

# **Oversight of the Commission for Children and Young People and Child Guardian**

**Report No. 45**

**Health and Community Services Committee**

**April 2014**

## Health and Community Services Committee

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## Abbreviations

the ACCGG	Australian Children’s Commissioners and Guardians Group
CCYPCG	Commission for Children and Young People and Child Guardian
the CCYPCG Act	<i>Commission for Children and Young People and Child Guardian Act 2000</i>
the CDCRC	Child Death Case Review Committee
the Child Protection Act	<i>Child Protection Act 1999</i>
the Commission	Commission for Children and Young People and Child Guardian
the Commission of Inquiry	Queensland Child Protection Commission of Inquiry
the committee	Health and Community Services Committee
the department	Department of Communities, Child Safety and Disability Services
FCC	Family and Child Commission
QCT	Queensland College of Teachers

## **Chair's Foreword**

The Health and Community Services Committee was established in May 2012 as one of seven portfolio committees. It has responsibility for oversight of the Commission for Children and Young People and Child Guardian (CCYPCG) under the Standing Rules and Orders of the Legislative Assembly.

This is the second report by this committee on oversight of the CCYPCG under Standing Order 194A, which requires the committee to monitor and report on the CCYPCG's performance of its functions.

Legislation introduced into the Legislative Assembly by the government in March 2014 will, if passed, result in the replacement of the CCYPCG with a new Family and Child Commission and the transfer of some functions to other bodies.

This is therefore expected to be the committee's last report on the CCYPCG. I would like to thank former Commissioners and CCYPCG staff, my committee colleagues and the committee secretariat their assistance.



**Trevor Ruthenberg MP**  
**Chair**



## 1 Introduction

### 1.1 Role of the committee

The Health and Community Services Committee (the committee) has oversight responsibility for the Commission for Children and Young People and Child Guardian under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly. Standing Order 194A describes the committee's functions:

If a portfolio committee is allocated oversight responsibility for an entity under Schedule 6, and there are no statutory provisions outlining the committee's oversight of the entity, the portfolio committee will have the following functions with respect to that entity -

- (a) to monitor and review the performance by the entity of the entity's functions;
- (b) to report to the Legislative Assembly on any matter concerning the entity, the entity's functions or the performance of the entity's functions that the committee considers should be drawn to the Legislative Assembly's attention;
- (c) to examine the annual report of the entity tabled in the Legislative Assembly and, if appropriate, to comment on any aspect of the report; and
- (d) to report to the Legislative Assembly any changes to the functions, structures and procedures of the entity that the committee considers desirable for the more effective operation of the entity or the Act which establishes the entity.<sup>1</sup>

This is the committee's second report on its oversight of the CCYPCG. This report provides an overview of the CCYPCG and its performance and comments on the CCYPCG's annual report for 2012-13.<sup>2</sup>

The report is informed by evidence given by representatives of the CCYPCG at a Budget Estimates hearing on 24 July 2013,<sup>3</sup> the CCYPCG's Annual Report 2012-13, and other CCYPCG publications.

In light of the government's response to the Queensland Child Protection Commission of Inquiry (the Commission of Inquiry), the committee's report focuses on the CCYPCG's performance of its main functions.

### 1.2 Queensland Child Protection Commission of Inquiry

A number of the CCYPCG's functions were within the scope of the Commission of Inquiry, which was established 1 July 2012. The Inquiry concluded on 1 July 2013, with the release of the final report to the Attorney-General and the Minister for Communities, Child Safety and Disability Services.<sup>4</sup> The report recommended that "the Commission not continue in its current form, the *Commission for Children and Young People and Child Guardian Act 2000* be repealed and the majority of the Commission's functions be undertaken by other entities (existing and to be established)".<sup>5</sup>

The Queensland Government responded to the report on 16 December 2013. Under the reforms accepted by the government, the CCYPCG will cease and some of its functions will be undertaken by other agencies, for example:

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1 Legislative Assembly of Queensland, Standing Rules and Orders of the Legislative Assembly, SO 194A  
2 Commission for Children, Young People and Child Guardian (CCYPCG), *Annual Report 2012-13*, available at <http://www.ccypcg.qld.gov.au/resources/publications/annual/annual13.html>  
3 Available on the Health and Community Services Committee's website, available at <http://www.parliament.qld.gov.au/work-of-committees/committees/HCS>  
4 Queensland Child Protection Commission of Inquiry, *Taking responsibility: a roadmap for Queensland Child Protection*, June 2013, available at [http://www.childprotectioninquiry.qld.gov.au/\\_data/assets/pdf\\_file/0017/202625/QCPCI-FINAL-REPORT-web-version.pdf](http://www.childprotectioninquiry.qld.gov.au/_data/assets/pdf_file/0017/202625/QCPCI-FINAL-REPORT-web-version.pdf)  
5 CCYPCG, *Annual Report 2012-13*, p.2

*a new Family and Child Commission will monitor and report on the overall performance of the child protection system*  
*complaints will be investigated by the relevant department with oversight by the Ombudsman*  
*visits to children and young people will be re-focused to visiting those who are considered most vulnerable*  
*the role of the Child Guardian will be re-focused on individual advocacy for children and young people in the child protection system and primarily operate out of new state-wide advocacy hubs*  
*the role of the Child Guardian will be combined with the Adult Guardian to form the new role of Public Guardian*  
*the Department of Communities, Child Safety and Disability Services will establish a specialist investigation team to investigate cases where children in care have died or sustained serious injuries, and*  
*employment screening (blue cards) will be transferred to the Queensland Police Service.*<sup>6</sup>

On 20 March 2014, the government introduced three Bills into the Legislative Assembly to implement recommendations of the Commission of Inquiry, which will impact on the current functioning of the CCYPCG. The Bills are: the Child Protection Reform Amendment Bill; the Public Guardian Bill 2014; and the Family and Child Commission Bill.<sup>7</sup>

One of the key roles for the CCYPCG in the remainder of 2013-14 will be to implement relevant government responses to the Commission of Inquiry that affect functions administered by the Commission.<sup>8</sup>

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6 CCYPCG, *Media Release: Transition of the Commission functions*, 4 February 2014, accessed 5 February 2014 from <http://www.ccypcg.qld.gov.au/about/transition.html>

7 CCYPCG, *Bills introduced in Parliament to implement child protection recommendations*, pp. 1-3, available at <http://www.ccypcg.qld.gov.au/about/news/2014/march/Bills-introduced-in-Parliament-to-implement-child-protection-recommendations.html>

8 2013-14 Queensland State Budget – Service Delivery Statements – CCYPCG, p.31

## 2 The Commission for Children and Young People and Child Guardian

The Commission is an independent statutory body under the *Commission for Children and Young People and Child Guardian Act 2000* (CCYPCG Act).<sup>9</sup> The CCYPCG acts as an advocate for all children in Queensland by issuing regular reports on the health and wellbeing of Queensland children. It monitors trends in child deaths, maintains the Queensland Child Death Register, publishes reports and papers, and shares of data with researchers. The CCYPCG administers the “blue card system”, and advocates for children’s rights and interests to be considered in policy development.

### 2.1 Functions and powers

Section 17(1) of the CCYPCG Act defines the Commissioner’s functions as:

- resolving, monitoring and investigating complaints about services provided to certain children by service providers and monitoring and reviewing the way in which providers respond to these complaints
- advocating for children. The Commissioner’s functions include seeking assistance from related entities, facilitating and supporting the development and co-ordination of advocacy and other support services for children, and promoting awareness among children about these services
- promoting the establishment, by service providers, of appropriate and accessible mechanisms for the participation of children in matters that may affect them
- monitoring and reviewing laws, policies and practices that relate to the delivery of services to children or otherwise impact on children and promoting laws, policies and practices that uphold the principles of the CCYPCG Act
- promoting public understanding of the rights, interests and wellbeing of children
- conducting, co-ordinating and promoting research about the rights, interests and wellbeing of children
- administering a Community Visitors Program
- screening persons employed in or carrying on certain child-related businesses and auditing or monitoring these persons to ensure compliance with the requirements set out in Chapter 8 of the CCYPCG Act
- recording, analysing and reporting on information about child deaths
- reporting and making recommendations on matters relating to the Commissioner’s functions, and
- other functions conferred on the Commissioner, under the CCYPCG Act or another Act.<sup>10</sup>

Section 17 (2) of the CCYPCG Act defines the Commissioner’s child guardian functions. These include the monitoring functions in section 18 of the CCYPCG Act, investigating matters relating to services provided to children in the child safety system, working with the chief executive of the department to resolve disputes about reviewable decisions under the Child Protection Act and other conferred functions, so far as they relate to children in the child safety system.<sup>11</sup>

The monitoring functions in section 18 of the CCYPCG Act include:

- monitoring, auditing and reviewing the systems, policies and practices of the department and other service providers that affect children in the child safety system
- monitoring, auditing and reviewing the handling of individual cases of children in the child safety system by the department and licensees under the Child Protection Act, and

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9 CCYPCG, *Annual Report 2012-13*, p.5

10 CCYPCG Act, s.17(1)

11 CCYPCG Act, s.17

- monitoring the chief executive of the department's compliance with section 83 of the Child Protection Act.<sup>12</sup>

## 2.2 Reporting against functions

The CCYPCG publishes a large number of documents in the course of fulfilling its legislative functions. Documents released by the CCYPCG from 30 June 2012 to the present, are available on the CCYPCG's website at <http://www.ccypcg.qld.gov.au/resources/publications/reports.html>. The committee has considered a number of these key documents, which are noted within the report.

## 2.3 Staffing

CCYPCG staff are employed under the *Public Service Act 2008*.<sup>13</sup> At 30 June 2013, the CCYPCG employed the equivalent of 230 full-time staff and 165 community visitors, who are casual staff engaged to visit children in care.<sup>14</sup> The combined staffing cost in 2012-13 was \$30.808 million,<sup>15</sup> a decrease of \$1.24 million from 2011-12.

## 2.4 Funding

Total operational funds for the CCYPCG in 2012-13 were \$46.397 million,<sup>16</sup> and estimated operational funds for 2013-14 were \$47.393 million, an increase of approximately \$1 million.<sup>17</sup>

The 2013-14 Budget Papers indicate that the total cost of the concession provided for volunteer applicants for blue card assessments is estimated to be \$49.8 million for 2013-14.<sup>18</sup>

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12 CCYPCG Act, s.18

13 CCYPCG Act, s.35; *Public Service Act 2008*, available at <http://www.legislation.qld.gov.au/LEGISLTN/ACTS/2008/08AC038.pdf>

14 CCYPCG, *Annual Report 2012-13*, p.75

15 CCYPCG, *Annual Report 2012-13*, p.21

16 CCYPCG, *Annual Report 2012-13*, pp.2 and 85

17 2013-14 Queensland State Budget – Service Delivery Statements - CCYPCG, p.34

18 2013-14 Queensland State Budget – Concessions Statement, p.4

### 3 Performance against main functions in 2012-13

The Commission of Inquiry recommended that the majority of the CCYPCG's functions be undertaken by other entities (existing and to be established). The government response to the Commission of Inquiry endorsed those recommendations (refer to section 1.2).

The committee has focused on reviewing the performance of the CCYPCG in its main functions, namely:

- resolving complaints and investigating service delivery
- monitoring, auditing and reviewing systems, policies and practices
- employment screening
- the Community Visitors Program
- analysing and reporting on child deaths, and
- advocacy, research and promotion.

The committee has not made any recommendations in this report, as the CCYPCG will not continue in its current form.

#### 3.1 Resolving complaints and investigating service delivery

Chapter 4 of the CCYPCG Act provides a process for making, resolving and investigating complaints and other matters relating to a service provided, or required to be provided, to a child in the child safety system.<sup>19</sup>

##### 3.1.1 Resolving complaints

Complaints can relate to any service provided, or required to be provided, to children in the child safety system, children subject to particular types of orders under the *Youth Justice Act 1992*,<sup>20</sup> children in detention under the *Youth Justice Act 1992* or *Bail Act 1980*,<sup>21</sup> or a program or service established under section 302 of the *Youth Justice Act 1992*.<sup>22</sup>

During 2012-13, the CCYPCG resolved 4,109 complaint issues. Forty seven per cent (1,928) of these related to harm or risk of harm, forty five per cent (1,833) concerned service providers and eight per cent (460) concerned non service providers.<sup>23</sup> Eighty-seven per cent of complaint issues were resolved within 90 days. This is two per cent less than the 2012-13 target set by the CCYPCG.<sup>24</sup>

##### 3.1.2 Investigating service delivery

Section 64 of the CCYPCG Act enables the Commissioner to investigate any matter relating to a service provided, or required to be provided, to a child in the child safety system if the Commissioner believes:

- the rights, interests or wellbeing of a child or children may be seriously affected if the investigation is not conducted
- the matter raises issues of a public interest, or
- the matter raises a significant issue about a law, policy or practice underlying the service, or about the need for a law, policy or practice to underlie the service.<sup>25</sup>

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19 CCYPCG Act, Chapter 4

20 *Youth Justice Act 1992*, available at <http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/Y/YouthJustA92.pdf>

21 *Bail Act 1980*, available at <http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/B/BailA80.pdf>

22 CCYPCG Act, s.54

23 CCYPCG, *Annual Report 2012-13*, p.51

24 CCYPCG, *Annual Report 2012-13*, p.107

25 CCYPCG Act, s. 64

The Commissioner must provide a written report to the chief executive of the Department of Communities, Child Safety and Disability Services (the department) at the conclusion of the investigation. Reports may also be provided to the responsible Minister and/or service provider, where the service is provided by someone other than the department. Recommendations may be included in the report.<sup>26</sup>

In 2012-13, the CCYPCG commenced 21 and completed 25 investigations, audit or review activities. In the same period, the Commission made 45 formal recommendations to the department arising from four investigation, audit, and review activities.<sup>27</sup> The reports concerned:

- a review of the quality of the department's service delivery to a mobile family with an unborn child<sup>28</sup>
- audit of the department's compliance with legislative obligations to provide information to foster carers on placement of child in their care<sup>29</sup>
- an investigation into the department's placement and support arrangements provided to a young person at high risk of harm,<sup>30</sup> and
- a review of the department's placement of children under 12 years of age in residential care facilities.<sup>31</sup>

The CCYPCG reported on an investigation into the use of force in Queensland youth detention centres and made 12 recommendations.<sup>32</sup>

The CCYPCG reported that 97 per cent of the recommendations from its systematic monitoring, audit and review activities in 2012-13 were accepted by government.<sup>33</sup>

Other reports released by the CCYPCG during 2013-14 include:

- a review on the department's response to the sexual abuse of children in out-of-home care (no formal recommendations)<sup>34</sup>
- an investigation concerning a child who suffered significant physical harm while in the care of the department (six recommendations)<sup>35</sup>
- an audit of compliance with section 83 of the *Child Protection Act 1999*, which places a number of requirements on the department when placing Aboriginal and Torres Strait Islander children and young people in out-of-home care (five recommendations)<sup>36</sup>, and

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26 CCYPCG Act, s.80

27 CCYPCG, *Annual Report 2012-13*, p.105

28 CCYPCG, *Child Guardian Summary Review Report: A review of the service delivery to a mobile family with an unborn child*, available at <http://www.ccypcg.qld.gov.au/resources/publications/childGuardian/Child-Guardian-summary-review-report.html>

29 CCYPCG, *Child Guardian Monitoring Report: Child Guardian Monitoring Report: Compliance by the Department of Communities, Child Safety and Disability Services with placement requirements under section 83A of the Child Protection Act 1999*, available at <http://www.ccypcg.qld.gov.au/pdf/publications/reports/Child-Guardian-Monitoring-Report/Report-approved-public-release-version.pdf>

30 CCYPCG, *Child Guardian Summary Report: An investigation into placement and support arrangements provided to a young person at high risk of harm*, available at <http://www.ccypcg.qld.gov.au/pdf/news/Child-Guardian-Summary-Report.pdf>

31 CCYPCG, *Child guardian Review Report: Placement of children under 12 years of age in residential care*, available at <http://www.ccypcg.qld.gov.au/pdf/news/Child-Guardian-Summary-Report.pdf>

32 CCYPCG, *Fatal Assault and Neglect of Queensland Children Report*, available at

<http://www.ccypcg.qld.gov.au/resources/publications/fatal-assault-and-neglect-of-Qld-children.html>

33 CCYPCG, *Annual Report 2012-13*, p.109

34 CCYPCG, *Child Guardian: Final Review Report: Response to the sexual abuse of children in out-of-home care*, available at <http://www.ccypcg.qld.gov.au/pdf/publications/reports/FINAL-summary-report-for-publication.pdf>

35 CCYPCG, *Child Guardian Summary Report: An investigation into services provided to a child who suffered significant physical harm while in kinship care*, available at <http://www.ccypcg.qld.gov.au/pdf/publications/reports/Kinship-Care-Summary-Report.pdf>

- an investigation about the use of locked door separation for young people at a Queensland Youth Detention Centre (the youth detention centre) following a Code Black incident (24 recommendations).<sup>37</sup>

### **3.2 Monitoring, auditing and reviewing – child guardian functions**

The CCYPCG's child guardian functions require it to monitor, investigate and report on the safety and wellbeing of individual children and to provide independent, evidence-based reporting on the performance of the child protection and youth justice systems.<sup>38</sup>

#### **3.2.1 Key elements of child guardian functions**

The CCYPCG identifies the following as key elements in fulfilling its child guardian functions:

- community visitors, who verify and report on the safety and wellbeing of children and young people in foster care, residential care and detention
- complaints resolution teams, which advocate on behalf of children and young people who have a complaint about the child protection or youth justice systems
- the Views Surveys,<sup>39</sup> which report the experiences of children and young people in foster care, residential care, and detention centres
- the blue card system, which reduces the risk of harm to children in care by monitoring the criminal history of foster and kinship carers and staff of residential care
- conducting audits, investigations and reviews and making recommendations to government on issues affecting the performance of the child protection and youth justice systems, and
- collecting, analysing and reporting on data through the annual Child Guardian Report.<sup>40</sup>

#### **3.2.2 Child Guardian report and key outcome indicators update**

Since 2006, the CCYPCG has published an annual *Child Guardian Report*, which analyses the performance of Queensland's child protection system against ten key outcome indicators of the Child Guardian monitoring framework:

- effective statutory and non-statutory assessment and interventions
- safe out-of-home care, best health possible, best education possible, stable out-of-home care, special needs of Aboriginal and Torres Strait Islander children and individual needs met, and
- successful reunifications and successful transitions to independence.<sup>41</sup>

During 2012-13, the CCYPCG released its second interactive online publication on the performance of Queensland's child protection system, *Queensland Child Guardian Key Indicators Update: Queensland Child Protection System 2009-12*.<sup>42</sup> The update provides an analysis of how the child protection system is performing according to the ten key outcome indicators listed above. The data is not directly comparable to the Performance Assessment Summary for 2008-11, due to a change in the key outcome indicators.

The analysis identified that only half of the key indicators for children in care were assessed at satisfactory or above standard. Areas where performance was below the expected standard include

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36 CCYPCG, *Indigenous Child Placement Principle: Audit Report 2012-13*, available at <http://www.ccypcg.qld.gov.au/resources/publications/icpp-2012-13.html>

37 CCYPCG, *Child Guardian Summary Investigation Report: The use of separation at a Youth Detention Centre*, available at [http://www.ccypcg.qld.gov.au/pdf/publications/reports/YDC\\_summary\\_report.pdf](http://www.ccypcg.qld.gov.au/pdf/publications/reports/YDC_summary_report.pdf)

38 CCYPCG *Annual Report 2011-12*, p.42

39 CCYPCG, *Views of children and young people* (various 'Views' reports), available at: <http://www.ccypcg.qld.gov.au/resources/views/Views-of-children-and-young-people.html>

40 CCYPCG, *Annual Report 2011-12*, p.43

41 CCYPCG, *Annual Report 2011-12*, p.43

42 Available at <http://www.ccypcg.qld.gov.au/reports/2013/child-guardian-key-outcome-indicators/index.aspx>

effective statutory and non-statutory assessment and intervention, best education possible, special needs of Aboriginal and Torres Strait Islander Children and successful transitions to independence.<sup>43</sup>

Table 1 identifies the rationale, identified by the CCYPCG, for each key outcome indicator performing below the expected standard. It also reports the department's comment on the rationale.

**Table 1: Summary of key outcome indicators for the child protection system where performance was below expected standard, 2009-12**

<b>Key outcome indicator for children in care</b>	<b>CCYPCG rationale and Department's comment</b>
Effective non-statutory assessments and interventions	<p><b>CCYPCG rationale</b></p> <p>The high percentage of children who are re-referred to the Department of Communities, Child Safety and Disability Services including with escalated risks, highlights the need for more effective family support services.</p> <p><b>Department comment</b></p> <p>The four year trial of the Helping Out Families (HOF) initiative which commenced in South East Queensland in 2010 aims to reduce the demand for statutory child protection services in the longer term, including providing opportunities for better family support services to reduce escalation of risk factors.</p> <p>Families are referred to the family support alliance when they have been the subject of multiple reports to Child Safety Services, or where there is no evidence of harm to a child, but complex family support needs are present.</p> <p>Phase 4 of the HOF evaluation is nearing completion. Recommendations from the evaluation will be considered along with the recommendations from the Queensland Child Protection Commission of Inquiry.</p>
Effective statutory assessments and interventions	<p><b>CCYPCG rationale</b></p> <p>All measures relating to the management and outcomes of Child Protection Notices are trending negatively, despite efforts and initiatives of the Department of Communities, Child Safety and Disability Services. This requires urgent corrective action.</p> <p><b>Department comment</b></p> <p>The number of intakes reported to Child Safety has nearly tripled over the past seven years. These escalating numbers of intakes directly impact on the department's capacity to meet the workload demands at intake as well as the commencement and finalisation timeframes for investigation and assessments.</p>
Best education possible	<p><b>CCYPCG rationale</b></p> <p>The educational performance of children in care is below the expected standard and has declined across almost all years and areas of attainment.</p> <p><b>Department comment</b></p> <p>As noted in the footnote (relating to children in out-of-home care who were at or above the National Minimum Standard), due to the small numbers involved for the 'in care' group, it is not advisable to draw conclusions about trends as the figures tend to be unstable year to year.</p> <p>It is acknowledged that many children and young people in out-of-home care have significant learning difficulties and are often behind in their educational achievement due to their history of abuse and neglect.</p>

43 CCYPCG, *Annual Report 2012-13*, pp.66-67

Table 1 (continued)

Key outcome indicator for children in care	CCYPCG rationale and Department's comment
Special needs of Aboriginal and Torres Strait Islander Children	<p><b>CCYPCG rationale</b></p> <p>While the subjective self-assessment by individual children as to their cultural support is high, the lack of evident compliance with section 83 of the Child Protection Act 1999 by the Department of Communities, Child Safety and Disability Services, combined with poor quality Cultural Support Plans suggest that outcomes for Torres Strait Islander children could be greatly improved.</p> <p><b>Department comment</b></p> <p>As at 30 June 2012, 53.7 per cent of Aboriginal and Torres Strait Islander children in out-of-home care were placed with kin, other Indigenous carers, or an Indigenous residential care service. This is an increase of 1.2 percentage points since 30 June 2011 (52.5 per cent).</p> <p>Despite this increase, the demand for placements for Indigenous children continues to exceed the supply of Indigenous carers. Over the period 30 June 2008 to 30 June 2012 the number of indigenous children placed in out-of-home care rose by 45.9 per cent. Over the same period, the number of Indigenous carer families increased by 23.3 per cent.</p> <p>Of those Indigenous children subject to ongoing intervention with a cultural support plan, 3,375 (93.4 per cent) had a current cultural support plan (i.e. either initially created in the last six months or reviewed in the last six months).</p>
Successful transitions to independence	<p><b>CCYPCG rationale</b></p> <p>While the subjective self-assessment by individual young people as to their readiness to transition from care is high, far fewer report having a completed Transition to Care Plan, which suggests scope exists to greatly improve outcomes of the transition to independence phase.</p> <p><b>Department comment</b></p> <p>Transition from care planning is the process that occurs as part of the ongoing case work and review process with a young person from the time they turn 15. Transition from care planning is recorded within the case plan document. A young person's progress towards achieving transition from care goals at each case plan review or at least every six months.</p> <p>As at 30 June 2012, there were 1,273 young people aged 15 to 17 years is subject to a child protection order granting custody or guardianship to the Chief Executive.</p> <p>Of these, transition from care planning had occurred for 927 young people or 72.8 per cent. The majority of these young people had participated in their planning (90.7 per cent).</p>

Source: Tabled adapted from CCYPCG, *Queensland Child Guardian Key Outcome Indicators Update – Queensland Child Protection System 2009-2012, 2013*, pp. 10, 14, 29, 34, and 44

The department commented that an increasing intake of children and young people into the child protection system has impacted on the department's workload, and an increase in demand for placements for Indigenous children has resulted in a lack of Indigenous carers. Children in out-of-home care may have significant learning difficulties which affect their educational standards. The high rate of re-referred children to the department, including those with escalated risks, will be considered by the department as part of the evaluation of the HOF initiative and the recommendations of the Commission of Inquiry. The department did not provide any suggestions on how to improve the outcomes of the successful transitions to independence phase.

### **3.2.3 Performance of the youth justice system.-**

During 2012-13, the CCYPCG published its second *Child Guardian: Youth Justice Report 2012-13*.<sup>44</sup> A key finding of the report is that youth offending has not noticeably increased over the past three years.<sup>45</sup> However, the report provides evidence of over-representation by Aboriginal and Torres Strait Islander young people in the youth justice system in Queensland.<sup>46</sup>

### **3.2.4 Employment screening – blue cards**

Chapter 8 of the CCYPCG Act prescribes a screening process for persons employed in particular employment or operating particular businesses under the Act. The paramount consideration is to ensure that children are cared for in a way that protects them from harm and promotes their wellbeing.<sup>47</sup> Schedule 1 of the CCYPCG Act defines the types of employment and business to which the screening process applies e.g. schools, child care facilities, clubs and associations, and residential facilities.<sup>48</sup> The screening process is commonly known as the blue card system.

The Child Protection Reform Amendment Bill 2014 proposes transferring administration of the blue card system to the Public Safety Business Agency, and the blue card system would be administered under its own legislation.<sup>49</sup>

#### The blue card system

The system includes:

- employment screening, which uses known police and disciplinary information to determine whether a person is eligible to work with children and young people in regulated service environments. Eligible people receive a blue card
- daily monitoring, through an electronic interface with the Queensland Police Service, of all blue card holders and applicants to ensure the Commission is able to take action to protect children and young people if a blue card holder or applicant is charged with a concerning offence, and
- risk mitigation strategies, including a legislative requirement for organisations providing child related services to have policies and procedures to identify and minimise the risk of harm to children. These strategies are monitored by the Commission.<sup>50</sup>

#### Processing times

Since 2010-11, the CCYPCG has received on average nearly 21,000 blue card applications and authorisations per month. In 2012-13, the number of blue card applicants and card holders monitored on a daily basis regularly exceeded 550,000, an increase of 80,000 over the last three years.<sup>51</sup> Over the last three years, there have been over 2,000 cases (on average 63 per month), where individuals were prohibited from working with children in regulated service environments.<sup>52</sup>

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44 CCYPCG, *Child Guardian: Youth Justice Report 2012-13*, available at [http://www.ccypcg.qld.gov.au/pdf/publications/reports/Child-Guardian-Report\\_Youth-Justice-System\\_2013/foreword.pdf](http://www.ccypcg.qld.gov.au/pdf/publications/reports/Child-Guardian-Report_Youth-Justice-System_2013/foreword.pdf)

45 CCYPCG, *Child Guardian: Youth Justice Report 2012-13*, p.10

46 CCYPCG, *Child Guardian: Youth Justice Report 2012-13*, p.9

47 CCYPCG Act, ss.154 & 155

48 CCYPCG Act, Schedule 1

49 CCYPCG, Bills introduced in Parliament to implement child protection recommendations, available at <http://www.ccypcg.qld.gov.au/about/news/2014/march/Bills-introduced-in-Parliament-to-implement-child-protection-recommendations.html>, p. 1

50 CCYPCG, *Annual Report 2011-12*, p.20

51 2013-14 Queensland State Budget – Service Delivery Statements – CCYPCG, p.31

52 2013-14 Queensland State Budget – Service Delivery Statements – CCYPCG, p.31

In 2012-13, the CCYPCG processed 196,378 blue and exemption card applications and authorisations, monitored 623,800 blue and exemption card holders, and prevented 1085 'high risk' individuals from working with children<sup>53</sup>

The CCYPCG's annual report states that the percentage of applications, with no criminal history, processed within 28 days has increased from 92 per cent in 2011-12 to 99 per cent in 2012-13.<sup>54</sup>

#### Improvements to increase efficiency

During 2012-13, the CCYPCG continued with initiatives to reduce blue card processing time and increase operating efficiency. They included:

- finalisation of work commenced on the Fill & Print Service with the Queensland College of Teachers (QCT), which allows the Commission to automatically receive, process and respond to QCT screening requests in minutes rather than manual handling
- adding a further eight organisations to the Fill & Print Service pilot, which allows applicants to complete and print a web-based application form
- implementation of automatic electronic notifications to advise applicants that their application has been received and is being processed, and
- continued work on other future digitisation initiatives.<sup>55</sup>

#### Risk management and stakeholder feedback

In 2012-13, the CCYPCG conducted a range of survey measures to gauge stakeholder views. The results indicated:

- over 99 per cent of survey participants rated the importance of the CCYPCG's role in helping to provide safer environments for children and young people as "important" (17 per cent) or "very important" (82 per cent)<sup>56</sup>
- the majority of people value the CCYPCG's contribution in creating safer environments for children and young people, with approximately 97 per cent of stakeholders indicating that were satisfied with its contribution, including over 56 per cent who rated the system as "excellent",<sup>57</sup> and
- 96 per cent of those surveyed were satisfied with blue card services provided by the CCYPCG.<sup>58</sup>

#### Community engagement

In 2012-13, the CCYPCG conducted 205 community engagement activities with a diverse range of stakeholders, including Aboriginal and Torres Strait Islander communities, sporting peak bodies, government departments, universities and local organisations.<sup>59</sup>

The CCYPCG continued to focus in 2012-13 on increasing participation in the blue card system by Aboriginal and Torres Strait Islander communities and stakeholders.<sup>60</sup>

#### National consistency

The CCYPCG participates in the National Operators' Forum, which pursues national consistency in child related employment screening. In 2012-13, the Forum discussed a number of issues including:

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53 CCYPCG, *Annual Report 2012-13*, p.102 and 2013-14 Queensland State Budget – Service Delivery Statements – CCYPCG, p.58

54 CCYPCG, *Annual Report 2012-13*, p.110

55 CCYPCG, *Annual Report 2012-13*, p.15

56 CCYPCG, *Annual Report 2012-13*, pp.19 and 102

57 CCYPCG, *Annual Report 2012-13*, p.102

58 CCYPCG, *Annual Report 2012-13*, p.19

59 CCYPCG, *Annual Report 2012-13*, p.20

60 CCYPCG, *Annual Report 2012-13*, p.8, and Hon. T Davis, Minister for Community Services, Child Safety and Disability Services, *Estimates – Community Services, Child Safety and Disability Services – Transcript*, p.58

current and planned online checking processes, analysis of complex cases, and issues arising out of local and national Commissions of Inquiry into child abuse.<sup>61</sup>

### **3.2.5 The community visitor program**

Chapter 5 of the CCYPCG Act provides for community visitors to promote and protect the rights, interests and wellbeing of children in out-of-home care.<sup>62</sup> Community visitors are appointed by the Commissioner,<sup>63</sup> and have a number of functions under the CCYPCG Act. These include:

- advocating for children and assisting in the resolution of their concerns and grievances
- facilitating access to appropriate support services
- assessing the adequacy of the information provided to children
- assessing the physical and emotional wellbeing of children
- assessing the appropriateness of accommodation
- observing the treatment of children, and
- providing advice and reports to the Commissioner about anything relating to their functions.<sup>64</sup>

#### Number of visitors, visits and issues

The CCYPCG employed 165 community visitors in 2012-13.<sup>65</sup> During 2012-13, community visitors visited 8,144 children and young people in out-of-home care and detention, generating 45,800 individual child reports and approximately 4,300 site reports.<sup>66</sup> The site reports included 500 reports for disability service facilities and 164 reports for mental health facilities.<sup>67</sup>

Of the 18,360 issues raised by children with their community visitors and resolved locally by the community visitor, 8,727 related to contact with family or child safety officers (4,068 or 22 per cent), placement arrangements (3,028 or 16 per cent) and therapeutic care needs (1,631 or 9 per cent).<sup>68</sup> Community visitors were able to resolve 92 per cent of these issues at the local level, with the service provider.<sup>69</sup> Additionally, 95 per cent of all serious issues were referred to relevant agencies within 24 hours, which is 5 per cent below the target.<sup>70</sup>

Internal performance measures reveal an increase in both the percentage of children visited in accordance with their visiting schedule (95 per cent in 2011-12 to 97 per cent in 2012-13) and the percentage of indigenous children visited in accordance with their visiting schedule (93 per cent in 2011-12 to 96 per cent in 2012-13).<sup>71</sup>

#### Visits to 17 year olds in adult correctional centres

In 2012-13, the CCYPCG finalised administrative arrangements to facilitate community visitors visiting 17 year olds in adult correctional facilities. A monthly visiting program was implemented.<sup>72</sup>

During 2012-13, community visitors visited 321 individual 17 year olds in adult correctional facilities and responded to 159 issues raised by them which related to three areas: programs and services (53

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61 CCYPCG, *Annual Report 2012-13*, p.23

62 CCYPCG Act, s.86

63 CCYPCG Act, s.107

64 CCYPCG Act, s.93

65 CCYPCG, *Annual Report 2012-13*, p.75

66 CCYPCG, *Annual Report 2012-13*, p.41

67 CCYPCG, *Annual Report 2012-13*, pp.31 and 41

68 CCYPCG, *Annual Report 2012-13*, pp.40 and 41

69 CCYPCG, *Annual Report 2012-13*, p.41

70 CCYPCG, *Annual Report 2012-13*, p.108

71 CCYPCG, *Annual Report 2012-13*, p.108

72 CCYPCG, *Annual Report 2012-13*, p.46

or 33 per cent), decision making and information provision (36 or 23 per cent) and communication (16 or 10 per cent).<sup>73</sup>

A function of the Public Guardian under the proposed Public Guardian Bill will be to provide a community visitor program.<sup>74</sup>

### **3.2.6 Child deaths**

Chapter 6 of the CCYPCG Act provides for the CCYPCG's functions and responsibilities in relation to child deaths. Functions include keeping a register of child deaths in Queensland,<sup>75</sup> establishing a Child Death Care Review Committee (CDCRC) to review and report on all reviews carried out under the Child Protection Act,<sup>76</sup> and reporting annually to the Minister on matters relating to the child death register and the performance of the CDCRC.<sup>77</sup>

#### Child Death Register

The CCYPCG's Child Death Register contains data on over 4,000 child deaths in Queensland, from 2004 to date. Data is available free of charge to researchers with a genuine interest in developing evidence-based strategies to address risks associated with preventable deaths.<sup>78</sup>

During 2012-13, the CCYPCG responded to 48 requests from researchers for tailored Child Death Register data.<sup>79</sup> The CCYPCG continued to publish its child death *Trends and Issues Paper* series, providing evidence in relation to rural drownings,<sup>80</sup> quad bike deaths,<sup>81</sup> supervision of children around hazards<sup>82</sup> and youth suicide.<sup>83</sup> In 2012-13, the CCYPCG released the *Fatal assault and neglect of Queensland children* report, which reported on findings from a review of 312 deaths of children under five years of age in Queensland between 2004 and 2006, where death was referred to the coroner for investigation.<sup>84</sup>

During 2012-13, the CCYPCG published *Trends and Issues Papers* on child deaths associated with notifiable and vaccine preventable diseases,<sup>85</sup> low speed vehicle run-overs,<sup>86</sup> youth suicide,<sup>87</sup> and swimming pool safety.<sup>88</sup>

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73 CCYPCG, *Annual Report 2012-13*, pp.46-47

74 CCYPCG, *Bills introduced in Parliament to implement child protection recommendations*, p. 1, available at <http://www.ccypcg.qld.gov.au/about/news/2014/march/Bills-introduced-in-Parliament-to-implement-child-protection-recommendations.html>

75 CCYPCG Act, ss.120 & 143

76 CCYPCG Act, ss.120, 116 & 134

77 CCYPCG Act, ss.141 & 146

78 CCYPCG, *Annual Report 2012-13*, p.10

79 CCYPCG, *Annual Report 2012-13*, p.10

80 CCYPCG, *Trends and Issues Paper 10 – Child deaths – rural drowning*, available at <http://www.ccypcg.qld.gov.au/pdf/publications/papers/trends-and-issues/Issues-Paper-no-10-Rural-drowning.pdf>

81 CCYPCG, *Trends and Issues Paper 9: Child deaths – quad bike safety*, available at <http://www.ccypcg.qld.gov.au/pdf/publications/papers/trends-and-issues/Issues-Paper-no-9-Quad-bikes.pdf>

82 CCYPCG, *Trends and Issues Paper 14 – Child deaths – supervision of children under five around transport hazards*, available at <http://www.ccypcg.qld.gov.au/pdf/publications/papers/trends-and-issues/Issues-Paper-no-12-Trends-and-Issues-paper-Supervision-of-children-under-five-around-water-hazards.pdf>

83 CCYPCG, *Trends and Issues Paper 11 – Child Deaths – overrepresentation of Aboriginal and Torres Strait Islander youth who suicide*, available at <http://www.ccypcg.qld.gov.au/pdf/publications/papers/trends-and-issues/Issues-Paper-no-11-Overrepresentation-of-Aboriginal-and-Torres-Strait-Islander-youth-who-suicide.pdf> and *Trends and Issues Paper 13 – Child deaths – under-reporting of youth suicide*, available at <http://www.ccypcg.qld.gov.au/pdf/publications/papers/trends-and-issues/Issues-Paper-no-13-under-reporting-of-youth-suicide.pdf>

84 CCYPCG, *Fatal assault and neglect of Queensland Children*, available at <http://www.ccypcg.qld.gov.au/resources/publications/fatal-assault-and-neglect-of-Qld-children.html>

85 CCYPCG, *Trends and Issues Paper 16 – Child Deaths – Notifiable and vaccine preventable diseases*, available at [http://www.ccypcg.qld.gov.au/pdf/publications/papers/trends-and-issues/Trends\\_and\\_Issues\\_Paper\\_Number\\_16.pdf](http://www.ccypcg.qld.gov.au/pdf/publications/papers/trends-and-issues/Trends_and_Issues_Paper_Number_16.pdf)

Annual Report: Deaths of children and young people in Queensland 2012-13

On 11 March the Minister for Communities, Child Safety and Disability Services tabled the CCYPCG's ninth annual report analysing the deaths of 448 Queensland children and young people in 2012-13.<sup>89</sup> Key findings include:

- 54.5 per cent of deaths were male
- almost 74 per cent of deaths were due to disease and morbid conditions
- approximately 18 per cent of deaths were due to external causes (transport, drowning, suicide, fatal assault and neglect, or other non-intentional injury)
- approximately 64 per cent of deaths were children under one year of age
- Aboriginal and Torres Strait Islander Children accounted for approximately 13 per cent of deaths. The death rate for this group was 2.1 times higher than that of non-Indigenous children
- there were 22 suicides in 2012-13. The Commission found that although the rate and number of deaths from suicide in 2012-13 was relatively stable compared to 2009-10 and 2010-11, suicides have markedly increased from earlier reporting periods, and
- children known to the child protection system died at a rate of 38.0 deaths per 100,000, compared with 49.5 deaths per 100,000 for all Queensland children.<sup>90</sup>

The Family and Child Commission (FCC) Bill 2014 proposes that the FCC is to keep a register of information relating to child deaths in Queensland.<sup>91</sup>

Child Death Case Review Committee

The CDCRC is chaired by the Commissioner and includes experts from relevant fields (including paediatrics, forensic pathology, investigations and child protection) as well as the Assistant Commissioner and at least one Aboriginal and one Torres Strait Islander representative.<sup>92</sup>

The CDCRC must review and report on reviews carried out under the Child Protection Act within three months.<sup>93</sup> Reports may include recommendations to the chief executive about:

- improving policies related to delivering services to children in the child safety system
- improving relationships with other entities involved in the child safety system, and
- whether any disciplinary action should be taken against departmental staff in relation to their involvement with a child in the child safety system.<sup>94</sup>

The CDCRC is required to report annually to the Minister on its performance.<sup>95</sup>

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86 CCYPCG, *Trends and Issues Paper 17 – Child Deaths – low speed vehicle run-overs*, available at [http://www.ccypcg.qld.gov.au/pdf/publications/papers/trends-and-issues/low\\_speed\\_vehicle\\_run-overs.pdf](http://www.ccypcg.qld.gov.au/pdf/publications/papers/trends-and-issues/low_speed_vehicle_run-overs.pdf)

87 CCYPCG, *Trends and Issues Paper 19 – Child Deaths – prevalence of youth suicide in Queensland*, available at [http://www.ccypcg.qld.gov.au/pdf/publications/papers/trends-and-issues/Child\\_deaths-prevalence\\_of\\_youth\\_suicide\\_in\\_Queensland.pdf](http://www.ccypcg.qld.gov.au/pdf/publications/papers/trends-and-issues/Child_deaths-prevalence_of_youth_suicide_in_Queensland.pdf)

88 CCYPCG, *Trends and Issues Paper 18 – Child Deaths – swimming pool safety*, available at [http://www.ccypcg.qld.gov.au/pdf/publications/papers/trends-and-issues/child\\_deaths-swimming-pool\\_safety-2013.pdf](http://www.ccypcg.qld.gov.au/pdf/publications/papers/trends-and-issues/child_deaths-swimming-pool_safety-2013.pdf)

89 CCYPCG, *Annual Report: Deaths of children and young people Queensland 2012-13*, available at [http://www.ccypcg.qld.gov.au/pdf/publications/reports/annual\\_report\\_dcyp\\_2012-2013/Annual\\_Report\\_Deaths\\_of\\_CandYP\\_2012-13.pdf](http://www.ccypcg.qld.gov.au/pdf/publications/reports/annual_report_dcyp_2012-2013/Annual_Report_Deaths_of_CandYP_2012-13.pdf)

90 CCYPCG, *Annual Report: Deaths of children and young people Queensland 2012-13*, pp. 5-8

91 CCYPCG, *Bills introduced in Parliament to implement child protection recommendations*, p. 2, available at <http://www.ccypcg.qld.gov.au/about/news/2014/march/Bills-introduced-in-Parliament-to-implement-child-protection-recommendations.html>

92 CCYPCG Act, ss.120 & 127

93 CCYPCG Act, s.135

94 CCYPCG Act, s.117

95 CCYPCG Act, ss.120 & 141

### Child Death Case Review Committee Annual Report

In 2012-13, the CDCRC reported that had considered 76 child death reviews undertaken by the Department<sup>96</sup>. The CDCRC completed all reviews within the prescribed three month timeframe.<sup>97</sup>

Key findings of the 2012-13 report include:

- sixty-six per cent (50 children) related to the death of a male
- fifty per cent (38 children) were associated with children aged zero to four
- twenty six per cent (14 children) involved children who identified as Aboriginal, one per cent (1 child) identified as Torres Strait Islander and four per cent (3 children) identified as both Aboriginal and Torres Strait Islander
- fifty three per cent (40 children) involved children with a medical condition, intellectual impairment, developmental delay and/or mental condition
- seventy nine per cent (60 children) were residing at home at the time of their death
- sixty three per cent involved children and young people from families where parental substance misuse was an issue, and sixty one per cent where domestic violence was an issue, and
- parental criminal history was present in 44 families (fifty nine per cent) and parental mental health issues were identified in 35 families (forty seven per cent).<sup>98</sup>

The CDCRC found that although the majority of departmental reviews were sufficiently comprehensive, the quality of the Department's reviews remained variable indicating that there was "value in ongoing external independent scrutiny of child deaths in Queensland".<sup>99</sup>

The CDCRC endorsed 84 recommendations made by the department and made a further 29 recommendations aimed at improving practice and policy in the department.<sup>100</sup>

The Commission of Inquiry recommended that the department establish a specialist investigation team to investigate cases where children in care have died or sustained serious injuries, instead of the current CDCRC. The Government has accepted this recommendation and under the Child Protection Reform Amendment Bill 2014 a Child Death Case Review Panel would be established to consider reviews conducted by the department.<sup>101</sup> In its report the CDCRC considers that in order to promote accountability and transparency "it would be more appropriate that the panel or committee reviewing the deaths not include in its membership, officers of the department whose service delivery is being reviewed".<sup>102</sup>

### **3.2.7 Advocacy, research and promotion**

The CCYPCG is required to promote and protect the rights, interests and wellbeing of all children and young people in Queensland.<sup>103</sup> One way the CCYPCG fulfils this responsibility is the provision of evidence-based advice on legislation, policies and practices that impact on children and young people and by advocating for approaches that promotes their best interests.<sup>104</sup>

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96 Queensland Child Death Case Review Committee (CDCRC), *Queensland Child Death Case Review Committee Annual Report 2012-13*, available at [http://www.cdcrc.qld.gov.au/pdf/reports/annual\\_report\\_2012-2013/CDCRC-Annual-Report-2012-13.pdf](http://www.cdcrc.qld.gov.au/pdf/reports/annual_report_2012-2013/CDCRC-Annual-Report-2012-13.pdf)

97 CDCRC, *Queensland Child Death Case Review Committee Annual Report 2012-13*, p. 6

98 CDCRC, *Queensland Child Death Case Review Committee Annual Report 2012-13*, pp. 4-5

99 CDCRC, *Queensland Child Death Case Review Committee Annual Report 2012-13*, p. 5

100 CDCRC, *Queensland Child Death Case Review Committee Annual Report 2012-13*, p. 5

101 CCYPCG, *Bills introduced in Parliament to implement child protection recommendations*, p. 1, available at <http://www.ccypcg.qld.gov.au/about/news/2014/march/Bills-introduced-in-Parliament-to-implement-child-protection-recommendations.html>

102 CDCRC, *Queensland Child Death Case Review Committee Annual Report 2012-13*, p. 7

103 CCYPCG Act, s.5

104 CCYPCG, *Annual Report 2011-12*, p.18

### Targeted activities

Targeted advocacy activities undertaken by the CCYPCG in 2012-13 included submissions on:

- the arrangements for the establishment of the Royal Commission of Inquiry into Institutional Responses to Child Sexual Abuse
- the Queensland Government's response to the Coronial Recommendations Report 2011
- the National Aboriginal and Torres Strait Islander Social and Emotional Wellbeing Framework
- the development of the Queensland Aboriginal and Torres Strait Islander – Early childhood, school education, training and tertiary education Action Plan 2013-16
- the National aboriginal and Torres Strait Islander Prevention Strategy
- the department's discussion paper Brighter Futures: Our plan for strengthening Queensland's education and training system, and
- legislative amendments that strengthened penalties for drug and alcohol offences and child-related sex offences.<sup>105</sup>

The CCYPCG's annual report stated that it continues to advocate for the removal of 17 year olds from the adult justice system into the youth justice system.<sup>106</sup>

### National issues

The CCYPCG participates in the Australian Children's Commissioners and Guardians Group (the ACCGG). In 2012-13, members of the ACCGG met twice and discussed a range of national issues including: issues impacting on Aboriginal and Torres Strait Islander Children; improving educational outcomes for children and young people in care; and supports for young people as they transition out of care.<sup>107</sup>

### **3.3 Conclusion**

The committee considers the CCYPCG has effectively exercised its oversight responsibilities for the Queensland child protection system. The committee notes the challenges ahead for the Queensland's child protection system, as outlined in the Commission's *Queensland Child Guardian Key Indicators Update: Queensland Child Protection System 2009-12*.<sup>108</sup>

The Government response to the Commission of Inquiry confirmed that the CCYPCG will cease to exist, and some of its functions will be transferred to other agencies. As part of its response to the Commission of Inquiry recommendations, the government announced the establishment of a new Family and Child Commission to monitor and report on the overall performance of the child protection system. The committee notes that one of the key roles for the CCYPCG in the remainder of 2013-14 will be to implement relevant government responses to the Commission of Inquiry that affect functions administered by the CCYPCG.

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105 CCYPCG, *Annual Report 2012-13*, p.11

106 CCYPCG, *Annual Report 2012-13*, pp.29-30

107 CCYPCG, *Annual Report 2012-13*, p.11

108 CCYPCG, *Queensland Child Guardian Key Outcome Indicators Update – Queensland Child Protection System 2009-2012*, 2013 available at <http://www.ccypcg.qld.gov.au/reports/2013/child-guardian-key-outcome-indicators/index.aspx>