.

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[140] Bessell, S. (2011). Participation in decision-making in out-of-home care in Australia: What do young people say? *Children and Youth Services Review, 33,* 496-501; Fox, A., & Berrick, J.D. (2007). A response to no one ever asked us: A review of children's experiences in out-of-home care. *Child and Adolescent Social Work Journal, 24*(1), 23-51; Gilligan, R. (2000). The importance of listening to the child in foster care. In G. Kelly and R. Gilligan. (Eds), *Issues in Foster Care*, 40-58. London: Jessica Kingsley Publishers.

[141] Cashmore, J., & O'Brien, A. (2001). Facilitating the participation of children and young people in care. *Children Australia, 26*(4), 10-15. Morgan, A., & Fraser, S. (2010). Looked after young people and their social work managers: A study of contrasting experiences of using Computer-Assisted-Self-Interviewing. *British Journal of Social Work, 40*, 445-461.

[142] Bessell, S. (2011). Participation in decision-making in out-of-home care in Australia: What do young people say? *Children and Youth Services Review, 33,* 496-501.

Gaskell, C. (2010). 'If the social worker had called at least it would show they cared. Young care leavers' perspectives on the importance of care. *Children and Society, 24,* 136-147.

[143] Office of the Guardian for Children and Young People (2009). *The significance of quality contact between children and young people in care and their Case Workers.* Adelaide: Government of South Australia.

[144] Crime and Misconduct Commission. (2004). *Protecting Children: An inquiry into abuse of children in foster care.* Brisbane: Author.

[145] Crime and Misconduct Commission. (2007). *Reforming child protection in Queensland: A review of the implementation of recommendations contained in the CMC's Protecting children report.* Brisbane: Author.

[146] *Report of the Victoria's Vulnerable Children Inquiry* (2012). Victorian Government at http://www.childprotectioninquiry.vic.gov.au/report-pvvc-inquiry.html)

291. Responses to the latest 2011 *Views* surveys of children and young people in foster care and from young people in residential care suggest that some aspects of the current out-of-home care system appear to be working well for many young people and children.

292. For example, in the CCYPCG's foster care surveys, most children and young people report being happy in their current placement. Most tell us they feel safe (98%), that their carer listens to them (97%) and treats them well (99%).

293. The majority of children and young people also indicate they have positive relationships with their CVs, reporting that their CV listens to them (99%) and they can discuss things which are important to them with their CVs (95% of young people, 98% of children). Relationships between CSOs are positive for many children and young people, though greater numbers express some discontent with these relationships than those they have with their carers or CVs. For example, while 86% of young people and 85% of children report their CSO listens to them, 28% of young people report they can never, or not very often, get in contact with their CSO and 32% would like to see their CSO more often while 46% of children also want more contact.

294. Children's and young people's responses also indicate there are some other ongoing challenges for Child Safety Services in its delivery of services and continuing issues in involving children and young people in meaningful participation in decisions about their lives and providing them with explanations for decisions. For example, in the CCYPCG's foster care surveys, almost half (48%) of the young people say they think the things they require departmental permission for are unreasonable while a further 43% indicate they are not confident the Department will follow through on promised actions, with more than one-quarter (28%) also reporting they miss out on things because departmental permission is not given in time. Further, 38% of children and 32% of young people report they do not have a say in what happens to them. For those young people residing in residential care this percentage is even higher, with 49% reporting they do not have a say.

295. Case planning for young people continues to be problematic. Fewer than half (46%) of the young people in foster care indicate they have a case plan, and just over half of these (54%) report knowing what is in their case plan. Just over 40% of young people in residential care report they were not involved in the development of their case plan. Worryingly, 39% of young people and 47% of children report that no one has given them an explanation for why they entered care and almost one-third (32%) said that decisions are not explained to them. For young people in residential care, 26% indicate that decisions are not explained to them.

296. The longitudinal data collection in the *Views survey* series also allows the CCYPCG to monitor changes in children's and young people's experiences of out-of-home care since the first survey in 2006. From the previous discussion it is clear that the Department still faces challenges in improving service delivery and increasing children's and young people's meaningful involvement in decision-making. However, it is important to note that there have been continuing improvements in several areas across the period of the *Views of children and young people in foster care* series data collection in 2006, 2007, 2009 and 2011.

297. For example, there have been significant improvements in the proportion of young people indicating they are confident the Department will follow through from 41% in 2006 to 57% in 2011. Similarly, significantly more young people and children indicate they have a say in what happens to them in 2011 (68% and 62% respectively) than in 2006 when 47% of young people and 58% of children reported this. Also in 2011 fewer young people report missing out on activities because of delays in receiving permission from the Department (28%) than in 2006 (37%), while fewer also indicate that decisions are not explained to them in 2011 (32%) than in 2006 (47%).

298. Similarly the longitudinal data collection allows the CCYPCG to identify areas where service provision has declined. So for example, while the proportion of young people reporting they have a case plan consistently improved between 2006 (26%) to 2009 (63%), in 2011 this has significantly declined to 46%.[147] Also there has been a consistent decline in the proportion of young people and children indicating that they have been given an explanation for why they are in out-of-home care from 77% of young people and 61% of children in the 2006 survey to 61% of young people and 53% of children in 2011.

299. It is important that children and young people do participate in, and understand decisions about their lives. In the 2011 foster care survey, children and young people who were involved in, or informed of decisions were more likely to report feeling happy, being more content in their placement and indicating that they were better off since coming into care. So being told what to expect in care, believing that people listen to their opinions, that they have a say in what happens to them, decisions are explained and knowing about their capacity to challenge departmental decisions were all associated with greater wellbeing for children and young people in foster care.

Recommendation 33. That the Commission of Inquiry recognises the importance of involving children and young people in planning and decision-making for its impact on a range of outcomes but in particular, the appropriateness of the decisions made and children's sense of wellbeing

[147] Although there has been a consistent decline in the proportion of young people knowing they have a case plan over time, there has been a significant improvement in the proportion of young people with a case plan who know its contents from 18% in 2006 to 54% in 2011.

The effectiveness of transitions through and exiting the child protection system

3. c) reviewing the effectiveness of Queensland's current child protection system in the following areas: iv. the transition of children through, and exiting the child protection system

Extend support for young people transitioning from care past 18 years

300. Young people leaving state care are undoubtedly among the most vulnerable groups in society. Despite experiencing multiple disadvantages stemming from abuse or neglect prior to entering care, young people in care in Queensland are expected to attain independence at 18 years – an age when young people are typically completing school, looking for employment or commencing tertiary education. This transition often has to occur without the emotional, practical and financial supports that their peers typically receive from their families, often until they are well into their twenties. Noting the recent changes to education in starting, and consequently completely, school at an older age, in future more young people in care will still be completing year 12 when they turn 18 years.

301. Not surprisingly, research shows that care leavers are considerably less likely to complete school and participate in higher education. They are also far more likely to be unskilled, experience unemployment, poor mental and physical health, homelessness, early parenthood and be involved in criminal activity.[148] In Australia in 2006, the lifetime cost of such disadvantage has been estimated at $738,741 per care leaver.[149]

302. Not all care leavers fare poorly, however. Research indicates that positive post-care outcomes are more likely among those who experience placement stability, who complete school, have a comprehensive transition plan, and have a range of social supports in place.[150] Studies have also identified numerous benefits associated with enabling young people to remain with their care family beyond the age of 18. In particular, these benefits were completion of school, increased earnings and delayed parenthood.[151]

303. At the federal level, support for care leavers was targeted as a key priority by the National Child Protection Framework and the recently finalised National Standards for Out-of-Home Care. Although formal transition planning and support for care leavers is now a statutory requirement in all jurisdictions, there remains variability between states regarding the timing and duration of supports. For instance, in NSW, WA, SA, and NT, financial support is available to care leavers up to the age of 25 years.

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[148] Bruskas, D. (2008). Children in foster care: A vulnerable population. *Journal of Child and Adolescent Psychiatric Nursing,* 21(2), 70-77; Cashmore, J. Paxman, M. & Townsend, M. (2007). The educational outcomes of young people 4-5 years after leaving care: an Australian perspective. *Adoption and Fostering,* 31(1), 50-61; Fowler, P.J., Toro, P.A. & Miles, B.W. (2009). Pathways to and from homelessness and associated psychosocial outcomes among adolescents leaving the foster care system. *American Journal of Public Health,* 99(8), 1453-1458; Schneider, R., Baumrind, N., Pavao, J., Stockdale, G., Castelli, P., Goodman, G. & Kimerling, R. (2009). 'What happens to youth removed from parental care? Health and economic outcomes for women with a history of out-of-home placement'.*Children and Youth Services Review,* 31(4), 440-444; Stein, M. & Dixon, J. (2006). Young people leaving care in Scotland. *European Journal of Social Work,* 9(4), 407-423; Tweddle, A. (2007). Youth leaving care: How do they fare? *New Directions for Youth Development,* 113, 15-31.

[149] Forbes, C., Inder, B. & Raman, S. (2006). Measuring the cost of leaving care in Victoria. *Children Australia,* 31(3), 26-33.

[150] Maunders, D., Liddell, M., Liddell, M. & Green, S. (1999). *Young people leaving care and protection.* National Youth Affairs Research Scheme: Hobart; Cashmore, J. & Paxman, M. (2006). Predicting after-care outcomes: the importance of 'felt' security. *Child and Family Social Work,* 11, 232-241; Moselhuddin, B., & Mendes, P. (2006). Young people's journey to independence: Towards a better future for young people leaving state care in Victoria. *Children Australia,* 31(3), 47-54; Office for Standards in Education, Children's Services and Skills. (2009). *Support for care leavers.* London: Ofsted; Stein, M. & Dixon, J. (2006). Young people leaving care in Scotland. *European Journal of Social Work,* 9(4), 407-423.

[151] Cashmore, J. & Paxman, M. (2006). Predicting after-care outcomes: the importance of 'felt' security. *Child and Family Social Work,* 11, 232-241; Courtney, M.E., Dworsky, A. & Pollack, H. (2007). *When should the State cease parenting? Evidence from the Midwest Study. Issue Brief 115.* Chicago: Chaplain Hall Centre for Children at the University of Chicago.

304. In Victoria entitlements cease at 21 years, in the ACT support is provided for up to 5 years from the time that a young person leaves care, and in Queensland, the duration of support is not expected to exceed 12 months from the date of leaving care at 18 years or earlier.[152]

CCYPCG's Community Visitor reports and *Views* surveys

305. Data collected by the CCYPCG provides important insights into leaving care in Queensland. In 2011-12, the CCYPCG dealt with and closed 416 issues raised by CVs on behalf of young people that to related to transitioning from care, an increase on the 388 issues in 2010-11 and 113 issues in 2009-10. Most issues raised by young people relate to either developing a transition from care plan or wanting to discuss the details in it, particularly around accommodation and the support to be provided.

306. Further insights are provided by the CCYPCG's *Views s*urveys which include a series of questions on leaving care specifically for 16 to 18 year-olds. Some of the responses to the most recent (2011) survey revealed that:

- Most young people anticipated needing at least one type of support to facilitate their transition to independence. These were financial support (40%), help with somewhere to live (38%), help with life skills (34%), help finding a job (30%) and/or help getting into further training or education (28%).
- 65% would prefer to continue living with their foster care family after they have turned 18. A further 22% were unsure about this, while only 14% would prefer not to stay with their foster family.
- Many who wanted to stay explained why, or for how long they expected this to be. For instance:

> *I will still be in school.*
>
> *I am not leaving home until I complete university or when I'm 21 years of age.*
>
> *Until I get my life on track & drivers license etc.*

CCYPCG's proposed research project on post-care outcomes

307. Despite their vulnerability, little is known about how young people fare once they age out of care in Queensland. The CCYPCG is in the process of scoping an exit study to investigate the experiences of young people as they prepare to age out of care and the supports that are in place to assist their transition. Through this work the CCYPCG hopes to establish the foundation for a long-term follow-up study in collaboration with academic and other suitable partners to determine young people's trajectories once they have left care and to identify which care- and post-care factors result in the best outcomes for care leavers.

Recommendation 34. That, in line with other Australian jurisdictions, support for young people aging out of care be extended to at least 21 years, and that research be conducted in Queensland to track young people's post-care trajectories and identify the factors that contribute to positive outcomes

[152] McDowell, J. (2009). *Transitioning from care: Tracking progress.* CREATE Foundation: Sydney.

Reduce the number of children on long-term guardianship to the Director-General

308. Stability of care is one of the CCYPCG's ten Child Guardian Key Outcome Indicators, in recognition of its role in enhancing a child or young person's overall wellbeing and outcomes.

309. Stability of care provides a child with a chance to develop secure attachments through continuity in the child's relationships, not just with their primary carer but also with their community, school and significant support people in their lives.

310. Children on long-term guardianship orders to the Chief Executive, as opposed to another appropriate person (for example, a family member or carer), are more exposed to the likelihood of placement instability.

311. Data from the CCYPCG's most recent *Views survey* of children and young people in foster and kinship care show that these children and young people experience a number of difficulties associated with being involved in, and being able to make, decisions about their lives. Just under one third (30.8%) indicated that permission is not often or never given in time to do things and 46.8% felt that the types of things that permission is required for are unreasonable, a sentiment echoed by 29.6% of the carers who responded on behalf of young children. Young people also indicated that while they felt listened to, particularly by their carers, almost half (47.3%) indicated that they rarely or never have a say in what happens to them.

312. In responding to the CCYPCG's provisional *Child Guardian Report 2009-10*, the Department provided the following advice in relation to the 'Stability' Key Outcome Indicator:

> *To provide additional reliability and rigour to the decision making process, permanency panels carefully consider and review decisions to reunify a child with their family or pursue an alternative long-term placement. Additional work undertaken to improve permanency outcomes for children includes the establishment of a program of supports for long-term guardians and the review and development of procedures and resources specific to the use of long-term guardianship orders to a suitable person. A review of the permanency panels is currently being undertaken.*
>
> *Legislative amendments to the Child Protection Act 1999, commencing on 29 August 2011, will also improve the operation and status of orders granting long-term guardianship by strengthening the rights and obligations of guardians who take on this vital role.*

313. A review of the current CP Act and the Department's Child Safety Practice Manual confirm that the Department has recently implemented a number of policy reforms in relation to long-term guardianship orders, including specific provisions and policies to support assessments and decision making for the granting of these orders to 'suitable persons' rather than the Chief Executive. These reforms came into effect from August 2011.

314. The CMC Inquiry report noted that long-term guardianship orders were almost always made in favour of the Chief Executive, which was inconsistent with section 59(4)(b) of the CP Act (as it was in 2003), which said the court must not grant long-term guardianship of a child to the Chief Executive if the court can properly grant guardianship to another suitable person. The CMC further noted a concern that children who are put in the long-term custody of the Department were more likely to drift in and out of care and experience multiple placements, and recommended that the Department's use of long-term guardianship orders be reviewed.

315. When the implementation of the recommendations made in the CMC report was reviewed in 2007[153], the Department reported its progress against this recommendation as follows:

> *There has been a small increase in the proportion of long-term guardianship orders being granted to people other than the Director-General, from 13% of all long-term orders in 2003–04 to 15% in 2004–05 and 16% in 2005–06.*

316. According to the Department's June 2012 operational data from ICMS (which is provided to the CCYPCG on a monthly basis for the purpose of fulfilling our CV functions), it appears that the proportion of long-term guardianship orders being granted to people other than the Chief Executive has increased from the most recently reported figure of 16% in 2005-06, as follows:

> *Of the 7347 children placed in June 2012 (according to ICMS), 4148 were reported as being on long-term guardianship orders. Of these children 890 (21%) were on a long-term guardianship order to someone other than the Director-General.*

317. Even if the previously proposed statutory trigger for reviewing a child's or young person's long-term guardianship order to the Director-General after a specified period of time to determine whether the order can be more appropriately made to another suitable person eventuates, as there is still a substantial number of children on long-term guardianship orders to the Director-General, it would seem that the only way to address this is to develop a dedicated project to transition as many of these children as possible to a person other than the Director-General.

Recommendation 35. That, besides a dedicated focus in the long-term on this matter, a project be developed to transition the substantial number of children and young people who are on long-term guardianship orders with the Chief Executive to another person as soon possible and where appropriate, and that only where a child or young person is unable to be placed because of extremely challenging behaviours or disability should they stay under the guardianship of the Chief Executive

[153] '*Reforming Child Protection In Queensland: A review of the implementation of recommendations contained in the CMC's Protecting Children Report*', June 2007

The effectiveness of the monitoring, investigations, oversight and complaint mechanisms

3. d) reviewing the effectiveness of the monitoring, investigation, oversight and complaint mechanisms for the child protection system and identification of ways to improve oversight of and public confidence in the child protection system

Recognise the strength of Queensland's unique model of oversight of the child protection system

318. The Department has responsibility for the delivery of services to children and young people under the CP Act, whereas the CCYPCG has a legislative mandate to provide independent oversight of the child safety and youth justice systems in Queensland.

319. The role the CCYPCG plays for children and young people in the child protection system helps ensure, for government and the community, that circumstances of abuse such as those that gave rise to the Forde and CMC Inquiries will be identified and addressed should they arise.

320. The need to maintain the dignity and privacy of children and young people who have been subjected to significant abuse and neglect is critical and this is achieved, in part, through broad and encompassing legislative confidentiality provisions. These provisions, while necessary to protect the confidentiality and privacy of those involved, enable service providers to communicate, but effectively close the service system off from outside scrutiny. In these circumstances, it is essential that child focused oversight be undertaken by content experts, including staff with high-level expertise in a range of areas including, but not limited to, investigations, child protection, child development and child health, consistent with the recommendations of the CMC Inquiry.

321. Recent reviews of child protection service delivery in New South Wales and Victoria have highlighted the critical importance of an effective model of independent oversight of the child protection system. These reviews have directly and indirectly supported some of the key attributes of the Queensland model of oversight, including its complementary individual and systemic components.

322. The *Protecting Victoria's Vulnerable Children Inquiry 2012* highlighted the need for external monitoring of the child protection system to have functional independence from the agencies whose services are subject to the oversight jurisdiction.

323. The reforms to the oversight of the child protection and youth justice systems recommended by the Forde and CMC inquiries were adopted by the Government and led to the establishment of what are now, collectively, the CCYPCG's Child Guardian functions.

324. Critical elements that make the Queensland model effective are:

1. Legislated independent body with specialist knowledge

325. The CCYPCG is an independent agency which has developed significant expertise and experience in examining issues facing children and young people in Queensland. The CCYPCG:

- is an independent and child-focussed agency with no conflict of interest between its role and the services being oversighted
- has built and maintains a thorough understanding of the complexity of the child protection system
- has expertise in the theories and practices around child wellbeing, child development, and research design and data analysis

326. The CCYPCG is of the view that it is consequently best placed to provide independent, external oversight work to ensure that children and young people's best interests are at the heart of all decision-making.

2. Regular visits by CCYPCG's Community Visitors to verify children's safety and wellbeing and access to support services

327. The Forde Inquiry in 1999 highlighted the importance of having a program of regular independent visits to children and young people in out-of-home care as a key element of an effective model of oversight. Forde stated:

> *Powerlessness has been a central feature of almost all the cases of young people being subjected to abuse in care. Children's weakness and vulnerability are characterised by their lack of power or influence, their scant knowledge of how the organisation works, and their lack of awareness of how to assert their rights or how to make complaints about those on whom they depend for the basic elements of living. Many witnesses said they had lost faith that anyone would ever take their complaint seriously.*[154]

328. The Forde Inquiry also noted the following in relation to the 'Official Visitor' visiting program operating in Queensland at that time:

> *There is presently limited opportunity for children and young people in residential care facilities to access the CCYPCG's Official Visitors. The scheme has only two full-time visitors responsible for visiting all the facilities in Queensland, of which there are currently over 100, many in remote and regional areas. Visits are carried out in an ad hoc fashion with varying frequency. As of January 1999, the two Official Visitors had assessed 56 residential care facilities, but none north of Mackay. Visits do not occur with sufficient frequency for Official Visitors to develop a rapport with or gain acceptance from children and young people in care. Young people are unlikely to discuss issues of a sensitive nature with Official Visitors before confidence and trust are developed. The Inquiry considers that a fundamental role of the Official Visitors is the development of trusting relationships so that they are better able to identify problem areas for children and young people and advocate on their behalf.*[155]

329. Under the CCYPCG Act the CVs now have a clear oversight role to monitor the safety, wellbeing and quality of services delivered to children and young people in care. Within the context of this oversight framework, a CVs' key obligations are to:

- develop trusting and supportive relationships with children and young people in out-of-home care
- advocate on behalf of the children by listening to, giving voice to, and facilitating the resolution of, their concerns and grievances
- seek information about, and facilitate access by the children to, support services appropriate to their needs provided by service providers
- assess the adequacy of information given to the children about their rights, and
- assess the physical and emotional wellbeing of the children.

330. As identified by the Forde Inquiry, visiting children face-to-face on a regular and frequent basis is a fundamental element in providing an effective oversight role. Through spending time with children and young people, and engaging with them using positive age appropriate engagement strategies, CVs are able to build constructive relationships with children and young people.

[154] Forde Inquiry Report, p.viii
[155] Forde Inquiry Report, p265

331. This leads to increased trust and cooperation and better sharing of information. CVs gain a level of insight into the lives of children and young people through regular visits and building relationships which helps them to identify proactively issues and concerns of individual children that might otherwise be missed or overlooked.

332. Information gathered from visiting children and young people also contributes to a valuable evidence base on the functioning of the system and is key data source for the Child Guardian's Key Outcome Indicators. The Key Outcome Indicators is a framework that identifies the desired safety and wellbeing outcomes for children and young people who come into contact with the child protection system. The CCYPCG developed this monitoring framework in 2005 and reports on it annually.

333. Each piece of information that informs these indicators adds value to understanding how children and young people reliant on this service system are faring.

334. The CCYPCG also conducts biennial surveys of children and young people in out-of-home care, through it *Views* surveys series. The surveys, which are offered to all children and young people visited by CVs, have been conducted since 2006 and provide a rich source of statistical and qualitative information. They include demographic information, care history, and children's views on their safety and wellbeing and the services provided to them. The full dataset is made available to the Department to improve its service delivery.

335. The combination of the information from the regular CV visits, the *Views* surveys and information provided by the Department, allows for triangulation and verification of the information, and enables the CCYPCG to develop an informed understanding of the child protection system and underpins its advocacy and oversight activities.

336. The CCYPCG analyses and publishes its information to inform stakeholders with a view to improving outcomes for children.

3. Combination of individual and systemic advocacy

337. The CCYPCG undertakes both individual and systemic level advocacy. This is achieved through the following:

Individual advocacy

338. CVs: This "early warning system" involves direct monitoring of the safety and wellbeing of children and young people living in foster homes, kinship care, residential and respite facilities, externally supported accommodation, youth detention centres, authorised mental health facilities and boarding schools throughout Queensland. These visits are critical to assisting children resolve any concerns or issues quickly and effectively.

339. Complaints resolution: The CCYPCG receives, seeks to resolve and investigates complaints about the services provided to children and young people in the child protection and youth justice systems. In 2011-12, the CCYPCG resolved 4,561 complaint issues on behalf of children and young people.

Systemic advocacy

340. *Views* survey series: Through the *Views* survey series, the CCYPCG regularly collects information about children and young people's perspectives and experiences of the child safety and youth justice systems and their needs and circumstances. These surveys comprise the largest repeated cross-sectional longitudinal study of its kind involving the direct participation of children and young people in state care.

341. Formal investigations and audits: Over the past 5 years, more than 75 investigations, audits and reviews have been conducted resulting in over 450 recommendations made to the Department of Communities, Queensland Health, the Department of Education, and Training and Employment and the Queensland Police Service. Recommendations have targeted:
    - Improvements to policies and procedures to better support frontline child protection practice, for example, delivery of services to children who are chroming, working with parents with mental health issues and who care for children
    - Providing training to specific staff to address identified service delivery issues, for example, record keeping deficiencies and supervision practices
    - Interagency collaboration and information sharing, including where multiple service systems connect, for example, where the Department and Queensland Health are both providing services to a client, clarifying inter-agency service linkages and dependencies to promote the safety and wellbeing of children of parents with mental health issues
342. Child death case review: The Queensland child death case review jurisdiction consists of a two-tiered system for reviewing deaths of children known to the Department in the three years prior to their death. The Chid Death Case Review Committee (CDCRC) was established as a result of a CMC Inquiry recommendation and continues to play an important role in building public confidence in identifying any child protection service system failures as a risk factor in deaths. This system ensures that Queensland has a strong, rigorous and independent child death case review jurisdiction.
343. Regular monitoring and reporting on the performance of the child protection system: Since 2006, the CCYPCG's Key Outcome Indicators have enabled the CCYPCG to provide annual public reports through an objective system-level and evidence based assessment of the safety and wellbeing of children and young people in out-of-home care. Reporting under this framework has been effective in prioritising and highlighting trends and issues (both negative and positive) in child protection service delivery. This key outcome indicator framework was recently (in a large part) adopted in the National Standards for Out-of-Home Care. The data utilised for this reporting is derived from CV reports, the CCYPCG's *Views* surveys and administrative data held by service providers, which is accessed under the Child Guardian powers. This enables critical triangulation of data and therefore provides a robust and unique evidence base for systemic advocacy.

Recommendation 36. That the Commission of Inquiry recognises Queensland's unique model of independent oversight of the child protection system and confirms that the CCYPCG's CV program, established as recommended by the Forde and CMC Inquiries based on past experiences of the abuse and neglect of children while in the care of the state, is a crucial element in the oversight of, and creating public confidence in, the child protection system

Acknowledge the importance of independent oversight of child deaths in the statutory system

344. The occurrence of child protection system failure as a factor in child deaths was highlighted by the Queensland Ombudsman Office in its 2001 and 2003 investigations into the deaths of Brooke Brennan (aged 3) and baby "Kate" (aged 10 weeks). These investigations highlighted critical failings in the service delivery as well as the Department's internal child death review processes. The Ombudsman's findings and recommendations were adopted, contextualised and strengthened in the findings of the CMC Inquiry, which established the Department's first tier review responsibilities as well as Queensland's Child Death Case Review Committee (CDCRC) which contributes a second tier, oversight role.

345. The CDCRC is multi-disciplinary committee with expertise in the fields of child heath, forensic pathology, investigations and child protection. With the experience and insights gained from conducting over 400 reviews since it was established in 2005, the CDCRC has continued to evolve its review processes and enhance the criteria it uses to inform each case review.

346. The current two tier child death case review jurisdiction provides the Queensland public and government with a strong accountability framework ensuring rigorous and independent scrutiny is applied to all cases where the Department has had involvement with the child prior to their death.

347. An important feature of the current child death review process relates to the contribution it makes in relation to the qualitative analysis of service delivery to children and young people. While other oversight functions within the child protection system tend to focus on quantitative assessment of the Department's compliance with its legislation, policies and procedures, the data collated from the qualitative child death reviews provide informed understandings of the reasons behind some of the compliance issues. This information results in the development of targeted recommendations better able to address the reasons behind the service delivery issues while at the same time providing a robust accountability process.

348. The initial focus on building agency capacity to conduct these reviews and maintaining the required accountability remains relevant. While valid consideration could be given to addressing the number of cases that progress through a second tier review process, the CCYPCG contends that there remains an ongoing need for oversight in this area. Further, it is important that any changes proposed in relation to the reviews of child deaths in Queensland are cognisant of the efforts to create greater nationally consistency.

Recommendation 37. That the Commission of Inquiry notes and acknowledges the ongoing need for an independent review/audit process for responding to the deaths of children known to the Queensland child protection system and as an essential measure for building public confidence in the child protection system and that any changes that are implemented lean towards a more nationally consistent approach

Appendices

Appendix A - Forde Inquiry recommendations and CCYPCG implementation

#	Recommendation	Monitoring Committee Report August 2001	Current position under *Commission for Children and Young People and Child Guardian Act 2000* (CCYPCG Act)
16	That legislation be enacted to make mandatory the reporting of all abusive situations that come to the attention of departmental employees - and persons employed in residential care facilities and juvenile detention centres.	(Pages 15-17) *Collation and use of reported information* Under regulation, information on reported incidents must regularly be conveyed to the Commissioner for Children and Young People. At the time of writing the protocols for reporting to the CCYPCG are still being completed. There is no clear framework in place for systematically collating and analysing collected information, to allow for the identification of trends of abuse (with the exception of information published in the *Report on Government Services* - see recommendation 18). *Complaints and Advocacy* The successful reporting of abuse is fundamentally tied to the ability of affected children to know and exercise their rights of complaint, and to be supported in the complaints process through suitable advocacy services. There is still work to be done in these areas (see recommendations 34 and 19).	As noted in the Monitoring Committee's report, this recommendation has been implemented. Since the Monitoring Committee's progress report of 2001, the CCYPCG has significantly enhanced its ability to monitor the reporting of all incidences of "abusive situations" in residential facilities and juvenile detention centres, which is inclusive of harm caused to a young person by another/other young person/s. Section 148 of the *CP Act* provides an obligation for the responsible person to report harm or a reasonable suspicion of harm to children in departmental and licensed care services to the Chief Executive. Under section 10 of the *Child Protection Regulation 2011* all of the following particulars are prescribed for inclusion in a responsible person's report that harm, or suspected harm— (a) the child's name and sex; (b) the child's age, if known by the responsible person; (c) details of the basis for the responsible person becoming aware, or reasonably suspecting, that harm has been caused to the child; (d) details of the harm or suspected harm; (e) particulars of the identity of the person who caused, or is reasonably suspected of causing, the harm, if known by the responsible person; (f) particulars of the identity of any other person who may be able to give information about the harm or suspected harm, if known by the responsible person. Similarly, section 268 of the *Youth Justice Act 1992* provides an obligation for a detention centre employee to report harm or suspicion of harm to a child while detained in a detention centre. Under section 35 of the *Youth Justice Regulation 2003* the harm report must include all the following particulars— (a) the child's name, age and sex; (b) details of the basis for the detention centre employee becoming aware, or reasonably suspecting, that harm has been caused to the child; (c) details of the harm or suspected harm; (d) particulars of the identity of anyone who the detention centre employee knows, or reasonably suspects, caused the harm or suspected harm or is able to give information

#	Recommendation	Monitoring Committee Report August 2001	Current position under *Commission for Children and Young People and Child Guardian Act 2000* (CCYPCG Act)
			about the harm or suspected harm. Since 2004, the Child Guardian has established Monitoring Plans with the departments responsible for the child safety and juvenile justice systems, which include receiving "harm reports" on a regular basis. These plans are reviewed regularly to assist the CCYPCG to ensure that it is evaluating and reporting information across a broad spectrum of outcomes which have been identified as being critical for children and young people. All incidents involving harm or suspected harm which occur in a residential placement or juvenile detention centre are analysed by the Child Guardian on a monthly basis. The Child Guardian considers whether any further action is required and/or further information is required. Key statistics are aggregated in an annual report to proactively identify any emerging trends or issues. Children placed in residential facilities and juvenile detention centres are visited regularly by Community Visitors and advised of their rights to complain either to the Community Visitor or through the CCYPCG's complaints function and are advised that the Community Visitor will support them through any complaints process. A Community Visitor Program Communication Box is placed at each juvenile detention centre in Queensland so that children may submit anonymous complaints.
19	That the provision of advocacy services for young people in residential care facilities and juvenile detention centres be required by legislation.	(Pages 25-37)… The CCYPCG is expressly given an advocacy role by the new *Commission for Children and Young People Act 2000.* While the CCYPCG's functions in relation to advocacy are stated broadly in the Act, its primary advocacy role at the current time (in relation to out-of-home care) is through Community Visitors. The CCYPCG requires visitation by -Community Visitors on at least a monthly basis (See recommendation 17), and in addition contact with a Community Visitor may occur on request by a child who is resident in a care facility or detention centre. Children can also access advocacy services by directly contacting the CCYPCG's complaints and investigation unit.	As noted in the Monitoring Committee's report, this recommendation has been implemented. Section 17(1)(g) of the CCYPCG Act provides that the Commissioner's functions include to advocate for children and, in advocating for children, to seek help from advocacy entities, service providers and other entities. Individual advocacy services are primarily provided by the CCYPCG's Community Visitors (CVs) under Chapter 5 of the CCYPCG Act. Specifically, section 89, requires the Commissioner to arrange regular and frequent visits to residential facilities, detention centres, and authorised mental health services. Residential facilities include both: • *Externally supported accommodation* An accommodation service funded or administered by the Department of Communities, Child Safety and Disability Services for young people. The service supports young people who live independently from their guardian, are at risk of homelessness, or are on a community-based supervision order under the *Juvenile*

#	Recommendation	Monitoring Committee Report August 2001	Current position under *Commission for Children and Young People and Child Guardian Act 2000* (CCYPCG Act)
			Justice Act 1992. The accommodation may receive specific SAAP funding or receive other financial support from government agencies. The service may offer youth worker support on a 24 hour basis or through regular visits to the accommodation to provide support and living skills to the residents. • *Residential care facility* A place at which a child accommodation service is provided: • by the prescribed department responsible for the care and protection of children • under funding provided by the prescribed department • under funding provided by the Commonwealth and administered by the prescribed department, or • under a licence under the *CP Act.* A residential care facility will only be funded to support children and young people on Child Protection Orders. Under section 92 of the CCYPCG Act, a report must be prepared by the CV and given to the Commissioner as soon as practicable after each visit. Under section 93, the CVs functions include to: • advocate on behalf of the children by listening to, giving voice to, and facilitating the resolution of, their concerns and grievances, and • to seek information about, and facilitate access by the children to, support services appropriate to their needs provided by service providers. In addition, young people in residential care facilities and youth detention centres also have access to the CCYPCG's complaints resolution services, including formal investigations under Chapter 4 of the CCYPCG Act. Systemic advocacy for young people in residential care facilities and youth detention centres are provided through the CCYPCG's Child Guardian reports.
25	That amendments be made to the *Children's Commissioner and Children's Services Appeals Tribunal Act 1996* to ensure the independence of the office of Children's	(Pages 140-143)….Recommendations 25 and 27 have been implemented through the introduction of new legislation. The *Commission for Children and Young People Act 2000* establishes the CCYPCG as an independent statutory body. Likewise, the *Children Services Tribunal Act 2000* has established an independent Tribunal to review certain Government decisions concerning children.	As noted in the Monitoring Committee's report, this recommendation has been implemented. Section 5 of the CCYPCG Act provides that the object of the Act is to establish the CCYPCG for Children and Young People and Child Guardian to promote and protect the rights, interests and wellbeing of children in Queensland. Section 14(1) establishes the statutory position of "Commissioner for Children and Young People and Child Guardian" while sections 14(3) and 16 provides that a commission called the "Commission for Children and Young People and Child Guardian"

#	Recommendation	Monitoring Committee Report August 2001	Current position under *Commission for Children and Young People and Child Guardian Act 2000* (CCYPCG Act)
	Commissioner, and provisions be made for its attachment for administrative support services to the Premier's Department.		is established as a statutory body. Section 15 provides that the Commissioner is to control the Commission. Section 22 provides that the Commissioner must act independently and is not under the control or direction of the Minister. The *Children's Commissioner and Children's Services Appeals Tribunal Act 1996* was repealed from 2 February 2001.
26	That the office of the Children's Commissioner be strengthened by: • investing it with the role of Independent Inspector of residential care facilities and juvenile detention centres with wide powers of inspection in relation to such matters as the treatment of residents, preparation for release, morale of residents and staff, quality of health care and education, physical facilities and management • empowering the Commissioner to conduct Inquiries	(Pages 140-143)….In accordance with recommendation 26, the new Commission has a "strengthened" role in relation to inspections, investigations, monitoring and research. In its last report, the Committee commended the Government on its implementation of these recommendations. However it also noted several aspects of recommendation 26 which had not been addressed, and these areas of concern remain. ***Complaints and Investigations*** While the legislation vests the Commissioner with investigative powers, section 32 defines narrowly the types of children who may invoke the investigative procedure. The only young people with standing to make complaints are those who are either subject to an order under the *Child Protection Act 1999,* the subject of action under the *Child Protection Act 1999,* or the subject of an order under the *Juvenile Justice Act 1992* The Committee understands that the children failing into such categories comprise significantly less than 5% of the State's young people. The recommendations of the Forde Inquiry did not suggest that the Commissioner's power to investigate and resolve complaints about the provision of services be so limited. The Forde Inquiry highlighted the needs, issues and	As noted by the Monitoring Committee's report, this recommendation has been implemented with one exception. The Commissioner's complaints and investigative functions have not been broadened to be inclusive of all children and young people in Queensland. However the Commission has interpreted its legislative functions as broadly as possible, to uphold its mandate to promote and protect the rights, interests and wellbeing of children and young people in Queensland, particularly those who: are in care or detention, have no one to act on their behalf, are unable to protect themselves, or are disadvantaged because of a disability, geographic isolation, homeless or poverty. For example, the Commissioner's functions under section 17 (g), to 'advocate for children and, in advocating for children, to seek help from advocacy entities, service providers and other entities' and section 18, 'to monitor, audit and review the systems, policies and practices of the child safety department and other service providers that affect children in the child safety system'; have both been interpreted broadly, and used across the Commission's complaints, monitoring and investigative functions to proactively identify and report on issues which have the potential to impact all children and young people in Queensland. To date several reports have been completed which have commenced as a result of cases of children in the child safety system, but were broad enough to benefit wide cohorts of vulnerable children such as, children of parents with mental health issues and children who are demonstrating volatile substance misuse. A range of inter-agency protocols and monitoring plans have been implemented to facilitate information sharing between the Commission and a range of Government departments to enable the Commission to produce evidence-based reports and recommendations about service delivery to children and young people in the child protection system, the youth justice system and other vulnerable children. To date, the Commission's functions have not been hindered by service providers not cooperating. The Commission uses the information and data provided by various government

#	Recommendation	Monitoring Committee Report August 2001	Current position under *Commission for Children and Young People and Child Guardian Act 2000* (CCYPCG Act)
	into matters affecting children and young people including the authority to investigate and resolve complaints about the provision of services to children and young people • establishing a comprehensive research function to enable research to be conducted into all matters relating to the rights, interests and wellbeing of children and young people in residential facilities and juvenile detention centres • providing the Commissioner with the power to monitor the role of the Department in overseeing the care of young	vulnerabilities of the many young children who were at risk of coming into care or being subject to the youth justice system. The Report documented that the failure to provide appropriate services by a myriad of Government and non-government providers may directly or indirectly contribute to vulnerabilities of these children and young people. The Report specifically prioritised the importance of ensuring that services and practices be focused on preventing children from entering the statutory child welfare and juvenile justice system. The failure in this respect is particularly concerning because: • it is clear to the Committee that the marginalisation of children and young people is best avoided, and systemic and pro-active improvements are best made, by allowing all children to voice concerns about services; • a full implementation of the Forde inquiry's recommendations would have been consistent with the UN's Convention on the Rights of Children 1990; • given that young people are reticent to make formal complaints, any procedure should be inclusive rather than exclusive; and • the legislation in its existing form weakens the capacity of the Commission to help children in remote communities, in voluntary foster homes or from severely disadvantaged backgrounds because they will not be subject to orders. The Government has suggested that the narrow definition will not cause hardship because the Commissioner can exercise advocacy powers in relation to children who cannot invoke the investigative powers or, alternatively, the Commissioner might report the children so that they become subject to actions under the relevant Acts.	agencies under its monitoring plans to produce a range of public reports, including the following reports which relate to all Queensland children: - *Snapshot*, which collates data from a range of sources to provide a contemporary profile of the status of children and young people in Queensland, and the - *Annual Report, Deaths of children and young people Queensland*, which reports on the Child Death Review Team's analysis of the circumstances of all deaths of children under 18 years which occur in Queensland, in order to identify and implement child death prevention strategies. This function honours Australia's commitment as a signatory to the United Nations Convention on the Rights of the Child (UNCROC). In particular, Article 24 of UNCROC requires that among other things, parties shall fully implement measures designed to achieve the highest attainable standard of health, including taking measures to diminish infant and child mortality. Section 17 (h)-(n) of the Act provide a range of other broad functions which are primarily used by the Commission to monitor and review laws which impact children, and to promote the rights, wellbeing and interests of all children and young people in Queensland. With specific regard to the Commission's complaints and investigations jurisdiction, in 2005 the Commission entered into a liaison agreement with the Office of the Queensland Ombudsman in relation to the management of complaints, in accordance with sections 391-392 of the CCYPCG Act. Under the agreement, the Ombudsman may refer complaints within the Commission's specific jurisdiction to the Commission for assessment, and the Commission may refer matters that fall outside its jurisdiction, but are within the Ombudsman's jurisdiction, to the Ombudsman to manage (which has a broader jurisdiction to deal with non-child safety and juvenile justice system issues). Follow-up on actions and any outcomes are then discussed in the regular liaison meetings between the two agencies. This arrangement has worked well and the liaison agreement was reviewed and updated in 2006 and 2008 and continues in force today.

#	Recommendation	Monitoring Committee Report August 2001	Current position under *Commission for Children and Young People and Child Guardian Act 2000* (CCYPCG Act)
	people in residential facilities and detention centres.	The Committee does not consider that either of those proposals is completely adequate. In relation to the advocacy powers, the Committee is concerned that some organisations may decline to cooperate with the Commissioner. As for the reporting suggestion, it is at best cumbersome and at worst in conflict with the commissioner's role in gaining children's trust. The Committee is therefore of the opinion that the complaints power of the Commissioner for Children and Young People must be broadened. There is some indication that the Government is concerned that broadening the power of the Commissioner might result in a large number of very minor matters being the subject of complaint to the Commissioner. This could be addressed by providing the Commissioner with some gatekeeping powers that would direct the Commissioner to give priority to complaints from children experiencing particular vulnerabilities, at high risk, or concerning matters that directly increase the risk of a child becoming subject to a statutory order. Section 40 appears to provide such a power for the Commissioner to limit the scope of investigation: *The Commissioner must not deal with a complaint or continue dealing with a complaint if the Commissioner is satisfied of any of the following:* *(c) an investigation or continued investigation of the complaint is unnecessary or unjustifiable in all the circumstances.* The Commissioner could also be given overview powers in relation to complaint mechanisms of other authorities in relation to children. ***Community Visitors***	

#	Recommendation	Monitoring Committee Report August 2001	Current position under *Commission for Children and Young People and Child Guardian Act 2000* (CCYPCG Act)
		A new Community Visitors program (to take the place of the old "Official Visitors" scheme) has been developed and commenced operation in July (see recommendations 28-33). Twenty-three Community Visitors were appointed. The Committee is of the opinion that the strength of the Community Visitor program will depend on the quality of the training provided, and on the appointment as Community Visitors of persons with a diversity of backgrounds and life experiences. The program has the potential to play a key role in protecting the rights and interests of children in residential care facilities, detention centres, mental health facilities, and facilities for disabled young people. The Committee remains concerned about the limitation of this role to institutional care facilities (again, see recommendations 28-33). The majority of out-of-home care in the child protection area is now provided using foster care arrangements and other non-institutional care facilities. While the Community Visitor program may not be the most appropriate means by which to address the issues of non-institutional out-of-home care, further consideration of this problem is still required. ***Annual Reporting*** In its last report the Committee recommended that the Commission be required by law to produce an annual report on the circumstances of children in Queensland (The State of our Children report). It noted that the producing of such a report would assist the Commission in discharging its function of protecting and promoting the rights, interests and wellbeing of children. The legislation in its current form makes reference to the production of an annual report, but does so in general terms, without specifying particular information to be included. As such there is no requirement that the Commissioner	

#	Recommendation	Monitoring Committee Report August 2001	Current position under *Commission for Children and Young People and Child Guardian Act 2000* (CCYPCG Act)
		report on indices which reflect the social circumstances of children in Queensland, or on Government and non-government actions to address factors giving rise to risk for children. ***Co-operation and Co-ordination with the Department of Families*** As noted in relation to the child protection and youth justice areas, there is a need for effective communication and productive interaction between the Commission for Children and Young People and the Department of Families, particularly in relation to areas of overlapping jurisdiction, such as inspection, complaints, advocacy and the collection of data. While discussions in relation to this issue between the CCYPCG and the Department have taken place, a set of protocols is still yet to be finalised. The completion of these protocols, and their effective employment in practice is necessary.	
28	That there be a review of the Official Visitors' program focusing on the legislative base, policy and procedural guidelines, actual practice, and effectiveness of the service.	(Pages 144-148)…As noted in relation to recommendations 25-27, the *Commission for Children and Young People Act 2000* is now in effect, and includes provisions relating to a new Community Visitors program (to replace the old 'Official Visitors" scheme). This new program commenced operation in July….. …The Committee again commends the Government on these developments. It believes that the Community Visitors program will play a key role in protecting the rights and interests of young people. However, the Committee is concerned that some of the issues raised in its Last report have not been addressed. ***Indigenous involvement in community visitation*** The Committee has some concerns that the particular advocacy needs of indigenous young people may not be adequately addressed by the new	As noted by the Monitoring Committee's report, this recommendation has been implemented. The CCYPCG's Workforce Capability (WFC) Strategy recognises the importance of recruiting, training and retaining Indigenous CVs. The CCYPCG has undertaken targeted advertising strategies to attract and recruitment people from an Aboriginal and/or Torres Strait Islander background. Specified advertising has been utilised to recruit CVs from an Aboriginal and/or Torres Strait Islander background. The CCYPCG currently employs a number of CVs who identify as Aboriginal and/or Torres Strait Islander. Cultural awareness training is integral in enhancing cultural knowledge and awareness of the CCYPCG's workforce. The CCYPCG's Workforce Capability Strategy supports an identified need to ensure that the CCYPCG's workforce has the skills required to be sensitive to the needs of children and young people from culturally and linguistically diverse backgrounds. CVs attend Aboriginal and/or Torres Strait Islander Cultural Awareness Training to enhance their understanding and capability in engaging with Aboriginal and/or Torres Strait Islander children, young people and stakeholders. The biennial Professional Development Forum for CVs has covered topics and professional development relating to supporting CVs in developing their skills, knowledge and understanding of effective participation and engagement with

#	Recommendation	Monitoring Committee Report August 2001	Current position under *Commission for Children and Young People and Child Guardian Act 2000* (CCYPCG Act)
		Community Visitors program. Aboriginal and Torres Strait Islander children in care or detention are likely to have different cultural needs and a different relationship with their community than those of their non-indigenous counterparts. Account must be made for this in the Community Visitors program, especially in light of the extreme over-representation of indigenous young people in detention and care. This requires that ongoing attention be paid to ensuring: 1. that adequate numbers of Aboriginal and Torres Strait islander people are employed as Community Visitors. The Committee notes that currently, only one of the current twenty-three Community Visitors is Indigenous, 2. that Community Visitors are adequately trained in relation to issues specifically affecting indigenous young people. The Commission should investigate the special needs of indigenous young people and how they should be addressed.	Aboriginal and/or Torres Strait Islander children and young people. A CCYPCG-wide Aboriginal and Torres Strait Islander Access Strategy was developed some time ago and has since been absorbed into other areas of the CCYPCG's strategic planning. The focus of the Strategy was to improve accessibility for Aboriginal and/or Torres Strait Islander children, young people, families and communities. An Individual Advocacy and Resolution Program (IARP) strategy for visiting Aboriginal and/or Torres Strait Islander communities is documented in a draft policy *'Visiting Aboriginal and Torres Strait Islander Communities.'* Regular & ongoing training & information is provided to CVs to support their work with Aboriginal and/or Torres Strait Islander children & young people, including as follows: • CV induction program includes a module 'Engaging with Aboriginal and Torres Strait Islander Children & Young People' • CV Manual of Policies & Procedures contains comprehensive, up-to-date reference material regarding issues relevant to engagement with Aboriginal and Torres Strait Islander children and young people • New CVs who visit Aboriginal and/or Torres Strait Islander communities are accompanied by the Zonal Manager or an experienced CV on their initial visits to each community • All CVs are required to attend mandatory Aboriginal and Torres Strait Islander cultural awareness training provided by an appropriately qualified external service provider. All of the above components of CV training & development are documented in relevant IARP and WFC policies.
29	That the Official Visitors' program be maintained and extended with a view to providing a comprehensive monitoring function of all residential facilities for children and young people, including those not	(Pages 144-148)…As noted in relation to recommendations 25-27, the *Commission for Children and Young People Act 2000* is now in effect, and includes provisions relating to a new Community Visitors program (to replace the old 'Official Visitors" scheme). This new program commenced operation in July….. …The Committee again commends the Government on these developments. It believes that the Community Visitors program will play a key role in	As noted by the Monitoring Committee's report, this recommendation has been implemented. In relation to the specific range of services identified by the Committee in 2001, the Commission provides the following up to date information regarding its Community Visitor Program (CVP): **Boarding schools** The CVP visits children and young people residing in boarding schools if they are 'placed' there under section 82(f) of the *Child Protection Act 1999*or pursuant to a care agreement under the *Child Protection Act 1999* (bringing them within the definition of a

#	Recommendation	Monitoring Committee Report August 2001	Current position under *Commission for Children and Young People and Child Guardian Act 2000* (CCYPCG Act)
	funded by the State but which, nevertheless, provide a similar service and including juvenile detention centres.	protecting the rights and interests of young people. However, the Committee is concerned that some of the issues raised in its Last report have not been addressed. ***Children without* access *to community visitation*** The Committee reiterates its concern, expressed elsewhere in this report (see recommendations 17, and 25-27) that current programs relating to inspection, monitoring and complaints focus on too narrow a group of children and young people. These programs are concerned largely with children accommodated in longer-term institutional settings such as residential care facilities and youth detention centres, and do not always address the needs of other children who have been, are likely to be, placed in out-of-home care. More specifically, Community Visitors are only required to visit residential facilities, detention centres and authorised mental health services. In this context, 'residential facilities" is defined narrowly, as meaning a place at which a child accommodation service is provided: • by a prescribed departments (defined as those departments that are responsible for disability services, mental health services, or the care and protection of children); • under funding by a prescribed department; • under funding provided by the Commonwealth and administered by a prescribed department; • under a licence under the *Child Protection Act 1999;* or • to young people who are under care and protection orders. There remain a range of services in relation to which Community Visitors have no role: (i) At least 10 out of school boarding facilities	'visitable home' under s86 (b) and (c) of the CCYPCG Act). Otherwise, these facilities do not fall within the definition of a 'visitable site' under s86(a) of the CCYPCG Act and are not generally visitable. **Community agencies providing subsidised unsupported accommodation funded by 'the Department of Housing Community Rent Scheme'.** The CVP does visit some children and young people residing in 'externally supported accommodation' (sometimes referred to as 'semi-independent living'), but only if those children and young people are 'placed' there under section 82(f) of the *Child Protection Act 1999* or pursuant to a care agreement under the *Child Protection Act 1999* (bringing them within the definition of a 'visitable home' under s86 (b) and (c) of the CCYPCG Act). The CVP also currently visits sites funded and/or administered by the Department of Communities (Housing and Homelessness Services) if those sites provide a 'child accommodation service' (which brings them within the definition of a 'residential facility', and therefore a 'visitable site', under the CCYPCG Act). The sites currently visited by the CVP within this category are limited to those whose main purpose is to accommodate children and young people (e.g. youth shelters). That is, the CVP does not visit sites whose main purpose is to provide accommodation for adults or for people generally. A 'child accommodation service' is defined in Schedule 7 of the CCYPCG Act as 'a service for which the main purpose is to provide accommodation for children but does not include— (a) the care of children by an approved carer under the *Child Protection Act 1999* acting in that capacity; or (b) the provision of accommodation to children under residential tenancy agreements under the *Residential Tenancies and Rooming Accommodation Act 2008*. Apart from the above, CVP does not currently visit young people residing in private accommodation subsidised by a prescribed department such as the Department of Communities (Housing and Homelessness Services), as this type of financial support has been interpreted to not fall within the definition of a 'child accommodation service' (although there may be an argument that we could interpret such support as falling within this definition). **Boarding houses** Unless a child or young person residing in a 'boarding house' is placed there under section 82(f) of the *Child Protection Act 1999* or pursuant to a care agreement under the *Child Protection Act 1999* (bringing them within the definition of a 'visitable home'

#	Recommendation	Monitoring Committee Report August 2001	Current position under *Commission for Children and Young People and Child Guardian Act 2000* (CCYPCG Act)
		accommodating children and young people who live in rural and remote locations. Many of these facilities provide accommodation, meals and supervision of primary and/or secondary school aged students during the school week and are usually managed by houseparents and auspiced by a range of organisations from a range of funding sources. Some facilities accommodate up to and over 20 at any one time. These facilities are not regulated by the *Child Care Act 1991,* nor are they required to be licensed by Education Queensland. (ii) At least 4 community agencies funded by the Department of Housing Community Rent Scheme provide subsidised unsupported accommodation for young people under 18. (iii) Boarding houses are being used in circumstances where there are no other beds available. At least 3 boarding houses have been approached to provide accommodation paid for with Government funds. There is no support available for these young people who will be living with other residents who are considerably older. (iv) Domestic Violence Services commonly accommodate children, since women seeking refuge from violence in the home often take their children with them. There are 52 state-funded domestic violence services aimed at supporting the needs of these women and children throughout the state. These services are funded through the Department of Families' SAAP program. The welfare of the children in these situations is a matter of concern to the Committee. (v) It appears that some foster carers are being asked to care for a large number of young people. In some cases these numbers are greater than those catered for in a residential. Department data indicates that 197 foster families (13.5%) have 4 or more children placed with them.	under s86 (b) and (c) of the CCYPCG Act), such facilities are not generally visitable under the Act, unless they could be said to be providing a 'child accommodation service' that is funded and/or administered by a prescribed department or under a licence under the *Child Protection Act 1999*. The 'boarding houses' described by the Committee appear to be adult accommodation services and therefore outside of CVP's current jurisdiction. **Domestic Violence Services** CVP does not currently visit any domestic violence services as they do not fall within the definition of a 'child accommodation service', and children and young people residing with their parents in such a service are not considered to be 'placed' under s82 of the *Child Protection Act 1999* or pursuant to a care agreement under the *Child Protection Act 1999*. **Foster carers caring for large numbers of young people** All children and young people placed in foster and kinship care under s82 of the *Child Protection Act 1999* or pursuant to a care agreement under the *Child Protection Act 1999* are visited by CVP, as these homes are within the definition of a 'visitable home' pursuant to s86 (a) & (b) of the CCYPCG Act.

#	Recommendation	Monitoring Committee Report August 2001	Current position under *Commission for Children and Young People and Child Guardian Act 2000* (CCYPCG Act)
		Forty-five of these (3.1%) have 6 or more children in their care. Some 549 foster children (20.9%) are currently in placements involving 3 or more sibling groups. The Committee notes that since Department data does not take into account the number of natural children within foster families, these figures in fact under-represent the burdens placed on these families. It also appears that the average number of children per foster family is gradually increasing, which suggests that the situation may worsen in future years. It is not uncommon for these young people to have high support needs. The Committee is concerned that children and young people accommodated in these circumstances are currently doubly exposed to the risk of harm: first since the services they receive are in many cases not specifically designed to meet their needs; and secondly because such services are not recipients of inspection and monitoring, or the advocacy and complaints services: provided by Community Visitors. The Committee believes that legislative change should be considered to ensure the protection of the rights, interests, and wellbeing of children and young people accommodated by such services. This would enable the Commission to carry out its intended functions in relation to *all* children and young people in out-of-home care.	
30	That visits from Official Visitors be regular and frequent, and the number of Visitors reflect the size of the client base.	(Pages 144-148)…As noted in relation to recommendations 25-27, the *Commission for Children and Young People Act 2000* is now in effect, and includes provisions relating to a new Community Visitors program (to replace the old 'Official Visitors" scheme). This new program commenced operation in July. It aims for facilities to be visited on a monthly	As noted by the Monitoring Committee's report, this recommendation has been implemented. Under section 89 of the CCYPCG Act, the Commissioner must make arrangements for each visitable site and each visitable home to be visited by a CV regularly and frequently.

#	Recommendation	Monitoring Committee Report August 2001	Current position under *Commission for Children and Young People and Child Guardian Act 2000* (CCYPCG Act)
		basis….	The IARP's operations and practice areas work together to oversee the efficient and effective operation of the program. The CCYPCG's Corporate Services Program is responsible for reporting against the CCYPCG's key priority indicator to maintain a 'capable workforce' including that 'staffing levels, skills and experience are adequate to pursue the CCYPCG's agenda'. Although CVs may be appointed on a fulltime or part time basis under the CCYPCG Act, the CV workforce is employed on a casual basis to reflect the fluctuating hours worked, which is dependent on the number and location of children and young people in out-of-home care. The CCYPCG has continued to maintain its strong commitment to overseeing the safety and wellbeing of the increasing number of children and young people in care. The move to a more flexible, risk management based approach within the CCYPCG's Community Visitors Program (CVP) has allowed the CCYPCG to target visits to where they are most needed and respond more effectively to the wishes of children and young people in out-of-home care. This flexibility has been important in ensuring that the CVP is able to evolve, change and operate effectively to meet its statutory functions in monitoring services provided to children and young people and achieve positive outcomes for children and young people in out-of-home care.
31	That Official Visitors be empowered to act as advocates for children and young people in care, by listening to, giving voice to, and facilitating the resolution of, their concerns and grievances.	(Pages 144-148)…As noted in relation to recommendations 25-27, the *Commission for Children and Young People Act 2000* is now in effect, and includes provisions relating to a new Community Visitors program (to replace the old 'Official Visitors" scheme). This new program commenced operation in July. It aims for facilities to be visited on a monthly basis….	As noted by the Monitoring Committee's report, this recommendation has been implemented. The functions of a CV, as outlined in section 93 of the CCYPCG Act, demonstrate implementation of recommendation 31. Section 93 states that: (1) A community visitor has the following functions relating to children residing at visitable sites and visitable homes— a) to develop trusting and supportive relationships with the children, so far as is possible; b) to advocate on behalf of the children by listening to, giving voice to, and facilitating the resolution of, their concerns and grievances; c) to seek information about, and facilitate access by the children to, support services appropriate to their needs provided by service providers; d) to assess the adequacy of information given to the children about their rights; e) to assess the physical and emotional wellbeing of the children; f) for visitable sites— i. to inspect the sites and assess their appropriateness for the accommodation of the children or the delivery of services to them, having regard to relevant State and Commonwealth laws, policies and standards;

#	Recommendation	Monitoring Committee Report August 2001	Current position under *Commission for Children and Young People and Child Guardian Act 2000* (CCYPCG Act)
			and ii. to observe the treatment of the children, including the extent to which their needs are met by staff of the sites; and iii. to assess the morale of the staff of the sites; and iv. for detention centres—to assess whether the programs for the release of children subject to detention orders adequately and appropriately prepare them for release; g) for visitable homes— i. to assess their appropriateness for the accommodation of the children; and ii. to observe the treatment of the children, including the extent to which their needs are met by persons caring for them at the homes. (2) A community visitor also has the function of giving advice and reports to the commissioner about anything relating to the visitor's functions and powers.
32	That Official Visitors be provided with complete orientation and training in alternative care practice, standards of residential care, advocacy issues and practice, and developing trusting relationships with young people.	(Pages 144-148)…As noted in relation to recommendations 25-27, the *Commission for Children and Young People Act 2000* is now in effect, and includes provisions relating to a new Community Visitors program (to replace the old 'Official Visitors" scheme). This new program commenced operation in July. It aims for facilities to be visited on a monthly basis….	As noted by the Monitoring Committee's report, this recommendation has been implemented. In terms of orientation, prior to commencing in the role, all CVs are required to attend a comprehensive one-week induction program in Brisbane which includes training & information about issues facing children and young people in out-of-home care, the background to & importance of the CCYPCG's oversight role in relation to out-of-home care, and strategies for building trusting relationships with and advocating for children & young people.
33	That Official Visitors be given access to relevant information about children and young people in care, and that they be bound by the same rules of confidentiality as other CCYPCG and departmental staff.	(Pages 144-148)…As noted in relation to recommendations 25-27, the *Commission for Children and Young People Act 2000* is now in effect, and includes provisions relating to a new Community Visitors program (to replace the old 'Official Visitors" scheme). This new program commenced operation in July. It aims for facilities to be visited on a monthly basis….	As noted by the Monitoring Committee's report, this recommendation has been implemented. CVs have sufficient access to relevant information about the children and young people who are in care that they will visit through the CCYPCG's case management system, Jigsaw. Sections 99-102 of the CCYPCG Act outline the powers of CVs to obtain additional information (documents) relating to a child residing at the site or the operations of the site, should they require it. The specific confidentiality provisions are contained in the CCYPCG's Act are sections: 46-47, 92, 138, 384-386. (Section 92 relates specifically to the CVP). The CCYPCG has a corporate standard regarding confidentiality which applies to all

#	Recommendation	Monitoring Committee Report August 2001	Current position under *Commission for Children and Young People and Child Guardian Act 2000* (CCYPCG Act)
			permanent, temporary and casual employees. It specifically places an obligation on Community Visitors to preserve the confidentiality of information about children they visit and not disclose it outside the performance of their duties and provides practical advice for the secure storage of confidential information given that CVs work from home.

Appendix B - CMC Inquiry recommendations and CCYPCG implementation

#	Recommendation	Reason	Blueprint – proposed action	CMC Review June 2007	Commission comment/action
5.21	That a position of Child Guardian, to be situated within the Commission for Children and Young People, be established, whose sole responsibility would be to oversee the provision of services provided to, and decisions made in respect of, children within the jurisdiction of the DCS.	*In conformity with the view that child-protection needs to be the exclusive focus of a dedicated body, the CMC believes there should also be a dedicated body to oversee the DCS.*	The *Commission for Children and Young People Act 2000* will be amended to establish the statutory position of "Commissioner for Children and Young People and Child Guardian", who will be responsible for the existing Commission for Children and Young People functions and the new Child Guardian functions. The *Commission for Children and Young People Act 2000* will be amended to create a new statutory position of "Assistant Commissioner", who will be responsible to the "Commissioner for Children and Young People and Child Guardian" for the performance of the new Child Guardian functions Establishment of operational units.	Implemented.	This recommendation has been implemented. Section 14(2) of the CCYPCG Act states that there is to be an Assistant Commissioner and section 34 governs the appointment of the Assistant Commissioner. Section 19 provides that the Assistant Commissioner is responsible to the Commissioner for the proper performance of the Commissioner's Child Guardian functions. Section 21 sets out the Assistant Commissioner's specific powers and section 17(2) outlines the Commissioner's Child Guardian functions. The inaugural Assistant Commissioner responsible to the Commissioner for the Child Guardian function, was appointed on 26 May 2005
5.22	That the powers granted to the Child Guardian be clearly set out in the legislation, and include the powers necessary to investigate complaints and enable proactive monitoring and auditing of the DCS.	*The current overseeing role of the Commission for Children and Young People is hindered by a lack of clarity in the specification and ambit of the powers of that office.*	The *Commission for Children and Young People Act 2000* will be amended to include the new Child Guardian functions and powers. The powers and functions for systemic monitoring will be clearly set out in the amended *Commission for Children and Young People Act* to include complaints, investigations, Community Visitors and systemic monitoring.	Implemented.	This recommendation has been implemented. Section 21 sets out the Assistant Commissioner's specific powers and section 17(2) outlines the Commissioner's Child Guardian functions as follows: (a) the monitoring functions under section 18; and (b) the functions under subsection (1)(d) and (e); and (c) the other functions, so far as they relate to children in the child safety system.

#	Recommendation	Reason	Blueprint – proposed action	CMC Review June 2007	Commission comment/action
5.23	That the Community Visitor Program of the Commission for Children and Young People be extended to cover all children in the alternative care system, including those in foster care. This program should be administered by the Child Guardian.	*The jurisdiction of the current Community Visitor Program is insufficient to meet the needs of children in the alternative care system. In particular, the current regime does not extend to children in foster care.*	The *Commission for Children and Young People Act 2000* will be amended to expand the Part 4 Community Visitor Program to cover children in the alternative care system, including foster care. The Community Visitor Program will be administered by the "Commissioner for Children and Young People and Child Guardian". Extension of the Community Visitor Program to children who are in active alternative care. Continuation of existing Community Visitor Program for children who are at visitable sites.	Implemented.	This recommendation has been implemented. Section 17(1)(o) of the CCYPCG Act provides that one of the Commissioner's function is to administer a community visitor program. Chapter 5 outlines all the specific provisions relevant to the appointment, role and functions of CVs. Relevantly, section 89 requires the Commissioner to arrange regular and frequent visits to "visitable sites" and "visitable homes". They include children placed in out-of-home care (foster care, kinship care and residential care facilities) by the Department and children residing in detention centres and authorised mental health services. Residential facilities include both: • *Externally supported accommodation* An accommodation service funded or administered by the Department of Communities, Child Safety and Disability Services for young people. The service supports young people who live independently from their guardian, are at risk of homelessness, or are on a community-based supervision order under the *Juvenile Justice Act 1992*. The accommodation may receive specific SAAP funding or receive other financial support from government agencies. The service may offer youth worker support on a 24 hour basis or through regular visits to the accommodation to provide support and living skills to the residents. • *Residential care facility* A place at which a child accommodation service is provided: • by the prescribed department responsible for the care and protection of children • under funding provided by the prescribed department • under funding provided by the Commonwealth and administered by the prescribed department, or • under a licence under the *Child Protection Act 1999.* A residential care facility will only be funded to support

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					children and young people on Child Protection Orders. Under section 92 of the CCYPCG Act, a report must be prepared by the CV and given to the Commissioner as soon as practicable after each visit. Under section 93, the CVs functions include to: • advocate on behalf of the children by listening to, giving voice to, and facilitating the resolution of, their concerns and grievances, and • to seek information about, and facilitate access by the children to, support services appropriate to their needs provided by service providers.
5.24	That the jurisdiction of the Children Services Tribunal be expanded to allow the Child Guardian to refer decisions of the DCS or non-government organisations to the Children Services Tribunal for merit review, where the Child Guardian thinks it is warranted.	*This would allow decisions about which the Child Guardian may have some concern to be reviewed on their merits by a suitably qualified review panel constituting the Children Services Tribunal.*	The *Children Services Tribunal Act 2000* will be amended to expand the jurisdiction of the Children Services Tribunal to allow the "Commissioner for Children and Young People and Child Guardian" (carrying out its Child Guardian functions) to seek review of administrative decisions of the Department of Child Safety. It is assumed in this model that non-government organisation decisions do not need to be reviewed, because non-government organisations will not make decisions in relation to children in care/at risk that cannot be attached back to the Department of Child Safety.	Implemented.	This recommendation has been implemented. Chapter 10 of the CCYPCG Act provides that, if in performing the Commissioner's Child Guardian functions, the Commissioner is dissatisfied with a "reviewable decision" (as defined in section 369), the Commissioner may apply to QCAT to have that decision reviewed.
5.26	That, following the establishment of the Department of Child Safety, discussions be held between the State Coroner and	*The development of such arrangements is necessary to avoid possible prejudice to*	Department of Child Safety to develop protocols with Coroner, CMC and Ombudsman to avoid duplication and facilitate the appropriate and timely exchange of information	Implemented. The DCS has reported, in relation to Recommendation 5.26, that it has come to an agreement with the	This recommendation has been implemented. The post-CMC Inquiry legislative amendments were detailed in terms of the relationship between CCYPCG, the Department and the State Coroner. CCYPCG and the Office of State Coroner have also had an MOU in place in relation to child death information

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	the relevant investigative agencies, with a view to developing protocols and other working arrangements directed to determining who is to be the lead investigative agency in different cases and how information can be appropriately exchanged between agencies.	*investigations or coronial inquests, to reduce any duplication of effort, and to ensure that all relevant information is available to the agencies involved.*	in relation to a child's death. Commission for Children and Young People/Child Guardian to review its existing protocols with the CMC and the Ombudsman, and establish a new protocol with the Coroner and Department of Child Safety.	CCYPCG, the State Coroner and the QPS about sharing information on a child's death.	sharing since 2005. Since 2005 the Commission has had a liaison agreement with the Office of the Queensland Ombudsman to share information and ensure that the appropriate agency deals with complaints where both have jurisdiction, in order to avoid inappropriate duplication of effort and resources. These arrangements function well and are regularly reviewed. In 2008 the Commission entered into a similar arrangement with the Crime and Misconduct Commission. The Commission is also a party to an extensive memorandum of understanding with relevant agencies for the coordination of responses to serious adverse health outcomes. In 2008 the Commission also entered into a Foundation Liaison Agreement with the former Department of Child Safety. This agreement sets out the principles for the two agencies working together and also auspices a range of specific agreements, including the Commission's monitoring plan with the Department and other information exchange arrangements. The Commission also has in place Protocols/MOUs with a number of relevant agencies to support the review of child deaths including the State Coroner, the Office of Births Deaths and Marriages, Queensland Health and the Queensland Police Service. The Commission's Child Death Review Team uses the information it gathers through these agreements to perform the functions outlined in recommendation 5.28 below.
5.27	That a new review body — called the Child Death Review Committee (CDRC) — undertake the detailed reviews of the DCS's internal	*Through a fuller understanding of the reasons why children in Queensland die, government action directed*	The *Commission for Children and Young People Act 2000* will be amended to establish the Child Death Review Committee. Consequential amendments will also be made to other Acts to address information sharing	Implemented. The CDCRC's 2004–05 annual report found that the DCS had submitted case reviews of varying quality (CDCRC 2005). Some reports were of a	This recommendation has been implemented. The Child Death Case Review Committee (CDCRC) was established by legislation and is now embedded in the CCYPCG Act (Chapter 6). As per the recommendation, the CCYPCG Act requires the CDCRC to act independently, and as such, it is not under the control or

#	Recommendation	Reason	Blueprint – proposed action	CMC Review June 2007	Commission comment/action
	and external case reviews.	*towards the prevention of child deaths should be better informed and more effective.*	issues as part of Stage Two of the legislation reforms. These other Acts include: the *Coroners Act 2003* (to ensure parity between the CDRC and the Coroner and information sharing) *Child Protection Act 1999*, *Births, Deaths and Marriages Act 2003* (information sharing), *Ombudsman Act 2001, Crime and Misconduct Act 2001*, etc. Establishment of the CDRC, drafting of Terms of Reference, and appointment of members and secretariat. The Commission for Children and Young People/Child Guardian will commence reviewing Department of Child Safety reviews, consider the actions and decisions of the relevant Department of Child Safety officers and service providers; the application and adequacy of Department of Child Safety policies and procedures in respect of the child. The CDRC will make recommendations to Department of Child Safety (and other agencies as appropriate). The Commission for Children and Young People/Child Guardian will monitor the implementation of recommendations made to Department of Child Safety	high standard, and pinpointed scope for significant improvements in child protection practice, whereas other reviews were of a lower standard. The CDCRC also reported that the DCS had been challenged in meeting the statutory timeframe for reporting, with only 50 per cent of the case reviews submitted to the CDCRC within the six months required under section 246D(2) of the Child Protection Act. In its submission to the CMC, the CCYPCG told us that there had been an improvement in this review rate during 2005–06. Over the year as a whole, the DCS had submitted 67 per cent of the reviews within six months, and from January to June 2006 the improvement was even greater, with the DCS submitting 85 per cent of the reviews within the required timeframe. There had also been a noticeable improvement	direction of any other entity in relation to the way it performs its functions. In its latest published report of 2010-11 the CDCRC stated that the reviews conducted by the Department were generally of a high quality and that the Department engaged broadly with stakeholders in conducting the reviews. Only one review was provided outside the legislative timeframe, due to an administrative error. The CDCRC continues to monitor the quality of each original review. In particular, the CDCRC considers whether the original review identified and assessed significant service system issues or risk factors present in the case to enable the Department to respond to the service system issues and risk factors in an appropriate and timely manner. In the event that the CDCRC identifies ways in which the quality of original reviews may be enhanced, it shares such learnings with the Department. This includes: ensuring all service system issues are identified and addressed; identifying opportunities for consultation with external agencies to add further value and learnings to the review process; and appropriately considering whether service delivery was culturally appropriate. The CDCRC members bring a wealth of multi-disciplinary expertise to the child death review jurisdiction. The 2010–2013 CDCRC is comprised of specialists in the fields of mental health, paediatrics, youth justice and social work, as well as representatives from the Queensland Police Service and Aboriginal and Torres Strait Islander cultural representatives. In 2010-11, the CDCRC endorsed the 76 recommendations made by the Department's original reviews, and made a further 17 recommendations to better focus actions and further strengthen the responsiveness of the system through training, professional development and policy reform.

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			(and other agencies) in relation to child deaths.	in the quality of the DCS's reviews. The terms of reference in the majority of them were case-specific, the reviews were conducted in compliance with DCS requirements, and all information in every review was obtained lawfully, ethically and in a culturally sensitive manner.	
5.28	That the jurisdiction of the Commission for Children and Young People be expanded to include the following roles: • to maintain a register of deaths of all children in Queensland • to review the causes and patterns of death of children as advised by investigative agencies • through a Child Death Review Committee, to review in detail all DCS case reviews, whether conducted internally or externally, regarding		The *Commission for Children and Young People Act 2000* will be amended to expand the existing Commissioner for Children and Young People's functions to include: child death review, child death research and the child death register. Consequential amendments will also be made to other Acts to address information sharing issues as part of Stage Two of the legislative reforms. These Acts include: the *Coroners Act 2003* (to ensure parity between the Cabinet Budget Review Committee and the Coroner and information sharing); *Child Protection Act 1999; Births, Deaths and Marriages Act 2003* (information sharing); *Ombudsman Act 2001; Crime and Misconduct Act 2001*; etc. The Child Protection Act, Births,	Implemented.	This recommendation has been implemented. The Commission's jurisdiction was expanded (currently Chapter 6 of the CCYPCG Act) to include the required functions, including: • maintaining a register of all child deaths in Queensland based on notifications from the Registrar of Births, Deaths and Marriages and details of all child deaths reported to the Office of the State Coroner • researching the risk factors associated with child deaths and making recommendations to prevent such deaths occurring, and • preparing an Annual Report each year on child deaths in Queensland. The Commission maintains Queensland's Child Death Register. Since the register was established in 2004, the Commission has registered 4087 child deaths (to 30 June 2012). The Child Death Register is a highly detailed and contemporary dataset that is available free of charge to recognised stakeholders to help develop evidence based strategies to address risks associated with preventable deaths e.g. drowning. Analysis and publication of child death statistics has prompted

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	the deaths of children in care and those who had been notified to DCS, within three years of their deaths • to conduct broader research focusing on strategies to reduce or remove risk factors associated with child deaths that were preventable • to prepare an annual report to the parliament and the public regarding child deaths.		Deaths and Marriages Act and Coroner's Act to impose a duty on those agencies to inform the Commission for Children and Young People/Child Guardian of any child's death. Child Death Review Team established within the Commission for Children and Young People, comprising three functions: • the Child Death Review Committee • Child Death Research • Child Death Register The Commission for Children and Young People/Child Guardian will analyse child death register data and conduct at least two specific research projects annually into the cause and patterns of deaths of children in Queensland to make recommendations to prevent child deaths. The Commission for Children and Young People/Child Guardian will monitor and report on the implementation of its recommendations in relation to child deaths. The Commission for Children and Young People/Child Guardian will report annually to parliament on its analysis of the child death register, trends in child deaths, demographic variables, matters reviewed by CDRC and the status of the		opportunities to develop holistic child death prevention initiatives e.g. safe sleeping practices for infants. In the last financial year the Commission: • published the seventh *Annual Report: Deaths of Children and Young People in Queensland 2010–11*, analysing 465 deaths. • responded to 58 requests for tailored child death data from external stakeholders to inform the development of child death and injury prevention strategies, policies and programs. • Prepared 2 evidence-based submissions to inform the development of child death or injury prevention initiatives. • Published the Keeping Country Kids Safe (KCKS) Final Report. • Published the Reducing Youth Suicide in Queensland (RYSQ) Final Report. • Consulted with key stakeholder groups regarding the methodology for the Fatal Child Maltreatment Project. • Published seven Trends and Issues Papers focused on current child death and injury prevention issues impacting on the safety and wellbeing of vulnerable children and young people.

#	Recommendation	Reason	Blueprint – proposed action	CMC Review June 2007	Commission comment/action
			implementation of its recommendations.		
8.4	That DCS compliance with the Indigenous child placement principle be periodically audited and reported on by the new Child Guardian.	*The child placement principle constitutes a fundamental recognition of the important and unique aspects of Indigenous culture. Giving effect to this recognition is central to a viable child protection service.*		Implemented. The CCYPCG advised us that it will test compliance by evaluating placements and placement decisions in accordance with the Indigenous child placement principle, rather than just reporting on the numbers of Indigenous children and young people placed with non-Indigenous carers. It will do this by: • establishing a profile of Indigenous children and young people in out-of-home care in Queensland that specifically examines demographic details, child protection issues, placement details, connection to family and community and service delivery issues • reviewing the DCS's compliance with the Indigenous child	This recommendation has been implemented. Two in-depth audits have been undertaken by the Commission resulting in reports dated 2008 and 2010-11, which made a total of 38 recommendations to the Department of Communities, Child Safety and Disability Services to enhance its compliance with section 83 of the *Child Protection Act 1999.* The Commission's audits aim to actively assist the Department to continuously improve its mechanisms, practice compliance and outcomes for Aboriginal and/or Torres Strait Islander children and young people by evaluating placement decisions in accordance with the Indigenous child placement principle, rather than just reporting on the numbers of Indigenous children and young people placed with non-Indigenous carers. Options for more frequent reporting of systemic data are currently being explored with the Department through the annual Monitoring Plan discussions. However, the Department's implementation of the Indigenous Child Placement Principle Audit Reports' recommendations (regarding recordkeeping in the Integrated Client Management System) has been delayed beyond the previously agreed date of April 2012. This may affect the Commission's ability to measure improvements in compliance with section 83 in the next audit, currently planned to commence in 2013.

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				placement principle in relation to approximately 116 placement decisions made about 28 children and young people from across Queensland • through the use of separate surveys, obtaining an understanding — from the perspective of the child, of the carer and of the RE — of the cultural support being offered to those 28 children at their current placements • comparing the files of the 28 children with any relevant Child Guardian information, including the children's history with the Complaints Team, Community Visitor Program and the Systemic Monitoring and Review Program • conducting a review of the policies, practices and procedures developed	

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				by DCS in relation to the Indigenous child placement principle since 2000. (CCYPCG submission to CMC, 2007). The CCYPCG's expectation is that the project will allow it to make findings and recommendations in relation to: • the appropriateness and effectiveness of the DCS's systems in relation to complying with the Indigenous child placement principle • the application of the Indigenous child placement principle for the children whose cases the CCYPCG reviews • systemic trends in relation to Indigenous children and young people in out-of-home care.	

Appendix C - Specific provisions in the CCYPCG ACT and the CP Act where a child's best interests must be taken into account

CCYPCG Act

- section 47(2) relating to the Commissioner providing a document obtained during the performance of the Commissioner's monitoring functions to another entity
- section 78 relating to ending an investigation in a child's best interest
- section 84(2) relating to providing the Minister a confidential report containing information about a child
- section 221, 223 and 225 relating to the Commissioner issuing a negative or positive notice in exceptional cases
- section 360 relating to the principle for reviewing a child related employment decision
- section 362 relating to an application to QCAT on behalf of a child
- section 363 relating to the withdrawal of an application for review to QCAT
- section 370 relating to the Commissioner applying for a review of a reviewable decision

CP Act

- section 15(3) relating to providing information about the outcome of an investigation of harm against a child to a child's long-term guardian
- section 17(1) relating to an officer's contact with a child before the child's parents are told about an investigation of harm
- section 40 regarding setting a time and place as soon as possible for a hearing for a Court Assessment Order
- section 49(3) relating to an extension of a Court Assessment Order
- section 51L(4) relating to a persons' involvement in a family group meeting
- section 51R(1) and (3) relating to an inappropriate case plan for a child
- section 51W(5) relating to the attendance or participation of a person at a family group meeting
- section 51ZE(1) relating to entering a care agreement for a child
- section 51ZH(9) relating to extending a care agreement past six months
- section 55 regarding setting a time and place as soon as possible for a hearing for a Child Protection Order
- section 65B relating to a court making a transition order to transition a child back to the care of their parents
- section 66(3) relating to whether a court should adjourn proceedings
- section 82(1) relating to placing a child with a provisional carer
- section 87(2) relating to restricting contact with a child's parents for a child in out-of-home care
- section 89 relating to removing a child from their carer
- section 93(1) relating to management of a child's property by the public trustee
- section 99C relating to the object of tribunal proceedings
- section 99N(3) relating to compulsory conferences under the Queensland Civil and Administrative Appeals Tribunal Act
- section 99P(2) and (4) relating to review applications to QCAT
- section 99Q(3),(4) and (6) relating to appointing a separate representative for a child during QCAT hearings
- section 99ZC(2) relating to the joinder of a person as party to a QCAT review
- section 99ZG(3) relating to the publication of information about a QCAT hearing
- section 110(1) and (3) relating to appointing a separate representative for a child for hearings before the Children's Court
- section 113(3) relating to submissions by non-parties to a proceeding
- section 136A(2) relating to placing a child with a provisionally approved carer

- section 159B relating to a child's protection and care needs taking precedence over the protection of a person's privacy
- section 188A(4) relating to police use of confidential information obtained under the CP Act
- section 188B(1) relating to disclosure of information to a child's family group
- section 215(2) relating to the Children's Court making an interstate order
- section 221(2) and 234(2) relating to transferring a child to Queensland
- section 226 relating to a court making a decision to transfer proceedings about a child to another state as soon as possible, and
- section 248B(3) relating to consultation by police with the chief executive of the child safety department about investigations and prosecutions.

Appendix D - Inconsistent jurisdiction across youth justice and child safety systems

	Relevant sections of Chapter 3: Power and obligations relating to the Commissioner's monitoring functions	Relevant sections of Chapter 4: Complaints and Investigations	Comments
Function	**Section 18** provides that the Commissioner's monitoring functions are: a. to monitor, audit and review the systems, policies and practices of the child safety department and other service providers that affect children in the child safety system; b. to monitor, audit and review the handling of individual cases of children in the child safety system by the child safety department and licensees under the *Child Protection Act 1999*; c. (c) to monitor compliance by the chief executive (child safety) with the *Child Protection Act 1999*, section 83.	**Section 53** provides that the Commissioner may undertake an investigation to deal with a complaint and may undertake an investigation, apart from the process for dealing with a complaint, relating to a service provided, or required to be provided, to a child in the child safety system.	There is some overlap between section 18 (b) and section 53. An investigation into the handling of an individual case of children in the child safety system may be undertaken under either Chapter 3 (s 18b) or Chapter 4.
Powers relating to the Monitoring functions/ subject matter of complaints	**Section 38** provides that the powers under Chapter 3 may be exercised only to perform the Commissioner's monitoring functions, as defined in section 18 (above).	**Section 54** allows a complaint to be made or dealt with under Chapter 4, only so far as the complaint relates to a service provided, or required to be provided; to a child: (a) while the child is in the child safety system; or	There is some overlap between s38 and s54 a); however, while the monitoring functions only apply to children in the child safety system, including handling of cases by the child safety department and

	Relevant sections of Chapter 3: Power and obligations relating to the Commissioner's monitoring functions	Relevant sections of Chapter 4: Complaints and Investigations	Comments
		(b) while the child is subject to a conditional release order, supervised release order, intensive supervisions order, community service order or probation order under the *Juvenile Justice Act 1992*; or (c) while the child is in detention under the *Juvenile Justice Act 1992* or the *Bail Act 1980*; or (d) in the course of a program or service established under the *Juvenile Justice Act 1992*, section 302.	licensees under the *Child Protection Act 1999*, the complaints and investigations' jurisdiction additionally apply to a child in the youth justice system.
Service providers to which Chapter 3 applies	**Section 39** provides that Chapter 3 powers apply only to the following service providers: (a) the child safety department; (b) a service provider holding a licence to provide care services under the *Child Protection Act 1999* (a licensee); (c) a department that is mainly responsible for any of the following matters- (i) Aboriginal and Torres Strait Islander policy; (ii) administration of justice; (iii) adult corrective services; (iv) community services (v) disability services; (vi) education; (vii) housing services;	Chapter 4 applies to all government and non-government services providers (sections 9-12).	Although section 39 provides that the Commissioner's monitoring powers can apply to a broad range of departments which provide services to children and young people, including justice and adult corrective services, section 38 limits the use of those powers to the Commissioner's monitoring functions, which as stated in section 18 only relate to children and young people in the child safety system.

	Relevant sections of Chapter 3: Power and obligations relating to the Commissioner's monitoring functions	Relevant sections of Chapter 4: Complaints and Investigations	Comments
	(viii) public health; (d) the Director of Public Prosecutions; (e) Legal Aid Queensland; (f) the Public Trust Office; (g) the police service.		

Appendix E - Comparison of functions and powers identifying the overlapping or inconsistent provisions in chapters 3 and 4 of CCYPCG Act

Legislative power	Relevant sections of Chapter 3: Power and obligations relating to the Commissioner's monitoring functions	Relevant sections of Chapter 4: Complaints and Investigations	Comments
Notices			
- **Commencement notice**	No similar requirement.	**Section 63** (2) relates to the investigation of a complaint, and provides that, before investigating a complaint, the commissioner must give a written notice to the service provider to which the complaint relates. (3) The notice must state the following— (a) that a complaint has been made; (b) the particulars of the complaint; (c) that the commissioner intends to investigate the complaint; (d) that the service provider may make a written submission about the complaint within a reasonable time stated in the notice. **Section 64** (4) relates to 'other investigations' and provides that, before exercising powers under this chapter for an investigation under this section, the commissioner must give a written notice to the service provider to whom the investigation relates. (5) The notice must state the following— (a) the investigation that the commissioner is conducting or proposing to conduct; (b) the subject matter of the investigation;	

Legislative power	Relevant sections of Chapter 3: Power and obligations relating to the Commissioner's monitoring functions	Relevant sections of Chapter 4: Complaints and Investigations	Comments
		(c) in general terms, the powers that the commissioner may exercise under this chapter for the investigation.	
Information gathering			
- **Power to require information or documents**	**Section 40** provides that the Commissioner may give a written notice to a relevant service provider requiring the service provider to give the Commissioner, within a stated reasonable time: (a) information about a stated matter; or (b) a stated document, or documents of a stated class, in the service provider's possession or control or; (c) a copy of a document, or copies of documents, mentioned in paragraph (b).	**Section 67** (1) provides that the Commissioner may give a notice for information for the purpose of carrying out the Commissioner's investigation functions. Section 67 (2) provides that the notice may require the person— a. to give information by statutory declaration, by a stated reasonable time, about a stated matter; or b. to attend before the commissioner at a stated reasonable time and place— i. to give information and answer questions about a stated matter; or ii. to produce a stated document or other thing; or c. if it does not appear to the commissioner to be reasonable to require the person to attend before the commissioner in person, but it is reasonable to require the person to communicate with the commissioner by telephone conferencing, videoconferencing or another form of telecommunication—to	Currently, the Notices provided to service providers under Chapters 3 and 4 have different requirements in relation to their content. Importantly, there is currently no capacity to issue a notice under Chapter 4 for the provision of documents (other than by attending in person to produce such documents).

Legislative power	Relevant sections of Chapter 3: Power and obligations relating to the Commissioner's monitoring functions	Relevant sections of Chapter 4: Complaints and Investigations	Comments
		communicate with the commissioner in a stated way and at a stated reasonable time about a stated matter. (3) The person must comply with the notice, unless the person has a reasonable excuse for not complying. Maximum penalty—50 penalty units. (4) The notice need not state the matter of the investigation if the commissioner is satisfied that, in the particular circumstances of the investigation, stating the matter may prejudice the effectiveness of the investigation. (5) The stating of a matter, or the failure to state a matter, in the notice does not prevent the commissioner from questioning the person about a matter relating to the investigation. (6) If the person gives the commissioner a document or other thing, as required by the notice, the commissioner— (a) may inspect the document or other thing and make a reproduction of it; and (b) must return the document or other thing to the person as soon as practicable.	
- **Access to a child**	No similar power.	**Section 65** provides that the Commissioner may, by written notice, require a person to	

Legislative power	Relevant sections of Chapter 3: Power and obligations relating to the Commissioner's monitoring functions	Relevant sections of Chapter 4: Complaints and Investigations	Comments
		provide access to a child access to a child who is or whom the commissioner reasonably believes is— (a) a complainant; or (b) a child on whose behalf or in whose interests a complaint has been made; or (c) a child, to whom an investigation relates, who is or was in the child safety system; or (d) a witness to a matter being investigated by the commissioner. **Section 66** provides that if a person visits a child in a detention centre, watch house or lockup, under a notice given under section 65, the person must comply with any relevant directions given by the chief executive of the department responsible for youth justice and the police commissioner.	
- **Identify of a notifier**	No similar power.	**Section 68** provides that if the commissioner decides it is necessary for the commissioner to know the identity of a notifier mentioned in either the *Child Protection Act 1999* or the *Public Health Act 2005* the commissioner must give written notice to the chief executive (child safety) requiring disclosure of the identity within a reasonable time stated in the notice.	

Legislative power	Relevant sections of Chapter 3: Power and obligations relating to the Commissioner's monitoring functions	Relevant sections of Chapter 4: Complaints and Investigations	Comments
- **Exempt information or documents relating to a section 40 Notice/Defences for failing to comply with a notice for information under section 67**	**Section 43** contains exemptions relating to certain documents under a section 40 notice, which apply to a relevant service provider other than the child safety department. Section 43 (3) provides that information or a document is exempt if giving it could reasonably be expected to: a. prejudice the investigation of a contravention or possible contravention of the law in a particular case; or b. prejudice an investigation under the *Coroners Act 2003*; or c. enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained; or d. endanger a person's life or physical safety; or e. prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law.	**Sections 69-73** outline certain defences for failing to comply with a notice for information by which the person is required to give information or produce a document or other thing. These include: • Section 70: Witness privilege – if a privilege the person would be entitled to claim against giving the information or producing the document or other thing applies, were the person a witness in a prosecution for an offence in the Supreme Court. • Section 71: A law enforcement agency – if provision of information would compromise the security of an investigation by the police service or the Crime and Misconduct Commission. • Section 72: Claim of unjustifiable exercise of power – decided by a Supreme Court judge, or • Section 73: Supreme Court applications.	The current provisions of the Commission's Act providing exemptions to, or defences for not providing information requested via a Notice issued under either the monitoring or the investigative powers are vastly different.

Legislative power	Relevant sections of Chapter 3: Power and obligations relating to the Commissioner's monitoring functions	Relevant sections of Chapter 4: Complaints and Investigations	Comments
	Section 43 (4) provides that subsection (3) does not apply if giving the information or document would, on balance, be in the public interest. Section 43 (5) provides information or a document is exempt if— (a) it relates to a review of a matter, being conducted within the entity that is the relevant service provider, that has not been completed; and (b) giving the information or document is likely to prejudice or interfere with the review.		
- **Protection from liability for giving information**	**Section 45** provides certain protection for persons giving information to the Commissioner for the purposes of the monitoring functions.	No similar requirement.	The whistle-blower's protection outlined in section 394 of the Act applies to both functions.
- **Restricted use of confidential information accessed under this chapter/ Confidentiality of information**	**Section 46** restricts the Commissioner's use of information given to the Commissioner for the purposes of the monitoring functions.	**Section 385** provides that a person may make a record of confidential information or disclose it to someone else: (a) for this Act; (b) to discharge a function under another law; **Section 386** provides that section 385 does not prevent the Commissioner from disclosing information to a person or to	There are some differences in the confidentiality provisions relating to the Commission's monitoring and investigation functions.

Legislative power	Relevant sections of Chapter 3: Power and obligations relating to the Commissioner's monitoring functions	Relevant sections of Chapter 4: Complaints and Investigations	Comments
		members of the public, about an issue the subject of an investigation by the Commissioner, if the Commissioner is satisfied the disclosure: (a) is necessary and reasonable in the public interest; and (b) is unlikely to prejudice the investigation.	
- **Periodic reporting**	**Section 48** provides that a relevant service provider must give to the Commissioner, at the times and in the way prescribed under a regulation, the information prescribed under a regulation about its systems, policies or practices affecting children in the child safety system.	No similar requirement.	
- **Review of service**	**Section 49** allows the Commissioner to require a service provider to undertake a review of its systems, policies or practices affecting children in the child safety system and provide the Commissioner with a report on that review. Section 49 also allows the Commissioner to require the Department of Communities, Child Safety and Disability Services and licensees (under the *Child Protection Act 1999*) to undertake a review of their handling of individual	No similar power.	

Legislative power	Relevant sections of Chapter 3: Power and obligations relating to the Commissioner's monitoring functions	Relevant sections of Chapter 4: Complaints and Investigations	Comments
	cases of children in the child safety system and provide the Commissioner with a report on that review.		
Recommendations			
- **Recommendations**	**Section 50** provides that the Commissioner may make recommendations to a relevant service provider about matters arising from the Commissioner's performance of the monitoring functions.	**Section 80(3)** provides that the Commissioner may recommend in its report that a service provider take a stated action within a stated time that is reasonable in the circumstances.	
Reports			
- **Provision of a report to a service provider**	Chapter 3 does not contain a provision regarding the provision of a report to a service provider about matters arising from the Commission's monitoring functions. In 2008 the Commission obtained Crown Law advice on this issue, as follows: *"There is nothing in the Act which prevents or mandates the supply of a report to a service provider. It is generally desirable for decision makers to give reasons for their decisions. It also encourages transparency and legitimacy through accounting for itself to those whom the Commission affects. In my opinion it would be good practice to supply a full report of the investigations*	**Section 80(2)** provides that the Commissioner must, after completing an investigation, prepare a written report and give a copy to the relevant service provider and/or the chief executive of the department that deals with the subject matter of the complaint, and if appropriate, the Minister. Such reports may contain recommendations to the service provider. **Section 85** provides that the Commissioner must not include in a report any comments adverse to an entity identifiable from the report, unless the entity has been given a copy of the comments and a reasonable opportunity to respond to them (procedural fairness).	The Commission provides reports as a matter of course, to the relevant service providers following the conduct of a monitoring or investigative activity, which comply with the requirements of procedural fairness.

Legislative power	Relevant sections of Chapter 3: Power and obligations relating to the Commissioner's monitoring functions	Relevant sections of Chapter 4: Complaints and Investigations	Comments
	with the recommendations to justify the Commission's position regarding the recommendations".		
- **Non-compliance reports**	**Section 51** allows the Commissioner to give a report to the Minister responsible for the Department and the Minister responsible for a service provider, if the Commissioner considers the service provider has where contravened a provision of this part; or failed to take appropriate action in response to a recommendation made under section 50.	**Section 80(4)** allows the Commissioner to give a copy of the report with comments, to the Minister responsible for the service provider, where the Commissioner is not satisfied that a service provider has taken a stated action within the stated time.	

Appendix F - Summary of the implementation status of recommendations made by the Commission in its Indigenous Child Placement Principle Audit Reports dated 2008 and 2010

Table of recommendations indicating whether the recommendation is implemented, partially implemented or not yet implemented

Recommendations		Implementation status	Comments
Indigenous Child Placement Principle Audit Report, 2008			
1	The Department develop guidelines for inclusion in/or in support of the Child Safety Practice Manual that assist and support departmental officers in establishing a child's cultural identity, including the criteria for identifying an Aboriginal and/or Torres Strait Islander person.	Implemented	No further action required.
2	The Department develop guidelines for inclusion in the Child Safety Practice Manual that assist and support departmental officers in: • understanding the participation process with a recognised entity (including the local nature of relationship development), and • giving the recognised entity an opportunity to participate in the placement decision-making process (in accordance with section 83(2) of the *Child Protection Act 1999*). These guidelines should include (but not be limited to) details of how the recognised entity's expertise will: • provide cultural information complying with the Child Placement Principle • enhance the Department's understanding of the child's family and community structures and relationships • provide support by identifying placement options • provide opinions about the suitability of placement options, and • provide advice on how to: o retain relationships with Indigenous family and community o facilitate contact with Indigenous family and community, and o preserve and enhance the child's sense of Indigenous identity.	Implemented	No further action required.
3	The Department develop comprehensive guidelines for inclusion in the Child Safety Practice Manual to assist and support departmental officers in the consultation process with recognised entities that must occur after a placement decision was	Implemented	No further action required.

Recommendations		Implementation status	Comments
	made without the participation of the recognised entity. These guidelines should address: • The local nature of relationship development with recognised entities • What is an acceptable time frame for 'as soon as practicable'? • What circumstances can be considered to be 'urgent'? • What information and advice should be sought during consultation with the recognised entity? • What are the expected outcomes from the consultation process? • In what circumstances should a decision be reviewed because of the views of the recognised entity?		
4	The Department enhance the Integrated Client Management System's recognised entity/Child Placement Principle form to allow recording of whether a placement decision was made because of urgent circumstances.	Implemented	No further action required.
5	The Department develop guidelines that explain: • The types of relationships that exist in Aboriginal and Torres Strait Islander families and communities. Information about Torres Strait Islander child rearing practices or 'traditional adoptions' needs to be included, and • the importance of departmental officers collecting and recording an Indigenous child's family and community structure to ensure appropriate and effective service delivery to Indigenous children.	Implemented	No further action required.
6	The Department develop comprehensive guidelines to support departmental officers in differentiating between family and community members for the purpose of section 83 of the *Child Protection Act 1999.*	Implemented	No further action required.
7	The Department develop comprehensive guidelines for inclusion in the Child Safety Practice Manual that assist and support departmental officers in collecting information about family and community members before an Indigenous child's initial placement (if possible). These guidelines should also address the approach that departmental officers should take if the information required is not available.	Implemented	No further action required.
8	The Department enhance the Integrated Client Management System's person record	Implemented	No further action required.

Recommendations		Implementation status	Comments
	to allow: • the relationship tab to provide drop-down fields that are relevant to Indigenous family and community relationships, and • the mandatory inclusion of the information currently captured in the cultural support plan section in the case plan form.		
9	The Department develop comprehensive guidelines for inclusion in the Child Safety Practice Manual that assist and support departmental officers in identifying the role that family and community members can play while the child is in out-of-home care – specifically, whether or not family and community members are willing and able to be considered as placement options. Categories similar to those developed by the Victorian Department of Human Services should be considered for classification, including: • care/support not appropriate • willing to provide support when they can • would like to provide support but will experience difficulties • cannot provide support • is prepared to provide support, and • is prepared to be considered as a placement option.	Implemented	No further action required.
10	The Department enhance the Integrated Client Management System's recognised entity/Child Placement Principle form to allow for recording of placement options identified from family and community members. The information to be collected in the Integrated Client Management System could include details of the placement options as well as whether the family and community members are willing and able to be considered.	Implemented	No further action required.
11	The Department develop comprehensive guidelines for inclusion in the Child Safety Practice Manual that assist and support departmental officers in: • understanding the concept of a compatible Indigenous carer • gathering relevant information to decide if an Indigenous carer is compatible with an Indigenous child, and • making a decision about an Indigenous carer's compatibility with an Indigenous child.	Implemented	No further action required.

Recommendations		Implementation status	Comments
12	The Department enhance the Integrated Client Management System to allow for recording of Indigenous carers' cultural information.	Implemented	No further action required.
13	The Department enhance the Integrated Client Management System's recognised entity/Child Placement Principle form to allow recording of: • Indigenous placement options identified (outside the family and community) • whether or not the Indigenous carer is compatible for the purpose of section 83 of the *Child Protection Act 1999,* and • how the decision to assess the Indigenous carer as compatible or incompatible was reached.	Implemented	**Some amendments required.**
14	The Department develop comprehensive guidelines for inclusion in the Child Safety Practice Manual that assist and support departmental officers in: • understanding the concept of 'near' for the purpose of section 83 of the *Child Protection Act 1999*, and • making a decision about whether a placement option is 'near' an Indigenous child's family or community. This process should include: o reviewing location details about the child's family and community o reviewing location of placement options with non-Indigenous carers o identifying if the placement option is 'near' the child's family o identifying if the placement option is 'near' the child's community, and o reconciling a placement decision if the location is 'near' one family/community member and not another.	Implemented	No further action required.
15	The Department enhance the Integrated Client Management System's recognised entity/Child Placement Principle form to allow recording of: • non-Indigenous placement options identified near the child's family and/or community, and • how the decision to assess the non-Indigenous carer as near the family and/or community was reached.	Implemented	**Some amendments required.**
16	The Department develop comprehensive guidelines for inclusion in the Child Safety Practice Manual that assist and support departmental officers in identifying	Implemented	No further action required.

Recommendations		Implementation status	Comments
	appropriate placement options for Indigenous children when the options set out in section 83(4) and (6) of the *Child Protection Act 1999* have been exhausted.		
17	The Department enhance the Integrated Client Management System's recognised entity/Child Placement Principle form to allow recording of placement options identified outside the hierarchy of placement options in section 83(4) and (6) of the *Child Protection Act 1999.*	Implemented	No further action required.
18	The Department develop comprehensive guidelines for inclusion in the Child Safety Practice Manual that assist and support departmental officers in collecting information about the relationships between Indigenous children and their parents, siblings and people of significance.	Implemented	No further action required.
19	The Department enhance the Integrated Client Management System's recognised entity/Child Placement Principle form to allow for recording of details of the child's relationships with parents, siblings and people of significance.	Implemented	No further action required.
20	The Department develop comprehensive guidelines for inclusion in the Child Safety Practice Manual that will assist and support departmental officers in assessing the placement option's ability to retain the child's relationships with parents, siblings and people of significance. The following questions should be addressed by the guidelines: • Will the placement option provide a supportive environment that allows the retention of the child's relationships with parents, siblings and people of significance? • Will the placement option enable contact with parents, siblings and people of significance? • Are there any factors that would prevent/hinder the child's relationships with parents, siblings and people of significance?	Implemented	No further action required.
21	The Department enhance the Integrated Client Management System's recognised entity/Child Placement Principle form to allow recording of consideration given to a placement option's ability to retain the child's relationships with parents, siblings and people of significance.	Implemented	**Some amendments required.**
22	The Department develop comprehensive guidelines for inclusion in/or support of the Child Safety Practice Manual that assist and support departmental officers in considering the views of the recognised entity, including (but not	Implemented	No further action required.

Recommendations		Implementation status	Comments
	limited to): • involvement in the decision-making process • views expressed during the decision-making process, and • areas of disagreement with the Department.		
23	The Department develop comprehensive guidelines for inclusion in the Child Safety Practice Manual that assist and support departmental officers in assessing a non-Indigenous carer's commitment in accordance with the *Child Protection Act 1999.* The assessment process should include (but not be limited to): • the Department identifying and recording what its expectation is of the non-Indigenous carer to: o facilitate contact between the child and family members o help maintain contact with the child's community or language group o help maintain a connection with the child's Aboriginal or Torres Strait Islander culture, and o preserve and enhance the child's sense of Aboriginal or Torres Strait Islander identity • the Department providing details of its expectations to the non-Indigenous carer • the non-Indigenous carer's response to the Department's expectations (including any support that may need to be • provided by the Department to the non-Indigenous carer), and • a written commitment from the non-Indigenous carer to meet the Department's expectations.	Implemented	No further action required.
24	The Department enhance the Integrated Client Management System's recognised entity/Child Placement Principle form to allow for recording of the assessment of the non-Indigenous carer's commitment in accordance with section 83(7) of the *Child Protection Act 1999.*	**Partially implemented**	**Further work required to satisfy intention of the recommendation.**
25	Recommendations 1, 2, 3, 5, 6, 7, 9, 11, 14, 16, 18, 20 and 22 are responded to in a way that results in one comprehensive procedure, to be included in/or in support of the Child Safety Practice Manual. Situations that may require further guidance should be considered for inclusion, such as: • approach to the Child Placement Principle when children have mixed heritage • approach to placing large sibling groups	Implemented	No further action required.

Recommendations		Implementation status	Comments
	• placement of children long distances away from their communities • contact with family and community – family not wanting contact and child not wanting contact • approach to placement of disabled Indigenous children • parental requests for non-Indigenous placements, and • emergency placements. As well, all other references to the Child Placement Principle in the Child Safety Practice Manual will need to refer to the specific procedural document.		
26	The Department develop training for departmental officers about the application of section 83 of the *Child Protection Act 1999.* This training should be rolled out once all procedural recommendations of this report have been implemented.	**Partially implemented**	**Further work required to satisfy intention of the recommendation.**
27	The Department consider the introduction of specialised positions that case manage only Indigenous children. These positions could allow effective engagement with the recognised entity and local community members. Expertise in applying the Child Placement Principle would also be developed by the departmental officers.	Implemented	No further action required.
28	That the Integrated Client Management System's recognised entity/Child Placement Principle form is enhanced to include Recommendations 4, 8, 10, 12, 13, 15, 17, 19, 21 and 24.	**Partially implemented** (to the extent that the relevant recommendations in the report have been implemented).	**Further work required regarding the outstanding recommendations.**
	Indigenous Child Placement Principle Audit Report, 2010		
1	The Department of Communities adhere to the nominated timeframes assigned to the nine recommendations made in the inaugural *Indigenous Child Placement Principle Audit Report 2008* that are currently being implemented, or establish (by the end of April 2012) another mandatory recording keeping process to enable it to monitor and manage compliance with each of the five steps.	**Partially implemented** (to the extent that the relevant recommendations in the report have been implemented).	**The nine recommendations made in the inaugural audit report which were outstanding upon completion of the second report were to be implemented by April 2012. However, to date further action is required regarding 6 recommendations made in the inaugural report, as outlined above.**
2	The Department of Communities consider ways to strengthen its practice and record keeping related to the application of section 83 of the *Child Protection Act 1999* by communicating the findings of this audit and the Compliance Assessment Tool to its Child Safety Officers as the basis upon which its future efforts will be assessed. A documented communication plan is to be developed by the end of April 2012.	**Partially implemented**	**Further work required to satisfy intention of this recommendation.**

Recommendations		Implementation status	Comments
3	The Department of Communities commit to a timeframe for enhancing ICMS to make completion of the 'Recognised Entity/Child Placement Principle' form mandatory when making a placement decision for an Aboriginal or Torres Strait Islander child or young person, and advise of this timeframe by the end of April 2012.	Implemented	No further action required.
4	The Department of Communities review and (by the end of April 2012) clarify its practice guidance regarding the application of section 83 of the *Child Protection Act 1999* to respite placements for Aboriginal and Torres Strait Islander children and young people.	**Partially implemented**	**Further work required to satisfy intention of this recommendation.**
5	The Department of Communities collaborate with Recognised Entities, either through their peak representative body, the Queensland Aboriginal and Torres Strait Islander Child Protection Peak, or at a local level, to confirm information sharing needs and processes in regard to placement decisions for Aboriginal and Torres Strait Islander children and young people and to confirm the record keeping requirements and obligations of both. An agreed outcome is to be documented by the end of April 2012.	**Partially implemented**	**Further work required to satisfy intention of this recommendation.**
6	The Department of Communities clarify (by the end of April 2012) in the relevant policy and procedural documents that placement decisions must be reviewed within a specified amount of time where emergency placements are made for Aboriginal and Torres Strait Islander children and young people and section 83 of the *Child Protection Act 1999* is unable to be applied.	**Not yet implemented**	**Substantial further work is required to implement this recommendation.**
7	The Department of Communities establish an appropriate record keeping mechanism, in ICMS or otherwise, to record: • when and why emergency placements are made for Aboriginal and Torres Strait Islander children and young people and section 83 of the *Child Protection Act 1999* is unable to be applied, and • the timeframe that the placement decision was reviewed within, and • the outcome. Advice is required by the end of April 2012 of the proposed approach and timeframe required to implement.	**Partially implemented**	**Further work required to satisfy intention of this recommendation.**
8	The Department of Communities explore ways to strengthen information gathering, and provision to Aboriginal and Torres Strait Islander children and young people, about their Mob, and advise of the proposed strategies by the end of April 2012.	Implemented	No further action required.

Recommendations		Implementation status	Comments
9	The Department of Communities continue its Indigenous carer recruitment efforts and by the end of April 2012 include key findings from this report in its training and support of all carers in helping drive cultural outcomes for Aboriginal and Torres Strait Islander children and young people in out-of-home care.	**Partially implemented**	**Further work required to satisfy intention of this recommendation.**
10	The Department of Communities use the information in this report to help identify where strengths and weaknesses in regional service delivery exist in regards to Aboriginal and Torres Strait Islander children and young people's family and community contact and opportunity to participate in cultural activities/events, and advise by the end of April 2012 of proposed strategies.	**Partially implemented**	**Further work required to satisfy intention of this recommendation.**