HEALTH AND COMMUNITY SERVICES COMMITTEE

Members present:

Mr TJ Ruthenberg MP (Chair)
Ms RM Bates MP
Dr AR Douglas MP
Mr JD Hathaway MP
Mr JM Krause MP
Mr DE Shuttleworth MP

Staff present:

Ms S Cawcutt (Research Director)
Ms L Archinal (Principal Research Officer)

PUBLIC BRIEFING—INQUIRY INTO THE FAMILY AND CHILD COMMISSION BILL 2014, PUBLIC GUARDIAN BILL 2014 AND CHILD PROTECTION REFORM AMENDMENT BILL 2014

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 26 MARCH 2014

Brisbane

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Committee met at 2.01 pm

ARMITAGE, Mr Steve, Commissioner, Commission for Children and Young People and Child Guardian

LANG, Ms Jennifer, Assistant Director-General, Department of Justice and Attorney-General

MAYFIELD, Ms Belinda, Program Manager, Child Protection Inquiry Task Force, Department of Premier and Cabinet

MURPHY, Mr Justin, Program Director, Child Protection Inquiry Task Force, Department of the Premier and Cabinet.

CHAIR: Good afternoon. Welcome, everybody. Thank you for attending. I declare open the Health and Community Services Committee public briefing about the Family and Child Commission Bill 2014, the Public Guardian Bill 2014 and the Child Protection Reform Amendment Bill 2014. Our purpose today is to receive a briefing from officials from the three departments responsible for the development of the bill: the Department of Premier and Cabinet, the Department of Justice and Attorney-General and the Department of Communities, Child Safety and Disability Services.

My name is Trevor Ruthenberg; I am the member for Kallangur and chair of the committee. With me today are: Mrs Ros Bates MP, member for Mudgeeraba; Dr Alex Douglas MP, member for Gaven; Mr John Hathaway MP, member for Townsville; Mr Jon Krause MP, member for Beaudesert, who will be joining us shortly; and Mr Dale Shuttleworth MP, member for Ferny Grove. We have an apology today from Mrs Jo-Ann Miller MP, member for Bundamba and deputy chair.

Mobile phones should be switched off or to 'silent', please. Now is a good time to do that. I remind those present that these proceedings are similar to parliament and are subject to the Legislative Assembly's standing rules and orders. Hansard is making a transcript of the proceedings. The committee intends to publish the transcript of today's proceedings unless there is good reason not to. Our proceedings today are also being broadcast live on the parliamentary website.

The three bills were introduced by the Attorney-General and referred to the committee on 20 March, and the committee is required to report to parliament on 13 May 2014. Submissions have been invited on the bill by Monday, 14 April, and a public hearing will be held Wednesday, 2 April subject to confirmation.

We will be briefed on each bill in turn, and the committee will ask questions about each bill before we move on to the next bill. We will try that and see if that works. We may have further questions at the end. Because of the numbers of officials, some of you will need to move to the witness table later as we get to the relevant bill, and we will just try and manage that as best we can. We will take about a 10-minute break after the briefing of the first two bills and we will just play with the time a little bit. I do not have actual times set down here. Our aim is to be done by about four o'clock and maybe a little bit sooner if we can—I think Mr Hathaway has a plane to catch—and we will just try to manage that process.

The Family and Child Commission Bill: Ms Lang, I understand you will describe the policy content of the bill and brief us first on the Family Child Commission Bill, followed by the Public Guardian Bill; later Mr Lupi and Mrs Giles will brief us on the Child Safety Reform Amendment Bill.

Ms Lang: Just to clarify, what we thought we would do initially is just give you an overview of the Carmody recommendations and how these bills relate to that. I will talk about all three bills, but the last bill will be very much an overview before heading into the Family and Child Commission Bill.

We would like to thank the committee for the opportunity to provide this overview on the three child protection bills. As you have indicated, whilst the Attorney-General and Minister for Justice introduced the three bills, they have actually been the work of three departments and of course the Office of the Queensland Parliamentary Council.

The Department of the Premier and Cabinet has led the development of the Family and Child Commission Bill; the Department of Justice and Attorney-General has led the development of the Public Guardian Bill; and the Department of Communities, Child Safety and Disability Services has led the development of the Child Protection Reform Amendment Bill, hence the breadth of officers here today. You have asked that the briefing provide a general overview of the extent to which the three bills implement the recommendations of the Child Protection Commission of Inquiry as well as an overview of those three bills. We will also try to provide you with a bit of advice about the next stage of reforms, although that is limited at this stage.

In terms of the development of the bills and implementation of the commission of inquiry's recommendations, as you may be aware, on 1 July 2012 the government established the Queensland Child Protection Commission of Inquiry led by the Hon. Tim Carmody QC. The commission undertook 12 months of extensive investigations and research. They received over 440 submissions, held 54 days of hearings, called more than 220 witnesses and convened more than 150 meetings across the state with individuals and organisations with knowledge of the system. The commission also took into account the findings of an advisory committee and focus groups, and surveys were held during the inquiry that invited the views of children in care, front-line government and non-government child protection workers and legal practitioners. They made 121 recommendations to build a sustainable and effective child protection system over the next decade. They confirmed that the child protection system is under immense stress and that the current layers of oversight were at the expense of delivering services to the public.

The commission's report has provided a roadmap to reduce the unsustainable demand on the child protection system. This roadmap has three tracks: reducing the number of children and young people in the child protection system; revitalising child protection front-line services and family support and breaking the intergenerational cycle of abuse and neglect; and refocusing oversight of the child protection system on learning, improving and taking responsibility. In December 2013 the government committed to implementing all of the commission's recommendations, accepting 115 of those recommendations, and a further six were accepted in principle.

Implementing the commission's reforms will require a fundamental shift in the way that government agencies deliver services as well as child safety professionals and community organisations. The reforms place greater emphasis on supporting vulnerable families to take appropriate care of their children and reforming the system in Queensland to better provide for the safety, wellbeing and best interests of our most at-risk children. The commission of inquiry identified a leadership role for the Department of the Premier and Cabinet, or DPC, in providing oversight and leadership to the implementation of the reform roadmap through a child protection task force.

The commission identified that the role of the task force is to establish and implement a robust performance management framework to ensure the successful implementation of the reform roadmap; provide reports and feedback to government on implementation of the program and benefits achieved; and to ensure that the reforms are supported across all relevant agencies of government. Consistent with those recommendations, the government has established a Child Protection Reform Leaders Group with senior representation from all relevant government agencies. That group is chaired by the deputy director-general, policy, in DPC. The role of that group is to ensure the successful whole-of-government implementation of the reforms through effective interagency collaboration. That group also has two non-government organisation representatives on it to ensure that there is connection with the non-government sector.

The three bills before the House lay the foundations of the reforms recommended by the commission and implement 12 out of 115 of the commission's recommendations that government has accepted. Currently the Commission for Children and Young People and Child Guardian carries out a range of functions, including individual advocacy for children, conducting working-with-children checks—or the Blue Cards—investigations and monitoring of complaints and review of child deaths. It is also the oversight body for the child protection system. The commission of inquiry identified that the CCYPCG is no longer required in its current form and that its functions should be performed by other entities.

Recommendation 12.3 of the commission of inquiry report proposed that a new entity be established, the Family and Child Council, to provide systemic oversight of the child protection system and coordinate research, with its remaining functions being transferred to other entities. The Family and Child Commission Bill 2014 provides the legislative framework for the establishment of that body and transfers the current CCYPCG functions of systemic oversight, research and the maintaining of the child death register to a new Queensland Family and Child Commission.

Recommendation 12.7 of the commission's report provides that—

the role of the Child Guardian be refocused on providing individual advocacy for children and young people in the child protection system. The role could be combined with the existing Adult Guardian to form the Public Guardian of Queensland, an independent statutory body reporting to the Attorney-General and Minister for Justice.

Recommendation 12.8 of the commission's report states that—

the role of Child Guardian—operating primarily from statewide 'advocacy hubs' that are readily accessible to children and young people—assume the responsibilities of the child protection community visitors and re-focus on young people who are considered most vulnerable.

The Public Guardian Bill 2014 provides the legislative framework to establish the public guardian and provides for child advocacy functions, enabling the transfer of those CCYPCG functions related to individual advocacy and the community visitor program for children to the public guardian.

Recommendation 12.11 of the commission's report provides that—

The Department of Communities, Child Safety and Disability Services:

- establish a specialist investigation team to investigate cases where children in care have died or sustained serious injuries (and other cases requested by the Minister for Communities, Child Safety and Disability Services)
- set the timeframe for such a child 'being known' to the department at one year
- provide for reports of investigations to be reviewed by a multidisciplinary independent panel appointed for two years.

The Child Protection Reform Amendment Bill provides for this new child death review process and repeals the current child death review committee function currently administered by the CCYPCG.

Recommendation 12.9 of the commission provided that complaints about departmental actions or inactions which are currently directed to the CCYPCG should be investigated by the relevant department, but with oversight provided by the Ombudsman. The Child Protection Reform Amendment Bill gives effect to that recommendation.

In recommendation 12.17 of its report the commission of inquiry also recommended that the administration of the blue card system, which the CCYPCG currently administers, be transferred to the Queensland Police Service. The Child Protection Reform Amendment Bill 2014 provides for the blue card scheme to be continued, but in a stand-alone act that will be called the Working with Children (Risk Management and Screening) Act 2000. It is intended that this act will be administered by the Public Safety Business Agency, which is the new government entity providing corporate services for the Queensland Police Service and Queensland Fire and Rescue Service.

In addition, the commission of inquiry made recommendations to reduce the demand on the child protection system. The Child Protection Reform Amendment Bill addresses recommendations 4.1, 4.2, 4.5, 4.6 and 4.8 of the commission's report by making amendments to the Child Protection Act to change what is meant by a child in need of protection, establish a dual pathway with a community based intake gateway as an alternative to existing child safety intake processes, guide decision making about when a report about a child must be made to Child Safety and clarifying and consolidating various legislative and policy reporting requirements into one place.

Finally, the commission's report at recommendation 13.3 stated that the Attorney-General and Minister for Justice propose amendments to the Childrens Court Act and the Magistrates Act 1991 to clarify the respective roles of the president of the Childrens Court and the Chief Magistrate to give the Chief Magistrate responsibility for the orderly and expeditious exercise of jurisdiction of the Childrens Court when constituted by Childrens Court magistrates, for issuing practice directions in relation to the Childrens Court when magistrates are constituting that court and also to ensure that the powers of the Chief Magistrate extend to the work of the Childrens Court magistrates and that court.

The Child Protection Reform Amendment Bill 2014 includes amendments to the Childrens Court Act and the Magistrates Act to facilitate the implementation of these recommendations. Together, the three bills abolish the CCYPCG and transfer their functions to other entities and provide the legislative framework for a new system. Work is underway on the next stages of the

reform, which will include legislative and non-legislative reforms to comprehensively change the way that Queensland protects, cares for and supports its most vulnerable children. The reforms will include building the capacity of government and non-government workforce and programs by establishing initiatives such as community based intake pathways, a new practice framework for Child Safety and non-government staff and expanding intensive family support services.

That is the overview of the report and how that works with the three bills. Turning specifically to the Family and Child Commission Bill 2014, as indicated earlier, the commission of inquiry recommended that the Premier establish a family and child council to monitor, review and report on the performance of the child protection system in line with the National Framework for Protecting Australia's Children 2009-2020. The council was also to provide cross-sectoral leadership and advice for the protection and care of children and young people, to drive achievement of the child protection system, to provide an authoritative view and advice on current research and child protection practice to support the delivery of services and the performance of Queensland's child protection system and to build capacity of the non-government sector and child protection workforce.

As part of the recommendations, the commission stated that the council should have two chairpersons, one of whom should be an Aboriginal person or Torres Strait Islander. There are seven further recommendations in the commission's report that provide details about the key functions of the new entity in relation to community education, workforce development, research, leadership and capacity building. These are contained in recommendation 6.1, 6.3, 6.6, 10.7, 12.13, 12.15 and 13.26 and the government accepted those recommendations.

In accordance with the government's response, the name of the organisation will be the Queensland Family and Child Commission. The commission of inquiry referred to 'family and child council'. However, the term used with 'commission' aligns Queensland with other Australian jurisdictions, except for South Australia, which has a commissioner for children and ensures that issues pertaining to children and young people are accorded significant and equal status to that demonstrated across the rest of the country.

It is proposed that the bill will commence on 1 July with the new commission commencing from that date. As indicated earlier, the new commission will have two commissioners. Clause 19 of the bill provides that one of the commissioners will be a principal commissioner to ensure that governance arrangements and accountability for the new organisation are clear. Clause 22 of the bill provides that the new Queensland Family and Child Commission, through the commissioners, is subject to the direction of the minister. To ensure public accountability regarding directions given to the new commission, clause 29 requires that the agency's annual report include information required by the minister, each direction given by the minister and details of any action taken by the new commission as a result of the direction during the financial year for which the report is prepared.

The objective of the new commission, as set out in clause 4 of the bill, is to promote the safety, wellbeing and best interests of children and young people and to advocate the responsibility of family and communities to protect and care for children and young people. The new commission will be responsible for providing oversight of the child protection system and evaluating performance in delivering child protection and family support services, including achievement against state and national goals.

Clause 9 of the bill establishes the new commission's functions. These include coordinating a multidisciplinary research program, providing leadership and expert advice about evidence based policy and programs and developing cross-sectoral partnerships to increase collaboration and build capacity of the government and non-government sectors. The new commission will also have a key role to inform and educate families and communities about their responsibility for protecting and caring for their children, which was also a key principle of the Carmody report.

Under part 3 of the bill, the commission will maintain the current CCYPCG function of keeping a register of information relating to child deaths in Queensland. The purpose of that child death register is to try to reduce the likelihood of child deaths by classifying and analysing information to identify patterns or trends and also conducting research. That function is consistent with jurisdictions in Australia and New Zealand.

Part 4 of the bill provides for the establishment of advisory councils to advise the commissioners on any matters related to the new commission's functions. These advisory councils will be a primary mechanism for stakeholders to be involved in the strategic work of the new commission.

Part 5 of the bill contains provisions about information sharing to enable the commission to obtain and disclose information relevant to performing its functions to ensure that it can operate effectively. Relevant agencies will not be required to disclose information where that disclosure would be prohibited by law or is impractical.

Clause 41 provides that the minister must arrange a review of the performance by the commission of its functions within five years after the commencement. Clause 42 of the bill provides for a review of the effectiveness of the act five years after its commencement as well. That time frame is consistent with the time frames recommended by the Carmody commission of inquiry for review of the implementation of the road map reforms.

To provide for continuity of leadership during the establishment of the new entity, under clause 45 of the bill a transitional provision enables the immediate appointment of the current commissioner of the CCYPCG as the principal commissioner of the new Queensland Family and Child Commission. This appointment is limited to the end of the commissioner's current term of office, which is January 2015, or until the new appointment is made, whichever occurs first.

That was the conclusion of the overview that we were going to provide you in relation to that bill. I am happy to pause there if there are questions that you wanted to ask in relation to that bill.

CHAIR: Thank you. Members, now is your chance. Areas of clarification? Concerns? Thoughts? Can I start by asking about the advisory council? Is there any indication of the make-up of that yet?

Mr Murphy: Excuse me, I wonder if it would help the committee if we explained the roles that we play and how we can assist the committee today.

CHAIR: Sure.

Mr Murphy: Just briefly, I am the Director of the Child Protection Inquiry Task Force in DPC. Our role is very much a leadership role in implementing the broader reforms and I am able to assist the committee with those broader issues. Belinda Mayfield is a member of my team and has been the chief drafter around this bill, working with OQPC. Steve Armitage, the current commissioner, can talk about those transitional issues and those future issues in terms of how the Family and Child Commission might work in the future. On this question, I might hand over to Steve.

Mr Armitage: Thank you, Justin. In the first year of operation of the FCC—from 1 July—that will be a priority: to establish the new council, to advise the commission of its functions and duties. It is expected that the make-up of that council will be across the relevant government agencies and non-government sector—peak agencies particularly—and potentially some consumer groups. So there is a broad range of perspectives brought into the development and ongoing operation of the new Family and Child Commission.

CHAIR: They will have no legal status except that they are determined inside the legislation. So they really are truly just an advisory—

Mr Armitage: They are an advisory council.

CHAIR: Thank you. Can I shift gears a little bit to Aboriginal and Torres Strait Islander peoples. There is no secret that we have some real issues with the children from that particular section of our community and there is particular focus on that, certainly coming through the Carmody report and this bill touches on that. Can we expand on that a little bit? What is the intent here? What are the plans and how do they marry with what the commissioner said?

Mr Murphy: Again, I might start off and hand over to Belinda, I think, on the specifics of the bill. You are right: Carmody provides very strong advice about the need to ensure that program responses that we establish are effective for Indigenous communities. It is going to be a key issue as we come to implementing the plan. It was a key consideration in drafting the bill in terms of the role of commissioners and also in terms of the membership of the committee. Belinda, you might want to give us a bit more on that.

Ms Mayfield: Yes. There are a number of places that the bill goes to in terms of the importance that the Carmody inquiry placed on addressing the issue of overrepresentation. Initially, it is a requirement of the bill that the functions are shared by both commissioners and that one will be an Aboriginal person or a Torres Strait Islander. Another critical section within the bill is clause 23, which talks about the ways in which commissioners are to perform their functions. There is a strong emphasis there in terms of ensuring that the interests of Aboriginal people and Torres Strait Islanders are adequately and appropriately represented. It also includes a focus on Aboriginal and Torres Strait Islander service providers.

Within the advisory council role—within that section of the bill at clause 31—membership as a minimum must include an Aboriginal and Torres Strait Islander person on any advisory council that is established. Then finally, I think to the heart of the functions, under clause 40 in terms of the annual report there are specific requirements there in relation to monitoring and reporting on performance overall within the child protection system but specifically in relation to Queensland's progress in reducing the number of, and improving outcomes for, Aboriginal and Torres Strait islanders.

CHAIR: So of the two commissioners, one has to be—

Ms Mayfield: One, yes.

CHAIR: Of Aboriginal or Torres Strait Islander descent.

Ms Mayfield: Yes.

CHAIR: Okay. One of the other commissions that reports to us that has had an extension of life is the Family Responsibilities Commission. There is going to be some overlapping of responsibilities here. Have you looked at that or are there any thoughts on how that might work?

Mr Armitage: Yes. I am well aware of the responsibilities and scope that the Family Responsibilities Commission undertakes in remote Queensland. I think there would certainly be an important input of information from their work into the overall systemic monitoring of the effectiveness of the child protection system. They are delivering a particular set of services in the remote communities and I think that would be invaluable input into the ongoing monitoring of the effectiveness—what we could learn from what they achieve through their work.

CHAIR: Late last year the committee went to Aurukun. We visited the Flying Doctors where they deliver mental health services as a large part of their job. The statistics that we saw there were quite stunning, frankly, in comparison to other parts of our community such as our major towns or cities. A lot of those figures were with children and they develop into quite crucial circumstances as those children turn into adults.

Mr Armitage: Yes, indeed.

CHAIR: Given that one of the emphases here is about reducing people in care and then creating a resilience, I am hoping or assuming that part of that has been taken up in this process. Again we saw this coming out of the commission quite clearly.

Mr Armitage: Indeed. The scope of the role that I will have initially in the setting up of the Family and Child Commission will be very much across agencies, government and non-government agencies delivering services across Queensland relevant to child protection. In those remote communities there are a number of agencies that play a key role: Health, Education and Child Safety. I think we have a role in ensuring that it is a coordinated response and we are able to get that information and give confidence to government and the community that the right work is being done and achievements are being made.

CHAIR: We have to do something a little bit different.

Mr Armitage: We do, and I am well aware of Aurukun in different roles I have had in Education and so on. I know the challenges but I know there are opportunities to work together better through the community and with the community for better outcomes.

CHAIR: Thank you. Mr Shuttleworth?

Mr SHUTTLEWORTH: In relation to the education functions, there is a saying that prevention is better than cure, obviously, and I know the intent of these bills is largely to not necessarily evict or extract the child from a family environment. In terms of the establishment of education programs and so forth, is there any idea what form that might take? What sort of programs might be offered as part of that?

Mr Armitage: There are no formulated specifics at this stage, but we do anticipate that there will be a major public education campaign over time.

Mr SHUTTLEWORTH: When you say a campaign, what do you imagine the delivery method will be?

Mr Armitage: I think there will be a number of ways of delivering various tools and messages depending on the part of the state, whether it is urban, rural, remote, and particular groups, Aboriginal and Torres Strait Islanders for example. As we have said, there is a significant focus early in the piece around that, around the message that work starts at home and in the community, and prevention is indeed better than a cure.

Mr SHUTTLEWORTH: Do you think though that it will largely be a communication as opposed to someone within the department or within the new structure delivering programs?

Mr Armitage: Certainly the role of the Family and Child Commission is an overview role of the effectiveness and sharing of information and so on. There is a whole lot of agencies, particularly the Department of Communities, and the Department of Communities may wish to expand on that in the context of their commentary later, and Health and Education in actual service delivery and in the messages that they will give. It will be a whole-of-government approach. It needs to be a whole-of-government approach to make the transformative changes that the community needs.

Mr HATHAWAY: With regard to the transition phase from the CCYPCG to the QFCC, is it likely that most of the staff will transfer to the QFCC?

Mr Armitage: No. The commission as it currently is formed will finish on 30 June, as Jenny mentioned earlier. The functions are continuing in a different way. The plan is that the staff of the commission will transfer into the various new agencies, including the FCC, including the Office of the Public Guardian and the Public Safety Business Agency and others. The intention is that as many staff as possible will be placed in those roles and if that is not possible in a minority of cases then in other roles within government.

Mr HATHAWAY: I am mainly concerned about the continuity of service more than anything else.

Mr Armitage: One of the priorities when I took this role on was to ensure that from the public's perspective the services that the commission currently provides are uninterrupted. I can assure you that is the case at the present time. Blue cards are being processed in the time frames that we have set through the SDS and children are being visited in accordance with the policy of the commission. It should be, from the perspective of the community, seamless and be no awareness of the bureaucratic changes that are taking place.

Mr HATHAWAY: Just to confirm, the initial stagger between commissioners will be through the continuation of your current appointment and then I think Governor in Council is limited to only appointing the secondary commissioner, for want of a better term, for no less than three and no more than three. Is that the approach to fix that stagger?

Mr Murphy: It is a three-year appointment.

Ms BATES: I notice that the QFCC is headed by two commissioners, one of who will be someone from Aboriginal or Torres Strait Islander descent. How do you determine who will be the principal commissioner?

Mr Murphy: Carmody's report suggested two commissioners. It did not go beyond that in terms of a discussion about whether there was a principal or not. For good administration it was felt that there was a need to have a principal commissioner, someone is who is the boss, who is the accountable person, but also to make sure that both of those people could go into the community and describe themselves as commissioners of this new entity.

In terms of the selection of the principal commissioner—let me know if I get this wrong, Steve—Steve will continue in the role of principal commissioner until such time as a new appointment is made to that position or January 2015 comes around and there will need to be a process in terms of the appointment of the other commissioner. But also we have been very careful to make sure that either of those commissioner positions can be filled by an Aboriginal or Torres Strait Islander person. There is no presumption about which position would be held by which person.

Dr DOUGLAS: My question is at a much lower level. It is about the issue of process, primarily with regards to Aboriginal and Torres Strait Islander people. I am a doctor so I suppose I have a slightly different perspective on these things. It is not a question about the policy or anything or what came out of the inquiry, it is more to do with the process with regard to how you are going to roll this out. I have been involved in this for a very long time and I am interested to know whether someone has had a look at what used to go on with regard to the old Aboriginal and Torres Strait Islander department. There was a special department. We had a structure. Pat Killoran was the head of the department. People would remember that from the old days. There are some elements when I am reading this that have elements of that. I am just wondering, have people taken a view as to what occurred in the past and the deficiencies of that system? I am not going to say they were all deficiencies, some things were quite good because there was some safety. Can you just enlighten me a little bit? Has that been looked at and are you aware of it and can you tell me something of it?

Mr Armitage: I can speak from the Family and Child Commission point of view and the way I will approach it, and certainly what I know from my own years of experience of working in human services. I certainly know that it requires working very closely and collaboratively with the leadership and with the Aboriginal and Torres Strait Islander community at all levels right from the outset in terms of design and assessing what the appropriate responses might be and the delivery of those services. That is the approach I certainly will be taking in the establishment of the Family and Child Commission. I have the benefit already of working with members of peak bodies in a couple of the early stages of the planning groups, the senior leaders of the child protection groups that Justin mentioned, the head of the Aboriginal and Torres Strait Islander Child Protection Peak, Natalie Lewis, who is very connected to her community. It is early days. It needs to be broader than that. But also the Aboriginal and Torres Strait Islander Byrne subcommittee that has a very particular responsibility in accordance with the Carmody inquiry to identify the best approaches as a priority to work with reducing the number of Aboriginal and Torres Strait Islander children and families in the system engaging with and collaborating with Aboriginal and Torres Strait Islander people.

Dr DOUGLAS: You are saying it is a process model, it is a tailored approach, because that was what we eventually worked towards rather than a one-size-fits-all model. This is not a one-size-fits-all model.

Mr Armitage: It is not, no.

Dr DOUGLAS: And there are appropriate mechanisms within that that will explain that?

Mr Murphy: Perhaps I can speak to this. If we are talking about the reform road map in its entirety now rather than the bill.

Dr DOUGLAS: Yes.

Mr Murphy: I can say that we are at the beginning of this journey in terms of the planning. We have gone through essentially the authorising environment, cabinet has considered the report, government has released a response accepting the recommendations. We have done initial work around establishing the governance structures, so the reform leaders group, the senior officers group that sits under that, the task force and DPC has recently been formed. There are structures in government departments, regional committees being formed, stakeholders bodies being formed. The next step for us is to do the detailed planning to roll this program out over the first five years and then the next five years and we will take some time to do that. That will probably take us three to four months to do. Carmody says do that right, spend time and do that right, and at the same time establish the legislative basis and governance arrangements you need to take the program forward. That is the path we are following. We are just now though doing that detailed planning work. I can say that Carmody made very clear in his report that we needed to have stakeholder engagement at every level of the governance structure and we are endeavouring to build that. We have NGO reps on the reform leaders group and cascading down through the structure and the Department of Communities has established an advisory committee and they will use that committee to build the program responses and, most importantly, within that process there will need to be an understanding of what works in Indigenous communities and what does not. And there will need to be trials of programs around family support and learnings taken from those trials before we invest significant dollars in a more universal program.

So there is a lot of thought going on now about how to do this efficiently and how to make sure that program responses that we do deliver are going to be effective for Indigenous communities because they are perhaps our most important cohort in terms of getting the benefits realisation we need to over time.

Dr DOUGLAS: What sort of interaction in terms of an authority structure are you proposing between those community representatives and the commissioners themselves or the department? Can you give me an idea? I cannot see it.

Mr Murphy: It is too early to give you an idea.

Ms Lang: I think it is too early to give you that sense. Certainly that will be one of the first tasks of the new commission in terms of how they engage with communities and stakeholders at all levels, but I think it is too early for us to give you anything more specific than that.

CHAIR: Thank you. We might move to the next bill, the Public Guardian Bill.

LANG, Ms Jennifer, Assistant Director-General, Department of Justice and Attorney-General

PARKER, Ms Natalie, Director, Strategic Policy, Department of Justice and Attorney-General

MOY, Ms Angela, Senior Legal Officer, Strategic Policy, Department of Justice and Attorney-General

Ms Lang: In terms of the Public Guardian Bill, the commission found that children in the child protection system are particularly vulnerable and need to have their voices heard and that assisting them to understand the system and be involved in the decision making processes sets them on the right path for the future.

The commission identified that the support services that are currently provided to children in the child protection system by the CCYPCG do not have the required focus on individual support and advocacy, and in the case of the community visitor program that its ambit was too wide. Therefore, the commission recommended that the role of the Child Guardian within the CCYPCG be refocused on providing individual advocacy for children and young people in the child protection system. They also noted that the role of the Child Guardian could be combined with the existing function of the Adult Guardian that sits within the portfolio responsibilities of the Attorney-General and Minister for Justice and that in combining those two entities would form a Public Guardian. That would be an independent statutory body that would report to the Attorney-General and Minister for Justice.

The commission also recommended that that new body assume the responsibility of a refocused community visitor program for children and provide individual advocacy services to children out of advocacy hubs. Effectively, that is what the Public Guardian Bill does. It establishes the Public Guardian as an independent entity—an independent statutory position—that is appointed by the Governor in Council. The Public Guardian will be required to provide an annual report to the minister about the performance of the office. It would result in a combining of those functions sitting with the CCYPCG, with the Office of the Adult Guardian. The objective of the Public Guardian will be to promote and protect the rights and interests of children and adults with impaired capacity for a matter. The bill divides the functions and powers of the Public Guardian into two streams, reflecting the nature of that work. It will have child advocate functions and Adult Guardian functions. The delineation of functions is a safeguard against the dilution of the respective programs. Each stream will deliver a community visitor program to relevant cohorts, one for adults and one for children.

The child advocate functions relate to the provision of advice and information to children, a support and intervention role in child protection proceedings in the Children's Court and the Queensland Civil and Administrative Tribunal or QCAT, monitoring adherence with plans developed to case manage children, and helping the child to resolve disputes. In addition, as indicated earlier, the bill provides that the Public Guardian must provide a community visitor program for children. The Public Guardian will also be responsible for the current Adult Guardian functions relating to investigating complaints and allegations, mediating and conciliating, acting as a guardian and making decisions of last resort for adults with impaired capacity. Under the bill, the staff of the Public Guardian will be public servants and that will include the existing Adult Guardian staff who will transition to the new entity and child advocacy officers. In addition, the Public Guardian can appoint adult and child community visitors. Subject to passage of the bills, it is intended that the Public Guardian, the new office, will commence on 1 July 2014.

In terms of the child advocate functions and to give you a better sense of those functions, clause 13 of the bill provides the Public Guardian with child advocate functions, which are to promote and protect the rights and interests of relevant children and children residing at visitable sites. Clause 7 of the bill prescribes the guiding principles that the Public Guardian and any other person undertaking a child advocate function is to follow to ensure that the focus of programs remain on individual advocacy and promoting and protecting the rights, interests and wellbeing of children. The best interests of the children is the paramount consideration. In addition, clause 54 of the bill provides that when performing a child advocate function that includes the community visitor program or exercising a power in relation to a child, a person must seek and take into account the views and wishes of the child in a way that has regard to the child's age and also their maturity.

Chapter 4 of the bill sets out provisions relating to relevant children and children residing at a visitable site. 'Relevant children' is the term that is used to describe the children that the Public Guardian will be able to exercise their powers in relation to. Under the bill, clause 52, a 'relevant

child' includes those children who are subject to child protection orders, interventions and agreements under the Child Protection Act; so that child protection focus. The Public Guardian will also be able to assist children who are receiving help from the Public Guardian immediately before a child protection order, agreement or intervention under the Child Protection Act ceases. For example, the Public Guardian may have been helping a child on a child protection order work through a complaints process and the child protection orders ceases, but the Public Guardian might believe that it is in the child's best interests to continue to assist the child with the complaint even though the order stopped.

Chapter 4 part 3 provides child advocacy officers who are required to visit relevant children to provide advocacy and support services with powers of entry that they might need to perform those functions. The bill also provides that a child advocacy officer may enter a visitable site during normal visiting hours without notice or outside of normal hours with notice with the Public Guardian's authorisation. Visits to other places where the child resides may occur if it is a public place and at a time when the place is open to the public, or by consent, or if necessary under a warrant that is issued by the Magistrates Court. Those provisions are consistent with the entry powers for community visitors. Given the importance of child advocacy officers being able to access the child so that they can help the child, the entry powers are necessary but they are only expected to be used in rare cases where a child advocacy officer has been refused access to the child. A child advocacy officer may exercise child advocate functions and any powers relevant to the undertaking those function in relation to relevant children only, for example, a child advocacy officer may visit a child in a visitable home, a visitable site or another place as long as the child is a relevant child; they cannot visit any other child at a visitable site except for those who are relevant children.

The bill also allows the Public Guardian to support a child in all legal proceedings and to support a child and participate in family meetings, conferences or mediation. It provides the Public Guardian with a statutory right to intervene in legal proceedings in the Children's Court and QCAT, and in relation to child protection matters. This is to enable the Public Guardian to effectively advocate for children in those proceedings and to address the commission's findings that the views and wishes of the children are not always heard. That statutory right of intervention will allow the Public Guardian to communicate the child's wishes, appear, make submissions, lead and test evidence in the proceedings as required to advocate for and support the child. In addition, clauses 130 and 203 facilitate the Public Guardian's access to court and tribunal files in relation to a matter. The Public Guardian's role at QCAT is provided for in chapter 6 part 1 of the bill and the role in the Children's Court is provided for in chapter 8 part 2 of the bill and that amends the Child Protection Act.

Clauses 127 and 201 and new section 108B(4) allow the Public Guardian to authorise a person in writing to perform these roles in place of the Public Guardian. Under clause 131 of the bill, the Public Guardian can apply to QCAT to have certain reviewable decisions reviewed if the Public Guardian is dissatisfied with the decision and has been unable to resolve the matter with the Chief Executive of Child Safety to the Public Guardian's satisfaction. Clause 126 of the bill defines what are reviewable decisions and they relate to particular decisions made under the Child Protection Act. They include such things as the refusal to review a case plan and a decision about whose care to place the child in and decisions under the Child Protection Act to not make a decision to refuse contact with a child's parent.

In terms of the community visitor program for children, the commission of inquiry proposed that the ambit of the current community visitor program be reduced to allow for more specialised advocacy services related to children's rights. The commission specifically recommended that visits should continue, but only for those children who are considered most vulnerable.

Chapter 4 part 2 of the bill establishes the community visitor program for children to protect the rights and interests of relevant children in out-of-home care arrangements or children at visitable sites. The purpose of the program is to ensure that children who are the most vulnerable and are identified as such are staying in a safe and secure environment with their needs being met. Visitable sites are defined to include residential care facilities, detention centres, boot camps, corrective services facilities and mental health facilities. The children at those sites may or may not be relevant children. A child in a detention centre might not always be on a child protection order, but given the nature of the site they will be visited as part of the community visitor program. This means that the scope of the community visitor program is broader than the general advocacy, which is restricted to those relevant children.

The bill also provides for separate functions and powers for community visitors for children. Visitors exercising those functions will be appointed by and subject to the direction of the Public Guardian. These functions and powers that the community visitors will have are consistent with those that the current CCYPCG community visitors have. The only exception is that a visit to a visitable site will be via right of entry with no notice required, rather than needing consent from the site or a warrant. That change has been made to ensure that there is a consistent approach with the adult and child community visitor programs.

There are three tiers to the community visitor program under the bill. Firstly, the Public Guardian through its community visitors for children must regularly visit all children who are staying at visitable sites in accordance with clause 58 of the bill. Secondly, clauses 59 and 60 require the Public Guardian to visit all children staying at visitable sites or residing in visitable homes who request a visit and provisions are included to require others such as carers, site staff, members and Child Safety officers to ensure that the Public Guardian is aware of the child's request for a visit. Thirdly, the Public Guardian will determine other children residing in visitable homes who require visits, including the regularity and frequency of those visits. Clause 57 of the bill contains a non-exhaustive list of factors that the Public Guardian might take into account when determining the other children who should be visited. That is different to the current program in the CCYPCG where all children in visitable homes are visited.

CHAIR: Ms Lang, can you just go back. I lost you there: the three tiers?

Ms Lang: The first is that the Public Guardian has to visit all children who are in visitable sites, that is, the facilities, the detention centres, the residential facilities. Secondly, they must visit all children staying at visitable sites or residing in visitable homes who ask for a visit, that is, a child requesting a visit. Thirdly, there may be other children in visitable homes who require visits. This is more of the discretionary aspect of whether they are the most vulnerable and they fall within the policy that the guardian will develop around that aspect. That is about directing the resources to the most vulnerable, so picking up on that commission of inquiry recommendation.

The community visitors will have powers of entry and they can enter visitable sites during normal visiting hours without notice or outside of normal hours without notice with the Public Guardian's authorisation. When they are at a site, they will also have power to do all things necessary to perform their functions. That will include the power to inspect the site, having access to the child, obtaining information and documents from staff. Any staff member who refuses to comply with a reasonable request for information without a reasonable excuse will commit an offence. Visitable homes may be visited with consent, but because it is a home if there is no consent then the bill requires a warrant issued by a magistrate. Similarly, the community visitor can go to the home to look at the appropriateness, to assess appropriateness, see and talk to the child and ask for reasonable help from a carer residing at the home to exercise the powers when there.

The bill also contains a range of provisions about information exchange and that is a framework to provide the Public Guardian with the ability to obtain and disclose information, including confidential information, that will be required for them to perform their functions. The intention is to assist entities that are prescribed to cooperate and work with the Public Guardian to promote and protect the rights and interests of the children. Clause 84 of the bill contains a list of the entities that are prescribed and they include both government and non-government entities. There is the entities that you would expect to see, so education providers, health, child and family support services, the new Family and Child Commission, the Queensland Police Service, the Director of Public Prosecutions, Legal Aid and also the Department of Communities, Child Safety and Disability Services.

There are exceptions such as where the information is subject to legal professional privilege or would endanger a person's wellbeing or would prejudice investigations. So the bill contains some exceptions to that requirement to produce information. These provisions override any other law that would otherwise prohibit or restrict the giving of information, with the exception of certain sections in the Child Protection Act which protect the confidentiality of notifiers of harm or risk of harm and relate to the publication of information that might lead to the identification of a child. The use of information that is exchanged or obtained under those confidentiality provisions is subject to strict confidentiality provisions themselves.

In addition, the chief executive of child safety is also required to advise the Public Guardian as soon practicable after becoming aware that a child is subject to or is no longer subject to orders, interventions or agreements under the Child Protection Act. That is so that the Public Guardian knows what children are in the system and can exercise its functions.

The other aspect of the bill for the committee to be aware of is the Adult Guardian functions. The bill abolishes the position of Adult Guardian given the creation of the new office of Public Guardian. The powers and functions of the Adult Guardian that are currently contained in the Guardianship and Administration Act in chapters 8 and 10 are transferred into the Public Guardian Bill. Those powers and functions have not changed except for when it comes to the responsibility of the community visitor program. The Guardianship and Administration Act will continue and will provide for the scheme related to guardianship matters. It is just that the provision relating to the office of the Adult Guardian is transferred over into this new act and it is dealt with as though it is the office of the Public Guardian to facilitate that.

Clause 6 of the bill refers the reader to schedule 1 and section 5 of the Guardianship and Administration Act to find the principles and acknowledgements that must be applied when performing functions or exercising powers under the bill. Clause 12 outlines the Public Guardian adult guardian functions to be exercised to promote and protect the rights and interests of 'adults with impaired capacity for a matter'.

Chapter 3 of the bill outlines provisions relating to adults with impaired capacity and gives the Public Guardian the ability to investigate complaints, allegations and audit records in relation to financial matters. The Public Guardian will also have protective powers which allow the Public Guardian to claim and recover possession of property, damages for conversion of an injury to property or payment of money for an adult with an impaired capacity and to suspend an attorney's power if the Public Guardian considers the attorney is not competent.

In terms of the community visitor program for adults, the Public Guardian becomes responsible for that. The framework for that is in chapter 3 part 6. The purpose of the adult community visitor program is to protect the rights and interests of adults with impaired capacity for a matter by visiting them at their place of residence and ensuring that their living environment is safe and secure and their needs are being met. The change in relation to that program is that the current program is administered by the chief executive of the Department of Justice and Attorney-General. The bill transfers that responsibility to the Public Guardian. This will result in the Public Guardian managing both the adult and the child visiting schemes. That will achieve efficiencies and flexibility in the working arrangements.

There are separate powers and functions for both sets of community visitors. There are a separate set of powers and functions for community visitors for adults. In exercising those functions, the community visitors will be appointed by and subject to the direction of the Public Guardian. Those community visitors for adults will have powers of entry to enter a visitable site without notice, during hours or outside normal hours with the Public Guardian's authorisation. Again, they will have the power to do those things that they need to do to perform their functions at that site which will include entering, having access to the individual and also to information from staff at those sites.

Finally, in terms of transitional provisions in the bill, clause 162 of the bill provides that the current Adult Guardian will become the first Public Guardian, provided he agrees to that. That appointment will be until 12 August 2015 which is the end of his current term as Adult Guardian. New terms and conditions for that appointment will be decided by the Governor in Council. I am happy to take questions.

CHAIR: There is a lot of moving around, is there not?

Ms Lang: There is a lot of moving around, yes.

CHAIR: But it seems to me to be very consistent with the recommendations. It certainly seems to me that there will be some efficiencies that come out of that. Are there any questions?

Ms BATES: I found a typo in your explanatory notes.

Ms Lang: We do not want to know about that; it is too late.

Ms BATES: It should read 'power to consent to forensic examination, and not 'power to content to forensic examination'.

Ms Lang: That was the error we put in there, I will confess.

Ms BATES: I found it.

Mr SHUTTLEWORTH: In terms of time frames for visits to homes or visitable sites, at clause 59(5) on page 55 of the bill it reflects that that be undertaken in a reasonable time. How is that going to be ascertained? If a child requests a visit, what is going to be deemed reasonable according to the bill?

Ms Lang: That is part of the implementation of these provisions. These provisions facilitate the Public Guardian undertaking a range of work. Work is currently underway within the Adult Guardian's office and the Department of Justice and Attorney-General to flesh out the policies and the meat, I suppose, of how these provisions will work. That is one of the questions that will need to be addressed in developing the policy to support the legislation to give the Public Guardian a consistent approach to visiting children.

Mr SHUTTLEWORTH: From an Adult Guardian perspective, I have a case where I interacted with the department over time. There was an enforcement order for visitation for children of an adult who was under the direction of the Adult Guardian. Her children wanted access to her, but that has not been able to be facilitated. When following that through, I was told that basically a direction could be given but there was no capacity to enforce that direction. Is there any more meat on the bones in terms of the Adult Guardian having the capacity to actually enforce QCAT decisions and those sorts of things?

Ms Lang: In terms of adults?

Mr SHUTTLEWORTH: Both, I guess, being that they will be under the one banner. But, yes, in terms of adults in this case.

Ms Lang: I am not aware of the specific case that you are talking about or that particular issue. In terms of adults, we have not changed those provisions that currently exist in the Adult Guardian legislation. If there is currently a problem then that has not been addressed in this provision. In terms of children—and my colleagues from the department of communities might have something more to add—I guess it is important to reflect that the Public Guardian is one aspect of an extensive system that is looking at children who are within the child protection system. I would imagine that if the Public Guardian had received a request to visit a child, there would be a capacity to obtain a warrant if entry is refused. I think if it was a visitable site that there would be another mechanism to ensure that access or that would trigger other action occurring if there was a refusal of entry.

Ms Parker: That is limited only to children who are relevant children in the child protection system. That is the only jurisdiction the Public Guardian has.

Mr HATHAWAY: I have one question, if I may. The Public Guardian can appoint community visitors for a child or an adult or a combination thereof?

Ms Lang: Certainly, we anticipate that that would occur. We are certainly aware that some community visitors now undertake child visiting as well as adult visiting. We would certainly anticipate that that would occur in the future.

Mr HATHAWAY: I know it talks about skills, knowledge and experience et cetera. What is the difference between a community visitor for an adult and a community visitor for a child? What would be expected for appointments such as those?

Ms Lang: I am not sure I can answer that question. I am not sure I have that detail.

Mr HATHAWAY: What are the differences in skills, knowledge and experience for an adult community visitor and a child community visitor?

Ms Moy: The only thing the bill actually provides is to make sure that there is no conflict of interest in terms of them being an oversight type role. There are different requirements in terms of what you cannot be in any other capacity that would apply to adult and child community visitors. If you were going to be both you would need to make sure that you fulfilled both of those criteria. That is not so much about skills and knowledge; that is more about making sure there is no conflict of interest while you are performing the duties as a community visitor.

Ms Lang: Is your question whether there is a specific skill set for being a child visitor as opposed to being an adult visitor?

Mr HATHAWAY: Yes.

Ms Lang: I think that is a matter that the Public Guardian will need to work through. I would expect the answer would be that there would be certain skills that you want your child visitors to have that the adult visitors may or may not have. You would want to make sure that if there was a combination of them that they covered both skill sets that were required.

CHAIR: Thank you. We will have a short break.

Proceedings suspended from 3.06 pm to 3.18 pm.

GILES, Ms Megan, Director, Child Safety Strategic Policy and Design, Department of Communities, Child Safety and Disability Services

LANG, Ms Jennifer, Assistant Director-General, Department of Justice and Attorney-General

LUPI, Mr Matthew, Executive Director, Child Safety Policy and Programs, Department of Communities, Child Safety and Disability Services

CHAIR: The briefing of the Health and Community Services Committee on three child protection bills is resumed. The committee will now receive a briefing on the Child Protection Reform Amendment Bill 2014. Mr Lupi, would you like to start or would Ms Lang?

Ms Lang: Mr Lupi.

Mr Lupi: Mr Chair and committee members, thank you for the opportunity to brief you this afternoon on the Child Protection Reform Amendment Bill. My colleague has already set the context for the Child Protection Commission of Inquiry and how the three bills before you today set the scene for the government's implementation, so I will not revisit that.

The Child Protection Reform Amendment Bill contributes to the implementation of the government's response to the commission of inquiry by addressing the following recommendations. It sets the legislative framework for guiding when reports can be made to Child Safety, which is referred to in recommendations 4.1, 4.2, 4.3, 4.6 and 4.8. It clarifies the role of the Ombudsman in providing independent oversight of the complaints processes, which is relevant to recommendation 12.9. It establishes a child death review panel to review the department's investigations of deaths and serious injuries of children known to Child Safety, which is referred to in recommendation 12.11. It reduces red tape by transferring the responsibility for the administration of the blue card scheme from the Commission for Child and Young People and Child Guardian, which is referred to in recommendation 12.17. It clarifies the role of the President of the Children's Court of Queensland and the Chief Magistrate, as required by recommendation 13.3.

The full implementation of the government's response to these recommendations requires both practice and culture change beyond what is achieved purely by amendment of legislation alone. The Child Protection Reform Amendment Bill contains amendments to a number of legislative frameworks. It amends the Child Protection Act 1999, the Childrens Court Act 1992, the Commission for Children and Young People and Child Guardian Act 2000 including changing the name of the act, the Magistrates Act 1991 and the Public Health Act 2005. The bill also makes consequential amendments to 20 other acts to reflect the administrative changes to the Working with Children Check scheme.

The bill proposes to do the following: clarify that a child in need of protection is a child who has suffered or is suffering significant harm or is at an unacceptable risk of suffering significant harm. This is provided for in clause 7 of the bill. It includes a legislative framework within the Child Protection Act that guides when concerns about a child's safety can be reported to the department of child safety and it consolidates the mandatory reporting requirements into that act. This is set out in clause 6 of the bill. It makes it clear that people who report concerns about a child to Child Safety are protected from liability when they honestly and reasonably provide information. This is provided for in clause 8 of the bill. Allowing prescribed entities to share information with service providers when a child is likely to become in need of protection if support was not provided to their family is covered in clause 22. It establishes a child death review panel process to review the deaths and serious injuries of children known to Child Safety and other cases as required. This is covered in clause 4, clause 27 and clauses 28 to 40 of the bill. Clarifying the leadership of the Children's Court and improving court processes is covered in clauses 41 to 47 and part 5 of the bill in clauses 93 and 94. It allows the Queensland Ombudsman to delegate functions and powers to appropriately qualified officers including the power to write reports and make recommendations which are not currently delegable to ensure timely resolution of child protection complaints. This is provided for in part 6 of the bill in clauses 95 to 99.

The transfer of the responsibility for administering the blue card scheme to the Public Safety Business Agency in a new stand-alone piece of legislation to be called the Working with Children (Risk Management and Screening) Act and support for the seamless transition of the functions currently with the Commission for Children and Young People and Child Guardian to other agencies and entities are included in part 4 in clauses 48 to 92 of the bill, with consequential amendments, as

I mentioned, to a number of other acts set out in various clauses. It streamlines the annual reporting by departments with child protection responsibilities by introducing a more efficient and effective mechanism to monitor the performance of the system. This is set out in clause 38.

I would like to now provide some more detailed information about the key aspects of the bill. The commission of inquiry identified that a main contributing factor to the unsustainable demand on Queensland's tertiary child protection system is the high number of intakes received by the system each year. The commission made a number of recommendations aimed at achieving a consistent approach to reporting child protection concerns to Child Safety and to consolidate reporting requirements into the Child Protection Act.

The definition of a child in need of protection in section 10 of the Child Protection Act currently has two elements. The first element is that the child has suffered or is suffering harm or is at an unacceptable risk of suffering harm. The second element is that a child does not have a parent who is able and willing to protect them from that harm. The bill proposes to amend the first element so that it refers to significant harm to emphasise that reporting should accord with the threshold already set out in section 14. This is covered in clause 5 and it implements the government's response to recommendation 4.1 of the commission of inquiry final report. This amendment does not change the second element, which will continue to be an important consideration for whether a child is in need of protection.

The bill will insert a new section in the Child Protection Act to make it clear that any individual who reasonably suspects a child or young person may be in need of protection can report these concerns to Child Safety. This is covered in clause 6, which will insert new section 13A into the act, and clause 8 of the bill. The proposed amendments identify the matters that a person may consider when forming a reasonable suspicion that harm is significant. These matters include whether there are any evident detrimental effects on the child's body or the child's psychological or emotional state and, if there are evident detrimental effects, their nature and severity, the likelihood that they will continue or arise in the future and the age of the child. This is provided for in clause 6 of the bill, which will insert new section 13C into the Child Protection Act.

Clauses 102 and 104 of the bill propose to repeal the current mandatory reporting provisions for doctors and nurses that are contained in the Public Health Act 2005 and the Commission for Children and Young People and Child Guardian Act 2000. The bill includes mandatory reporting requirements for doctors and nurses, police officers with child protection responsibilities, teachers working in schools, people engaged to perform a child advocate function of the proposed public guardian, and departmental staff and people employed in a departmental or licensed care service. These are professionals who are already required to report concerns under either legislation or policy. They were specifically considered by the commission of inquiry in delivering its final report.

The proposed amendments require these professionals to report a reasonable suspicion. A reasonable suspicion about a child is such that a child has suffered, is suffering or is at risk of suffering significant harm caused by physical or sexual abuse and may not have a parent able or willing to protect them from that harm. This is provided for in clause 6 and will insert new sections 13E and 13F into the Child Protection Act. The mandatory reporting requirements in those provisions relate to a reasonable suspicion that a child is in need of protection as a result of physical and sexual abuse. The provisions of the bill do not prevent cases where a mandatory reporter has a reasonable suspicion that a child is in need of protection by abuse caused by other types.

Mandatory reporters are also covered by the broader provision in new section 13A and may still report concerns of other types of abuse. This is similar to the way that the reporting requirements operate in the Victorian Children, Youth and Families Act 2005 to operate in a way that enables families to be directly referred to community based non-government agencies so they can get the support they need to care for their children safely.

The provisions in the bill will require mandatory reporters who have been covered by the provisions to consider the concerns that they have about a child and determine whether they amount to a reportable suspicion. Mandatory reporters can take into consideration anything they have directly seen or heard and their professional opinion, and they may discuss their concerns with a colleague to help them to make that decision. Guidance for mandatory reporters regarding how to report and the information to be included in the report will be provided in the Child Protection Act. For example, a report must include the basis for a reportable suspicion.

The type of information to be included in a report will be set out in a regulation and will include information such as the child's name, age, details of the suspected harm and particulars of any person who may have been suspected to cause such harm. It is not the role of the mandatory

reporter to undertake the investigation. This is still the role of Child Safety. Mandatory reporters will be required to consider whether their concerns meet the threshold set out in the provision and, if they do, provide information to the extent of their knowledge of such.

The bill includes a provision to be inserted in the Child Protection Act that provides further guidance to mandatory reporters about what they can do if they have concerns about a child that are not of a reportable suspicion. Proposed new section 13B provides in circumstances where a mandatory reporter has a concern that a child is likely to become a child in need of protection if preventative support is not available for action to be taken under the act. If they are a prescribed entity, they will be empowered to share information about the child and the family without the family's consent. Any person with a concern about a child may discuss those concerns with the child's family and provide them with information about relevant services that may assist them to care safely for their children.

The bill also proposes to amend chapter 5A of the Child Protection Act to allow prescribed entities under the act to share information with service providers. This is limited to circumstances where the prescribed entity considers that the child is likely to become in need of protection if this preventative support is not provided. This is provided for in clause 22 of the bill, and these provisions enable the dual referral pathway that was recommended by the commission of inquiry in recommendation 4.5 of its final report.

Once a service provider has received the information and offered help and support to a child's family, then the service provider must work with the child's family in the usual way with their consent. The list of prescribed entities in chapter 5A of the Child Protection Act is proposed to be amended to include the proposed Public Guardian, given the scope of the proposed functions that entity will take on. This is covered in clause 23 of the bill.

The bill provides that mandatory reporters will be protected from civil and criminal liability as well as breaches of ethics or professional etiquette under section 22 of the Child Protection Act if they communicate with colleagues in order to decide whether they have a reportable suspicion, to make a report or keep records or to take appropriate action to deal with the risks arising from the circumstances reported. This is included in clause 6 of the bill which will insert the new section 13H into the act.

Clause 8 of the bill proposes to amend section 22 of the Child Protection Act to include the requirement that all people that report concerns to Child Safety must act both reasonably and honestly in providing information in order to be protected from liability. Section 22 will be renumbered into section 197A. This will mean that the protection from liability sits within the other part of the act where similar provisions are provided for. The amendment is in response to the second element of the commission of inquiry's recommendation 4.6.

The mandatory reporting provisions in the bill do not include criminal sanctions for failure to comply with the provisions. Statutory penalties are currently included for doctors and nurses in the mandatory reporting requirements within the Public Health Act. Police and teachers, who currently are covered by operational policies, are not subject to penalties that are of a criminal penalty. The mandatory reporting requirements in the bill will be enforceable by disciplinary processes arising from any breach of professional standards, and civil liability which may arise from breaches of statutory duties. This approach is consistent with New South Wales, where the Wood inquiry found that key agencies that employ mandatory reporters should have adequate systems in place to ensure compliance with legislation and those systems should include disciplinary consequences for failure to report.

The provisions in the Education (General Provisions) Act 2006 and the Education (Accreditation of Non-State Schools) Regulation 2001 require school employees to report sexual abuse to school principals and other entities, and these will be retained in their current form. These provisions relate to reporting suspected criminal offences to police and are based on a different threshold of concern from those that will be within the Child Protection Act. The bill proposes to amend section 14(1) of the Child Protection Act to remove the reference to 'investigation' and to replace it with 'risk assessment and harm substantiation' to better reflect the work carried out by Child Safety when there is a reasonable belief that a child is in need of protection. This amendment is provided for in clause 7 and responds to recommendation 4.8 of the commission of inquiry final report.

I will turn to the section of the bill that addresses the child death review processes. Recommendation 12.11 of the commission of inquiry's final report included that the department establish a review panel that oversees the department's reports, instead of the current Child Death Case Review Committee. The bill provides for the minister to appoint people with appropriate

qualifications to form a pool of people from which a Child Death Case Review Panel can be constituted and that reviews are conducted for child deaths or serious physical injuries in circumstances where the child was known to Child Safety within one year prior to their death or serious physical injury. This is provided for in clause 37 of the bill, and it proposes to insert new sections 246HA and 246HK into the Child Protection Act. The panel will consider each review undertaken by the department and provide advice to the department to inform improvement of child protection policies and practice. The independent review panel will be known as the Child Death Case Review Panel.

The chief executive of Child Safety will report to the minister annually about the activities and findings of the panel, including the department's response to individual reports. This is a change to the current scope of cases where a child death review is required to be undertaken by the current Child Death Case Review Committee. The changes in scope are provided in clause 29 and include: limiting the requirement for Child Safety to undertake a review to a child known to Child Safety from previously three years prior to their death to now being 12 months prior to their death; introducing a new requirement for the department to undertake a review in circumstances where the child suffers a serious physical injury and is known to Child Safety within 12 months of the injury; and providing the minister with the discretion to request that a review of the death or serious physical injury of any other child be undertaken in appropriate cases. 'Serious physical injury' is defined at clause 40 in the bill and includes—

(a) the loss of a distinct part or an organ of the body; or

(b) serious disfigurement; or

(c) any bodily injury of a nature that, if left untreated, would endanger or be likely to endanger life, or cause or be likely to cause permanent injury to health.

The definition accords with the definition of 'grievous bodily harm' in the Criminal Code and is consistent with the commission of inquiry's reference to life threatening injuries.

Clause 30 of the bill proposes to amend the Child Protection Act to clarify the matters the chief executive may consider when determining the extent and terms of reference of a review of a child's death or serious physical injury. These include the nature of the department's involvement with the child during the 12 months prior to the death or serious physical injury and the relevance of the department's involvement in the cause of the child's death or serious physical injury. The department must complete the review within six months of the child's death or serious physical injury and prepare a report about the review. Within that time, the department must also provide the report along with any relevant documents to the Child Death Case Review Panel. This is provided for in clause 32 which inserts the new section 246D into the Child Protection Act. Under clause 32 the panel must independently review the department's review within six months of receiving the documents. The proposed section 246HG states that a panel is not subject to direction by the minister. When a review panel is constituted to independently review a particular case, it must be comprised of: a minimum of three external child protection specialists; at least one, and not more than three, departmental officers; at least one Aboriginal or Torres Strait Islander person; and at least one senior public servant from another government department. The proposed new section 246HK requires that members of the pool who are called upon to form a review panel must be required to disclose any direct or indirect interest in an issue to be considered by the panel and they must not be present when the review panel considers the issue.

I will now turn to the working with children checks and the government's response to recommendation 12.17 to progress red tape reforms, including the transfer of child related employment screening functions. The commission of inquiry recommended these functions be transferred to the Queensland police. Part 4 of the bill proposes amendments to the Commission for Children and Young People and Child Guardian Act 2000. The focus of these amendments is to transfer responsibility for their administering of the working with children check scheme, which is known as the blue card scheme, to the Public Safety Business Agency under a stand-alone act. The bill proposes to call this the Working with Children (Risk Management and Screening) Act. The provisions to be included in the new act are substantially the same as those relating to the blue card scheme that are currently included in the Commission for Children and Young People and Child Guardian Act with necessary amendments to reflect the changes in administrative arrangements.

The Public Safety Business Agency is the new government entity providing corporate service capabilities for Queensland police and Queensland fire and rescue. Clause 90 proposes to insert a new chapter 11 in the act to appropriately transition business commenced under the Commission for Children and Young People and Child Guardian Act and required or not yet finalised before the commencement of the amended act. The bill will make a consequential amendment to 20 other acts to reflect changes to the administration of the working with children check scheme. The

Commission for Children and Young People and Child Guardian Reform Steering Committee has been established—and you heard a little bit about this earlier—to lead the work of the transition. Once the transition has been undertaken, a comprehensive independent policy and business process review, including a review of the workforce requirements and consideration of whether the working with children check should be simplified, will be undertaken after 1 July 2014. The first phase will be completed by 31 December 2014. I thank the committee for this opportunity and I invite questions.

CHAIR: Thank you. Again, that was very comprehensive. I actually have a comment to make. As the new arrangements become more and more understood and working policies, processes and templates are better understood, I appeal to you to use language and letters that are not confronting. I will give an example in relation to a child at school mandatory reporting. A team turned up at a house and started to investigate. They found nothing and a couple of days later the parents got a very confronting letter. It was quite harsh in terms and it effectively said, 'If we come back, you'll be in trouble.' It was very, very harsh in its terms. I do not think that does our cause any good. The parents were very understanding that these things have to happen. They understand why there is mandatory reporting and they understand why that is necessary, but they were quite upset by the tone of the letter that was provided following that. Given that we are making some changes and we are looking at it, I think the tone of the letter should be something like, 'This might have been upsetting for you but please understand that sometimes when we follow these leads we turn up things that are not very pleasant.' Do you understand what I am saying? It is more of a plea to say that sometimes we can do things a bit better. I would ask that some of those things be reviewed as we review processes and procedures.

Mr Lupi: Thank you for your comment. Whilst the bill does not provide for it, Commissioner Carmody made substantial recommendations in relation to the practice at which child protection practitioners engage with families. He made some sweeping conclusions about a risk averse and more parent judging or punitive approach, and there are a number of recommendations that will go to the core of changing the way in which we engage with parents as partners in protecting their children. It is a fundamental component of this reform.

CHAIR: I appreciate the depth that you guys are looking at here and I know that it is a humongous undertaking. I look forward to watching that progress over the coming months. Are there any questions?

Mr SHUTTLEWORTH: It may not be unravelled yet, but in terms of the administration of the blue card, are there any plans to review the extent to which the blue card must be applied? I am thinking about it from a school's point of view. I go to many P&C organisations and they continually express a level of exasperation that grandparents, for example, who may be chaperoning during a school excursion, are required to have blue cards and so forth. I am wondering if there is any review likely in terms of the people who must have a blue card within that sort of environment?

Mr Lupi: Certainly there is a review that will be undertaken once the smooth transition goes across. The scope of that review is unknown to me at this stage. I do not know.

Ms Lang: I think what we can say is that we will take the point on notice. We will certainly make sure that those who will be conducting the review are aware of the concerns that you have raised here today.

Mr SHUTTLEWORTH: Thank you.

Dr DOUGLAS: I have a question. That was an excellent presentation, and I congratulate you on it. It was very comprehensive. My question is about the process. It is about the issue of mandatory reporting. I am sure that is always a prickly and thorny topic. The problem about the extensive nature of the mandatory reporting that you have detailed is that at times it has a very permissive effect, in fact, somewhat a perverse effect on the outcome of what you are trying to achieve. It certainly happened most recently in some of the medical reporting, and that is what is indicated. This is where this will come into play. What safeguards have you got in there or what guidelines are you considering? I am not arguing about the policy; it is just the process of it. How are you thinking this is going to be implemented at the coalface to yield the benefits that you are thinking that it is going to achieve?

Mr Lupi: Thank you for the question. The bill provides the legislative framework to enable it. As you point out, the commission of inquiry recommended then that it be backed up by a substantial training and education program for mandatory reporters and broadly for the community about everyone's obligation to protect children from harm and report concerns. That will include reviews of policies of agencies where they have mandatory reportings, a refinement of their guidelines to be consistent. The bill itself does actually provide some guidance and better guidance than the

previous act in terms of allowing a notifier to work-through of a number of aspects. We will be working with other agencies to develop referral guides and a number of resources that will aid that decision-making process. We take your point that we do not want the unintended consequence that, in fact, it sets an overly permissive environment.

Dr DOUGLAS: Can I go one stage further? What it can do is it can artificially set a kind of, let's say, barrier or maybe a hurdle. In other words, below a certain threshold people just do not report because of what occurs. You would think the opposite should occur, but in fact that is what tends to occur in real life. The penalties then sort of force you to say, 'Am I reporting on my own people in some ways?' Do you see what I mean? It is all very well to talk about training and guidelines, but give me an idea of what you are intending. Give me a little bit more, because the devil is in the detail here when you are talking about mandatory reporting.

Mr Lupi: There are two things I would say. One of the things in the provision which you talk about is the work we will do under recommendation 4.5 that Carmody set about establishing a dual pathway. That is a mechanism by which we can assist notifiers—I prefer to call them first responders, rather than reporters—who become aware that a family needs assistance, to actually navigate that family with the right information to the support they need before it escalates. So there will be a pathway for some of those things that you might have described as being under that artificial barrier to be referred for assistance to those families. Secondly, for mandatory reporters—

CHAIR: Can I clarify? You were talking before about a particular situation that intensifies, so dealing with it in a preventive manner?

Mr Lupi: Correct. The second element, Dr Douglas, of your question was about the work with agencies. We have already trialled in a couple of parts of Queensland a child protection referrers guide. We developed that in partnership with police, Education and Training and Queensland Health, which goes to the core of some of the common assessment guides, tools and various frameworks that can assist a first responder to clarify whether the family needs help or an intervention. That is the differentiation.

Dr DOUGLAS: There was something in here about a no fault situation—and I went looking for it—where their intention is good but they may well have not done something comprehensively enough. I cannot find it again. I went looking for it. There is something in there about it. Are you alluding back to the fact that there is a capacity for people to be absolved of some kind of penalty if they do everything, that their intentions are honourable—good Samaritan type of stuff?

Ms Giles: I think you might be referring to some of the wording of the commission of inquiry's report, which were the points that you were talking about and the fact that we need to provide greater guidance to people—professionals in the community about what to report and when to report to child protection authorities.

Dr DOUGLAS: Yes.

Ms Giles: I think that might be the type of wording that you are referring to.

Dr DOUGLAS: Yes. Where is it?

CHAIR: Clause 6.

Mr SHORTEN: It is in proposed section 13D.

Dr DOUGLAS: It is proposed section 13D. It is on page 13 of the bill, protection from liability. Is that a good Samaritan clause? Is that what it is, or no, it is not?

Ms Giles: That is about if people report to child protection authorities then, because they have made that report, they are not liable criminally or civilly or for breach of their professional duties. So, for example, if they are operating in a professional environment where they have confidentiality requirements or, for doctors, where they need to act with the consent of their patients, reporting concerns to child protection authorities is exempt from those areas of liability so that people can report concerns that need to be reported to child protection authorities.

Dr DOUGLAS: How far does it extend? Does it extend beyond that? No?

Ms Giles: It extends to having conversations and thinking about your concerns and making decisions about what needs to be reported to child protection, making that report to child protection. Then it also extends to making a record of the fact that you have made a report to child protection authorities so that you can keep normal business records as a professional.

Dr DOUGLAS: Could you give me a rough idea in terms of percentages of, say, that in comparison to, say, once you get things rolling? What percentage of activity would that represent compared to, say, once things get rolling with investigations because the mandatory requirements are more onerous in the more detailed thing? Do you have any idea?

Ms Giles: I can only give you broad information about what the current statistics are. So at the moment, of the intakes that are received by Child Safety Services—and I think for the last 12 months we had somewhere in the vicinity of 120,000 individual reports made to child protection authorities. About 80 per cent of those are not considered as meeting the threshold for statutory intervention. That means they do not even require a child protection investigation.

Dr DOUGLAS: So they would be able to claim the good Samaritan clause—those people?

Ms Giles: Yes. All reports made to child protection authorities, yes.

Dr DOUGLAS: Thank you.

Mr KRAUSE: I have one question. Mr Lupi, you referred previously to some sort of trial or pilot about referral of matters that are under the threshold of family troubles, I suppose you might want to call them, to some sort of service provider to enable that to be dealt with before it reaches the threshold for a child safety intervention. Is there any indication at this stage of how that is progressing, or is it still early days?

Mr Lupi: It is still early days. The commission of inquiry actually did review the evidence of what has been the first stage of what we refer to as the Helping Out Families initiative in Queensland. It was an initiative that was designed to divert families to a helping service who were in need of a service without necessarily being in need of protection. We are still in the early stages of that evaluation, but the commission did find early promising signs. Certainly in Victoria, where they have been operating a system like that over the last 10 years, the commission of inquiry found substantial benefits from that. Hence, it has informed a number of recommendations he has made about further investment in early intervention and a better pathway to help families get to that support they need when they need it.

Mr KRAUSE: So presumably it would involve going out, speaking with and working with people like teachers, police officers and other people who would be likely to make reports; is that correct?

Mr Lupi: That is correct.

Mr KRAUSE: Thanks for clarifying that. I know that in my electorate there has been some discussion about that in trying to have people like teachers and other people in the community send people off for help before things reach a level of requiring intervention and enable problems to be dealt with at the pass. It would be interesting to see how that turns out. It is good to see that it has been implemented in this bill.

Mr Lupi: Thank you. Through the bill those people have exactly what you say. This allows them to make a referral of those families directly to one of those service providers if they believe that, without that help, the situation will escalate and the child may then become a child in need of protection. So it is exactly the cohort you talk about.

Mr KRAUSE: Would the service providers be providing services that we are already funding through communities, or is this a separate sort of line of funding which we would be looking at—a different type of service?

Mr Lupi: The bill does not specifically limit the service provider. It will define who the service providers are. In the main, they will be funded for targeted and specialised family support services, drug and alcohol counselling, mental health, domestic and family violence. They are the big ticket items in this business.

Mr KRAUSE: They are already there, aren't they?

Mr Lupi: Yes.

CHAIR: Thank you. This has been very enlightening. I encourage you in your work. This is pretty important to our community. I appreciate what you do. I understand the enormity of it, having come out of the not-for-profit sector myself and having worked in a very large, diverse organisation in a change management role. I understand what you are going through and I encourage you in that. As a committee we look forward to following your progress. So from time to time we might convene a hearing just to get progress reports, see how you are going and let the people of Queensland know that this work is actually going on. This is good stuff. The allocated time for the public briefing has expired. I thank you all. As I say, we as a committee encourage you. We thank you for what you do for our communities. I declare the briefing closed.

Committee adjourned at 3.57 pm