

HEALTH AND COMMUNITY SERVICES COMMITTEE

Report No. 48

Child Protection Reform Amendment Bill 2014

QUEENSLAND GOVERNMENT RESPONSE

INTRODUCTION

On 20 March 2014 the *Child Protection Reform Amendment Bill 2014* (the Bill) was introduced into the Queensland Parliament.

Parliament referred the Bill to the Health and Community Services Committee (the Committee) for consideration and requested the Committee table its report on its consideration of the Bill by 13 May 2014.

On 13 May 2014, the Committee tabled Report No. 46 in the Queensland Parliament (the report).

The Queensland Government response to the Committee's recommendations and other matters raised by the report is provided below.

RESPONSE TO RECOMMENDATIONS:

Recommendation 1

The Committee recommends that the Child Protection Reform Amendment Bill 2014 be passed.

Queensland Government response:

The committee's timely consideration of the Bill and the Committee's recommendation that the Bill be passed is acknowledged and appreciated.

Recommendation 2

The committee recommends that the Attorney-General and Minister for Justice or the Minister for Communities Child Safety and Disability Services:

- *provide the Legislative Assembly, during the second reading debate, with an outline of the expected timing of the main components of reforms to implement the Queensland Child Protection Commission of Inquiry recommendations; and*
- *ensure that detailed information about the expected sequence and timing of child protection reforms is provided to child protection stakeholders to assist them in responding to proposals and planning for change.*

Queensland Government response:

This Government has committed to implementing the Commission's recommendations and supports a three-phased approach to implementation that reflects the three tracks of the Commission's Roadmap:

- reduce the number of children and young people in the child protection system;
- revitalise child protection frontline services and family support, breaking the intergenerational cycle of abuse and neglect; and
- refocus oversight on learning, improving and taking responsibility.

Implementation has commenced with planning, preparation and legislative reform in the first year.

The amendments in the Public Guardian Bill 2014, Child Protection Reform Amendment Bill 2014 and Family and Child Commission Bill 2014 were identified as matters that needed to be progressed as a priority to implement the Commission recommendations. The Office of the Public Guardian and Family and Child Commission will commence from 1 July 2014. Other non-legislative reforms required to implement Commission recommendations have also been prioritised.

The next phases of implementation will involve a gradual roll out of the key reforms focussed on those which reduce demand on the system and establish a community based referral system, followed by revitalisation of frontline services and improvements in oversight.

A program management plan to direct the long-term implementation of other aspects of the program is currently being prepared. The Government is committed to forging a strong partnership with stakeholders. A stakeholder advisory committee has been established to facilitate the co-design of project responses as recommended by the Commission of Inquiry Report and a stakeholder engagement strategy is being prepared as part of the project management plan.

Recommendation 3

The Committee recommends that the Minister for Communities Child Safety and Disability Services inform the Legislative Assembly of the type and timing for delivery of training, guides and tools to support mandatory reporters to understand their obligations and make appropriate decisions about reporting of significant harm to ensure implementation of the changed reporting requirements in January 2015, or alternatively, when this information will be available.

Queensland Government response:

The Queensland Child Protection Commission of Inquiry recommended that a whole-of-government process be developed to provide training to mandatory reporters who must decide when they should make a report to Child Safety.

Child Safety has commenced discussions with relevant partner agencies about how best to support the cultural change required to implement the new mandatory reporting provisions. For example, Child Safety participates in the Child Protection Reform Implementation Committee that has been established by the Department of Education Training and Employment. The committee includes representatives from the Queensland Catholic Education Commission and Independent Schools Queensland. One of the issues being considered by this committee is training and communication needs resulting from the Child Protection Reform Amendment Bill.

Child Safety will continue to work with all relevant partner agencies until the commencement of the mandatory reporting provisions in early 2015.

In addition, Child Safety will review and update the published Queensland Child Protection Guide. The Guide has been developed to assist professionals to report their concerns to an appropriate agency or to refer families to the service best placed to meet their needs.

The Guide is the primary tool to assist professionals each time they need to make a decision, and is currently available on Child Safety's website along with a training package, procedures manual and fact sheet.

Recommendation 4

The committee recommends that, during the second reading debate, the Minister for Communities, Child Safety and Disability Services or the Attorney-General and Minister for Justice clarify the intended operation of the reporting obligations of teachers and other mandatory reporters proposed by proposed section 13E, in particular what is expected in forming a "reasonable suspicion" that a child "may not have a parent willing and able to protect the child from harm", illustrated by practical examples of how it may work in practice.

Queensland Government response:

The wording of the proposed section 13E will not require a reporter to undertake a determination of whether a child has a parent who is willing and able to protect them from harm, but merely to turn their mind to whether there is some indication harm arises in the context of the child's family. The wording of the provision requires a reasonable suspicion that a child **may** not have a parent who is willing and able to protect the child from the harm.

The use of the words 'reasonable suspicion' establishes an objective test which is whether a reasonable person, having all the information available to the mandatory reporter in the circumstances of the particular case, would form a suspicion the child is in need of protection. That is they have suffered, are suffering or are at risk of significant harm and may not have a parent willing and able to protect them from that harm.

As stated in the Commission of Inquiry's Report, the consideration of these two elements is required so that reports to Child Safety align with the threshold that

allows Child Safety to take action to protect a child, so that 'over-reporting' is reduced.

At present it sometimes occurs that matters are reported to Child Safety where a parent is acting protectively or unaware of concerns about their child. The Commission of Inquiry noted that this unnecessary reporting results in a family's personal details being permanently recorded, often with the family unaware the information exists and further cannot result in any action being taken by Child Safety.

In terms of the element of whether the child has a protective parent, this is further clarified by use of the word 'may'. The end result will be that a reportable suspicion is a reasonable suspicion of significant harm in circumstances where a child may not have a parent to protect them from that harm.

The Bill provides that if a mandatory reporter is trying to determine if they have a reasonable suspicion that a child is in need of protection, they can confer with a colleague to assist them with this determination and these communications are protected under the Bill.

The following practical example is included in section 13I of the Bill to illustrate how forming a 'reasonable suspicion' by a mandatory reporter may work in practice: After observing injuries on a child's body, a doctor or teacher considers it possible that a parent of the child has physically abused the child or failed to protect the child from physical abuse. After obtaining further information about the family's circumstances, the doctor or teacher forms a reportable suspicion about the child under section 13E.

Recommendation 5

The committee recommends that the Minister for Communities, Child Safety and Disability Services and the Minister for Education and Training ensure that their departments work with non-state school organisations to improve policies about child protection and reporting, so that they accord with the requirements of the Child Protection Act, as required by section 10 of the Education (Accreditation of Non-State Schools) Regulation 2001.

Queensland Government response:

The Department of Education, Training and Employment is considering the best approach to amending section 10 of the *Education (Accreditation of Non-State Schools) Regulation 2001* to ensure that reporting requirements for harm to children in non-state schools align with both the reporting requirements detailed in the Bill and the reporting requirements under state school policy.

Preliminary discussions have been held between the Department of Education, Training and Employment and the non-State schooling sectors. These discussions have occurred during meetings of the Child Protection Reform Implementation Committee that Child Safety participates in.

It is expected that the amended Regulation will commence operation at the same time that mandatory reporting requirements for teachers will commence in early 2015.

Recommendation 6

The committee recommends that the Minister for Communities, Child Safety and Disability Services consider whether, in relation to the proposed section 13E, an editorial note or other amendment would assist in understanding the distinction between the respective obligations in the Education (General Provisions) Act 2006 and proposed section 13E of the Child Protection Act 1999.

Queensland Government response:

The Minister has considered this recommendation and has determined that it would not be appropriate to include such an amendment in the Bill. The provisions in the *Education (General Provisions) Act 2006* that require staff members at schools to report cases of sexual abuse and likely sexual abuse of students will not be amended by this Bill because the reporting provisions in that Act relate to suspected criminal offences that must be investigated by Queensland police.

Child Safety has a distinct role and that is to assess whether a child is in need of protection and take appropriate action to respond to the child's protective needs.

The threshold for whether or not a criminal offence may or may not have been committed is quite different to the threshold for taking action under the Child Protection Act to intervene in a child's family.

In many circumstances parents and families act protectively to care for their children when they have been unfortunate enough to experience the horrendous effects of sexual abuse. There is no reason for Child Safety to intervene in these cases.

Given the serious nature of sexual offences committed against children, including by employees of school, it is important that these matters continue to be reported directly to the Queensland Police Service as required by the *Education (General Provisions) Act 2006*.

In circumstances where a child is the victim of sexual abuse and also does not have a parent to protect them, a report may have to be made to both the police and Child Safety.

Inserting a note or cross-reference in s 13E, as recommended, is not supported. The proposed section 13 will apply to all mandatory reporters, not only approved teachers, therefore accepting the recommendation may have the unintended consequence of adding to, rather than alleviating confusion for reporters. It is more appropriate to address any confusion for teachers by covering this issue in the training materials that will be developed in collaboration with non-state schools and the Department of Education and Training.

