HEALTH AND COMMUNITY SERVICES COMMITTEE

Members present:

Mr TJ Ruthenberg MP (Chair)
Mrs JR Miller MP (Deputy 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 Sbeghen (Principal Research Officer)
Ms L Archinal (Principal Research Officer)
Ms K Dalladay (Principal Research Officer)

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

TRANSCRIPT OF PROCEEDINGS

TUESDAY, 29 APRIL 2014

Brisbane

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Committee met at 1.34 pm

JOHNSON, Mr Adam, Young Consultant, CREATE Foundation

CHAIR: Good afternoon and welcome. I am the chair of the Health and Community Services Committee. I declare this public hearing on the Public Guardian Bill 2014, the Family and Child Commission Bill 2014 and the Child Protection Reform Amendment Bill 2014 open. My name is Trevor Ruthenberg. I am the member for Kallangur and chair of the committee. Mrs Jo-Ann Miller, who is the member for Bundamba and deputy chair, will be here shortly. She is on her way but, as we have a quorum, we will continue. Ms Ros Bates, the member for Mudgeeraba; Dr Alex Douglas, the member for Gaven; Mr Jon Krause, the member for Beaudesert; and Mr Dale Shuttleworth, the member for Ferny Grove, are here with us and on the phone is Mr John Hathaway, the member for Townsville. John, if you would like to speak could you just sing out my name and we will call you in.

Mr HATHAWAY: No worries. Thank you.

CHAIR: We will hear today from witnesses from six organisations that made submissions on the child protection legislation. After that evidence, the departments responsible for administering the legislation will respond to issues raised by the witnesses.

The three bills were referred to the committee on 20 March and the committee is required to report to the parliament by 13 May 2014. Submissions accepted by the committee are published on the committee's inquiry web site. Witnesses are not required to give evidence under oath, but I remind witnesses that intentionally misleading the committee is a serious offence.

I remind those present that these proceedings are similar to parliament and are subject to the Legislative Assembly's standing rules and orders. Under the standing orders, members of the public may be admitted to or excluded from the hearing at the discretion of the committee. Mobile phones or other electronic devices should now be turned off or switched to silent. 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. The proceedings today are also being broadcast live on the parliamentary website.

I welcome Adam Johnson, a young consultant from the CREATE Foundation. Also with him at the table is Lucas Moore, the CREATE Foundation Co-ordinator. Mr Johnson, I invite you to make an opening statement after which we may ask you some questions.

Mr Johnson: Hi. My name is Adam Johnson. I am 18 and I was in care since the age of 11. I would like to acknowledge the members of the Health and Community Services Committee for taking the time to see me today.

If I had to explain what it is like to be in care in 25 words or less, I would say that it is like couch surfing at a random stranger's place while going about your everyday life. I felt like this because I lived in more than the average number of places branching over kinship care, foster care, residential care and the semi-independent living program. In some ways it was okay, because I learned a lot of valuable life skills in the way of social skills and the ability to deal with new situations due to always having to be the new kid. The downside to this is that, with shifting so much, you never get to really stick to anything like friends, sports, schools, social groups and it is especially hard to keep relationships with carers and other young people in care. In all of this I did manage to find two times when I fitted in and found myself thinking, 'I could really settle down here and live out the rest of my time in care' but in both placements the carer ended up retiring due to external matters out of their control.

I am a CREATE young consultant. CREATE is an organisation that was started in 1993 by a group of young people in care and their foster carer who wanted a strong, positive voice for children and young people in care. Since then, CREATE has gained over 10,000 members across Australia and over 2,100 of those members are from Queensland. My role as a young consultant is to share my opinions and experiences as someone who has lived in the care system in Queensland.

I have done quite a lot with CREATE in the relatively short time that I have been with the CREATE Foundation. Some of this includes training other young people in the out-of-care system about how the care system works, giving feedback to the department and other non-government organisations, helping to run training with child safety officers and foster carers and participating in meetings with the heads of departments. I have also helped run surveys and, of course, I have done some public speaking. In these events and many others I have had time to sit down and listen to the views and opinions of young people, carers and caseworkers alike. I am going to address two bills today about issues that are important to me and my understanding of what it is like to be a young person who has been in care. My views are a bit stronger and a bit more specific than what is in the general CREATE submission, but the general ideas are the same.

The first bill I want to talk about is the Public Guardian Bill. The Public Guardian Bill is certainly a hotly debated topic among the young consultants at CREATE. I think that community visitors are very important, because they are the only group of people who listen to young people in out-of-home care on an individual level. A number of young people are concerned that the reduction in the community visitor program will mean that children will be more vulnerable in the system. They feel that there will be no-one sticking up for them, that there will be no-one on their side.

Others like me think that the change will be a positive one, because I believe that not all young people need or want a community visitor. However, I was reading the bill and I felt that I could change it in order to make it better and more suitable for young people in care. The first is that every young person coming into care should have at least one visit from the community visitor—go and see the person, tell them who they are and make that more personal contact. This should be around the six-week mark of the young person coming into care so that the young person can get over the first initial shock. This should happen no matter what order the young person is on at the time of the initial visit. I also feel that the first initial contact should be part of the assessment process for determining whether further visits from the community visitor are needed. The benefits of this would be not only would you make the young person aware of the public guardian; you would also better spread the word about the new system.

Another benefit of a first initial visit would be that it could help to build trust in the system and in the public guardian in general. In my experience, young people are more likely to trust someone they have met than someone they have not. The risk of not having this first initial visit is that, if you do not have one, there will be a lot of children who will fall through the gaps and might not get the help they need. This is due to the fact that they will mostly likely not know about the community visitor program or the advocacy help in the first place and there is no legislative process for regularly examining which children and young people should be visited by the community visitor, especially in this transition from the old system to the new. Both children and young people might not be aware and\or trust the new system. The initial visit will help build a better connection. As it stands with the current legislation, there is a risk that for some children and young people they might feel that the community visitors have just disappeared. To those children and young people who rely on their support, it is going to be a nasty surprise.

My second idea for the Public Guardian Bill is that the legislation should specifically identify a period of every two to three years where decisions about young children and young people in care are visited and reviewed. I also believe that children and young people coming into care should not have this every two to three years but every year for the first two years. By doing this you will make sure that all young people in care are getting the help they need when they need it. Children in care tend to have more changing circumstances in their lives than most young people and my proposed changes would ensure that the public guardian is able to keep in the loop and step in at the right time and provide the help to the young people who need it. There are a large number of young people who would benefit from this new system. But without the legislation to say that the review be mandatory with a set time period of say, two to three years, we will be going from the current situation where most children and young people are visited to a new situation where children and young people will not be visited. As a result, there is a risk that the system will not pick up on important issues for children and young people, because they will not have an independent voice in the system.

If these are left unaddressed, there is a risk that they can cause significant negative impacts on the lives of children and young people in care. A basic example of this would be a shy young person currently having problems communicating with their carer. Twelve months down the track, the young person is then struggling at school. Feeling under intense pressure and feeling that they are not able to talk to anyone, the young person chooses to abscond from the placement and they are with friends. That is a less than ideal solution to the problem.

For me personally, during my time in care I did not always need a community visitor, but there were times when they helped a lot. When I wanted to go to Townsville to see my family but was not getting much response from our CSO, I spoke to my community visitor and it was done within a week. In situations like this the community visitors are important for standing up for the young people.

To sum up, the two changes that I feel will greatly improve the outcome and the success of the bill are ensuring that each child or young person who comes into care receives a face-to-face visit from a community visitor at the six-week mark and ensuring that there is a set review period for determining who is visited and who is not.

The second bill I would like to address is the Child Protection Reform Amendment Bill. One thing I think should change in the bill is that there should be a new clause in the legislation that makes it clear to the state that support to young people transitioning from care should be offered until they are 25 years of age. Why I think this should happen is that it not only makes it clearer to everyone—the young people, the youth workers and the caseworkers—in terms of where a young person stands and how much time they have left to do everything but also makes the process less rushed and as a result provides a better outcome for all parties.

Another short but sweet reason is that by the age of 25 it is extremely likely that the most immature and unresponsive children and young people in out-of-home care will have matured to the point where they could conduct themselves in a responsible manner. A few of the large number of benefits this would provide are: a better chance at higher education as a result of higher rates of children and young people in out-of-home care succeeding in life; and more equality and fairness for children and young people in care in terms of a normal childhood. A young person who is not in out-of-home care is not just dropped by their family at 18 as children and young people in out-of-home care are.

I also believe that it should be voluntary for children and young people to stay engaged in the program after they are 18. Although this would benefit a large number of young people there are some who will not need or want the support. Without legislation to extend support to 25 years there is a risk that the current number of children and young people in out-of-home care who do not succeed and end up homeless and/or in the justice system will continue to rise and young people who could succeed if they were supported beyond 18 will struggle or fail. Commissioner Carmody also showed that children and young people leaving out-of-home care at 18 often do not stay in education or get a job but by supporting young people to 25 may mean that they are able to go to TAFE or finish school or get a traineeship.

Some evidence from the US supports the idea of extending support to young people transitioning from care past 18. A longitudinal study involving 732 young people found that young people living in the states who were provided substantive support until the age of 21 were more likely to start a university degree compared to those in the states who ended substantive care at 18.

In conclusion, those are the changes I would like to make to the Public Guardian Bill and the Child Protection Reform Amendment Bill. I feel these changes would improve the system so that it would be better for children and young people in care. Thank you for taking the time to listen to me.

CHAIR: Adam, you are a young man with wisdom beyond your years. Thank you for coming here. It may seem a bit daunting, as I look over my glasses at you. It is really not that scary. The committee might have a few questions for you.

Mr SHUTTLEWORTH: Adam, you mentioned that you transitioned through a number of types of care placements. How many of those placements did you undertake yourself? How many of those were self-placements?

Mr Johnson: None. I moved around a lot as a kid due to my own actions, I guess you can say. I was not exactly the nicest kid. I smartened up around 16 and started to actually do something with my life. None of them were self-placements.

Mr SHUTTLEWORTH: How do you see some of the recommendations that you have outlined affecting someone who may undertake a self-placement? If someone within the system decided to self-place themselves—and generally that would be back into the environment that was problematic at the outset—how would you see the interactions then with the advocacy officers and the community visitors?

Mr Johnson: I guess if they self-placed themselves with their family or into a prior situation the community visitor might not be able to find them, talk to them or help them as much as they would like. The advocacy hubs would be the biggest thing there. In the initial visit you would

establish that these hubs exist and that those people are there to help. If things get bad they can think back to the advocacy hubs. They will be places they can go to to get back on track even though they are not in their normal placement. Does that answer your question?

Mr SHUTTLEWORTH: Yes, thank you.

Dr DOUGLAS: Adam, I think your statement is very good. It is interesting what you have said. I am a GP and also a politician. You said that you discovered at 16 that probably what had happened was not exactly what should have happened. Do you think that is common for a lot of people your age in those situations?

Mr Johnson: I have met a few people like that. It is usually a different age or different circumstances, but you get to the point where you realise that if you go any further downhill it is not going to work out for you. For some people it does happen but for some people it does not happen. It depends on the person.

Dr DOUGLAS: In retrospect do you think your own actions made the years that you spent in care more difficult?

Mr Johnson: I guess I had to step up a little bit and do a bit more than I was doing. In the years that I was not so well behaved I think I learnt a lot of valuable life lessons. It just took time for me to look back and realise how bad I really was and how I needed to smarten up. I did not realise the lessons until then. No, it did not make it that much harder.

Dr DOUGLAS: Would you say that it was possible that some of the placements that you had were somewhat less conducive to being happy places?

Mr Johnson: It might have been possible. Different young people fit into different areas. I got along with older carers or carers closer to my age. Those in the middle range I did not get along with so well. I do not know what it was.

Dr DOUGLAS: So some situations were better than others. What usually led to a breakdown of the relationship; what was the common theme?

Mr Johnson: I would act out. Now thinking back I think I was trying to test the boundaries. After being shifted off so much you have problems creating relationships with people.

Dr DOUGLAS: Do you think that at this stage now you have improved those things in your own life—

Mr Johnson: Yes.

Dr DOUGLAS: to the point where you have acquired those skills?

Mr Johnson: Yes, very much so.

Dr DOUGLAS: Do you think it was by virtue of what you did after this event or do you think in some ways you learned some of those skills along the way?

Mr Johnson: I learned some of those skills along the way. I just did not realise I had them until I actually started trying instead of giving up the first chance I got.

Dr DOUGLAS: Do you remember being happy for any extended period of time?

Mr Johnson: Yes. Amongst all the chaos I found two very good placements that I quite enjoyed. I do remember them.

Dr DOUGLAS: What led to a situation whereby those situations could not continue—either one or both?

Mr Johnson: In one case the carer retired. He was simply too old to be a carer anymore so the placement broke down. In the other case the carers just could not cope with all the different circumstances with the kids. I was there for a very long time, but there were other kids who rotated in and out. I guess they could not cope after a while so they decided to retire.

Dr DOUGLAS: Did you express to the visitor that you were very happy in those situations?

Mr Johnson: I did. In my younger years I avoided them. I said hello to them but did not really give them much information or use them to the fullest extent possible. There were times when I did. There was one in particular where I did express that.

Dr DOUGLAS: Is there an impediment on young people in those situations to be able to express this? Is it just because it is an age differential? Is there some kind of restriction that people feel when they are in care that they cannot say those things? Did you feel that?

Mr Johnson: No, I did not feel that with the community visitors. When I did choose to talk with them I was always pretty open. There was a level of trust required. It would usually be on the third or fourth visit or something that I would actually trust the person to talk to them.

Dr DOUGLAS: So it usually took two or three visits at least—

Mr Johnson: That was to get into the serious, in-depth things. I know of some young people I have lived with who would talk to them on the first visit because they realised the benefit it would have to them. I was not able to do that at the time.

CHAIR: You talked about a visit at the six week mark—an initial visit?

Mr Johnson: Yes.

CHAIR: And that really being a visit that would establish all sorts of things. It would be two ways, as I understood you. So it would really inform the person in care what external help was available to them as well as ensure they understand who they could contact if they needed to? Was that where you saw it?

Mr Johnson: Yes.

CHAIR: What was your actual experience?

Mr Johnson: To do with that?

CHAIR: When did you have an initial visit?

Mr Johnson: I do not actually remember my first community visitor meeting. It would have been when I first came into care at 11 or 12. I do not remember. A lot of placements I went to had the community visitor card on the fridge with a magnet.

CHAIR: So you had access to them if you needed them?

Mr Johnson: I always had access to the number.

CHAIR: Everyone is different. Some people are quite outgoing and some are fairly shy. How do you think someone who is fairly shy who is being cared for would deal with that? Even if they had that card on the fridge do you think they would be able to say, 'I need to call somebody'?

Mr Johnson: I am not quite sure. I said that it should be part of the process. If the community visitor feels that they did not get the full story then you would think that they would put that in their report and make that part of the process as to whether they should be judged—

CHAIR: I am going to go a little bit further. You then said that sometime after that—maybe every year, if I heard that right—

Mr Johnson: It was for the first two years every year so they know you are there and then two to three years after that. If they do not ask for the program or are not judged to need it within the first two years then chances are they are going to stabilise and not need them.

CHAIR: They would not need that much attention if they stabilise?

Mr Johnson: In my opinion, no.

CHAIR: I am going to go a little further than that. You talked about what I would term an opt-in process for those 18 years and older—those 18 to 25 years. If I heard you correctly what you were talking about was that this is a pretty volatile period so this would allow people to still have some level of care and have someone you can go to that you can trust as a mechanism to help you get through those years. How would you see that happening? Would you see that as continued visits from carers?

Mr Johnson: I would see it that you would have a carer and they would visit you maybe once a week. That would depend on the young person and whether they needed it.

CHAIR: Really a mentoring position?

Mr Johnson: Yes, something like that.

CHAIR: Thank you. I appreciate that.

Mr SHUTTLEWORTH: That is a lovely segue into what I was going to ask around mentoring. Do you have siblings, Adam?

Mr Johnson: Yes, I do.

Mr SHUTTLEWORTH: In placements, where do you think most of your strength and capacity to, I guess, endure the situation you are in comes from? Who provides mentoring and who provides the support to you, predominantly? These visits are quite well spaced out.

Mr Johnson: Yes.

Mr SHUTTLEWORTH: I think you mentioned previously that in one of your placements there were other children coming in and it might have been the overall stress of that environment which caused the carer to probably pull away from that. They have obviously got pressure. But you guys would have pressures, so who do you look to?

Mr Johnson: I found when you went into a new placement it was usually either the young person who has been there the longest who sort of guides the new people coming in.

Mr SHUTTLEWORTH: So in most of your placements you were always with other children?

Mr Johnson: Most of them. When I was not, it was usually like temporary care or it was, like, a new carer. It was sort of a learning experience. The carer would do it anyway. Usually when you come to a new placement, the carer would show you around the house and you would be really comfortable as it was. I found that the carer picked up the role if there were no other young people there.

Mr SHUTTLEWORTH: Everyone is different, but what do you think is the best environment for you and young people, in general, to get the support they need? You have been extracted from a situation, whatever that might be. Say you have been extracted from a family situation, for whatever reason. To go into another family situation, do you think to have younger children there is more positive than not having them there? And if you had siblings, do you think the placement should be focused on trying to obviously keep the siblings together?

Mr Johnson: Yes. I have siblings in care but I was never once placed with any of them, whereas I would have liked to have been. They are in care in New South Wales and I was in care in Queensland. I guess I would have liked to either move down there or them move up here. Where it is ideal, I believe that it would be good, but if there is too much of a change I believe it would be a big thing. They would have to sort it out, go about a slow process for it.

Mr SHUTTLEWORTH: Do you think the influence, if someone was in a care environment, so not a sibling but another child was in care, and they were perhaps less settled, let us say—

Mr Johnson: If there is younger people in there, I guess after you move in you get that protective bond. You form bonds with younger people easier than you do with older. I guess it is more cohesive.

Mr SHUTTLEWORTH: Who would influence more, do you think? Do you think a peer or another young person in that care environment? If that other young person was still somewhat unsettled, do you think they would influence the others?

Mr Johnson: Yes, it does.

Mr SHUTTLEWORTH: So the bad piece of fruit type scenario?

Mr Johnson: It depends on the young person, but more likely than not, yes, it does.

CHAIR: Thank you. Mr Johnson, thank you. We sure appreciate your courage to come and sit here and talk to us. We thank you for your openness.

I call Mr Lindsay Wegener, Executive Director of PeakCare.

WEGENER, Mr Lindsay, Executive Director, PeakCare

CHAIR: Welcome, Mr Wegener. I invite you to make an opening statement.

Mr Wegener: Thank you. My name is Lindsay Wegener. I am the Executive Director of PeakCare Queensland, a peak body for child protection services in Queensland. Thank you for the opportunity to address this committee on the three bills currently before parliament. It is appreciated that these bills represent the first stage in enabling reforms recommended by the recently concluded Queensland Child Protection Commission of Inquiry to be commenced, with a more comprehensive review of the Child Protection Act 1999 to follow in due course. I will make a brief opening statement and focus predominantly on adding to or expanding upon matters already addressed within PeakCare's submissions that separately address each of the three bills.

As highlighted by the findings of the Child Protection Commission of Inquiry and the range of matters addressed within the three bills, the child protection system is indeed complex. It incorporates statutory and nonstatutory interventions in the lives of children and families undertaken by government agencies and a range of interventions, services and programs delivered by non-government organisations for children and young people who have experienced or are at risk of abuse and neglect, and their families. It is also a system that is impacted by the policy directions, priorities and functioning of other systems with which children and families may be involved, including those that provide health services, education, housing, childcare, income support and a range of other services accessed by most families at some time, as well as other services that are more targeted and specialised in responding to families who are experiencing difficulties with, for example, alcohol and drug use, homelessness, mental health concerns, domestic and family violence and encounters with the adult or youth criminal justice systems.

While appreciating that a more comprehensive review of the Child Protection Act 1999 is planned, in keeping with recommendations made by the inquiry PeakCare nevertheless regards the three bills as representing a major step towards the implementation of revised child protection policies and directions that will address in particular the legislative basis for the establishment of major entities, structures and processes for bringing to fruition some of the recommendations made by the inquiry. While highly supportive of reform, PeakCare's major caution, in light of the system's complexity, is to ensure that the intent of the reform is fully realised and to guard against looking for legislated solutions that may inadvertently become a problem.

PeakCare contends that a reformed child protection system must be well grounded in a clearly stated philosophy, well-grounded conceptually and reflect sound principles that are shared across sectors and systems. We query whether this has yet been achieved as well as it could be by the bills. For example, a concern noted in our submission about the Child Protection Reform Amendment Bill addresses the notion of statutory intervention occurring as a last resort because parents have failed in caring for and protecting their children. Whilst fully appreciating that the intention is to divert children and families from unwarranted tertiary intervention, PeakCare is concerned that this not be done at the cost of a child being denied a statutory response when in fact statutory intervention is what is needed. PeakCare prefers that system reforms are based clearly and unequivocally on the notion that children and families are able to receive the right service at the right time for the time that it is needed and from the right service provider. For most families, this means ensuring that they have access to universally provided services as well as targeted secondary services if and when needed. For some families, however, there will remain a need for statutory intervention at times.

The problem highlighted by the inquiry's findings was that statutory intervention was often the only option available to many children and families due to the absence of services available to provide a suitable secondary response. Additionally, as highlighted by the inquiry's findings, the difficulty presented by the notion of statutory intervention being undertaken as a last resort concerns its potential to reinforce the dynamic of children and families failing into the tertiary end of the system and once having entered being unable to exit. In preference to the notion of last resort that implies that statutory intervention should be withheld or deferred until all else has failed, PeakCare's understanding of the inquiry's findings is that, through the application of proper and robust assessment processes, the level of intrusiveness entailed in providing a service to a child and their family is matched to and commensurate with the changing level and nature of their needs. This is, in essence, the challenge to be met in reforming a child protection system.

CHAIR: Thank you, Mr Wegener. I open it up to committee members? Mr Shuttleworth?

Mr SHUTTLEWORTH: Not just yet. I have to formulate my question.

CHAIR: Mr Wegener, let me start: I am looking at your submission to the committee and on page 3, 'Identifying a 'vulnerable' child or young person'. The opening statement reads–

PeakCare supports a less intrusive and more advocacy-focussed community visitor program for children.

Can you expand on that? I know you have a fair bit in your submission on that, but can you expand on that a little bit for us, please?

Mr Wegener: Certainly. I would like to refer to the previous speaker's comments and look back at the history of the community visitor program and what my wishes would be for a child in care. That is that they leave the care system with a relationship with an adult whom they can trust. In many ways the community visitors stepped in to, over time, take up a role that the child protection system was not delivering very well. In many ways, community visitors took up the role that should be performed by child safety officers or foster-carers or members of a child's family or members of the public. In many ways, they started to form the relationship with a child, which was not really the intention of that role. Certainly, my hope would be that any child leaves with a relationship with an adult whom they can trust that does not necessarily mean a community visitor. The advantage of a community visitor role is that they facilitate that and assist children to obtain that from the system and ensure that children are able to have confidence in and can trust the system that is built around providing for their long-term care. That is my first point.

In some ways, the community visitor role, with all due respect given to the community visitors because they stepped in and took up a role that was never really intended for them, that by stepping into that role really they signified the importance of the role and the importance of enabling children to form those kinds of trusting relationships with adults. In saying that, I think there is room now to relook at the system, retarget what community visitors do and ensure that the rest of the system is able to meet those needs of children and young people. Certainly there are some groups of children who we do not think a community visitor is really the right person to be visiting. Some of the examples we gave within our submission are children who are under guardianship orders to a thirty party. Presumably in the guardianship being held by the third party, whether that be a relative or other person, the court and the system has confidence that those people are able to exercise the caring responsibilities that that child requires to be exercised. Similarly, children who are placed with parental consent under a care agreement have a guardian. They do not need the Public Guardian. Their parent is the guardian. There are groups of children like that who we think the bill does not sufficiently recognise as groups of children who are not needing to have a community visitor visiting them regularly.

Having said that, we also think the bill leaves too open the list of criteria for the Public Guardian to determine which children should be visited. In many ways deciding who should be visited needs to cater for two major factors. One is that there are some children who, due to personal characteristics, have characteristics that make them quite vulnerable, whether that be because they are a newborn infant or they have a disability or some kind of impairment that innately makes them vulnerable. That compares to other reasons that are not anything to do with the child; they are to do with the system's operations and the decisions and what is occurring around that child. Not that child in particular, but any child will be made vulnerable if they are experiencing those circumstances. The priority setting for children in care and who should be visited really needs to take care of both factors and the intersection of those factors. We do not think the bill does enough analysis about what they are. Whilst it lists and acknowledges that they are not exhaustive factors that the Public Guardian should consider, there is a lot more evidence available to us and research that we are aware of that makes particular children vulnerable under particular circumstances, and that is the times and the group that we should be concentrating on. They are the ones who need to have the safeguards put in place for them.

CHAIR: Following on from that, the bill maintains a fairly high level on this.

Mr Wegener: Yes.

CHAIR: I do not think it is intended to be specific. In fact, I think it identifies that.

Mr Wegener: I certainly acknowledge that. It is not an exhaustive list. But in giving some examples, we think there could be better examples given and that there should be some onus placed on the Public Guardian to look at evidence based research in informing the Public Guardian's decisions about who should be visited and when.

CHAIR: Is that detail not able to be determined inside some of the detail that will come inside regulations, for example?

Mr Wegener: Certainly. That is possible. I think the reason that we raise it as a concern is that it is currently within the bill, some examples, and the risk is that those are the examples that the Public Guardian will refer to and we think that they are not the best list. We think there are other factors that could be better.

CHAIR: Your concern is more that that would become a default guide.

Mr Wegener: Yes.

CHAIR: Rather than examples to be used.

Mr Wegener: Yes, exactly.

CHAIR: I appreciate that.

Mr SHUTTLEWORTH: Mr Wegener, you referenced the previous speaker about that establishment of trust in that individual.

Mr Wegener: Yes.

Mr SHUTTLEWORTH: I think I have either misinterpreted it or I have read too much into it where you said that previously the visiting officers sort of filled a breach so to speak because of the lack of provision from the department. Do you see going forward though that that community visiting officer is the person who the young person would look to to establish that trust or do you see that being the child advocate? I would think they are different roles.

Mr Wegener: I certainly think that they should have a relationship that is trustworthy but if we are looking at the long-term future of children in care they will one day leave care and I would like to see them leaving care with known trusted adults who they can have an ongoing relationship with, whether that be people that they have been living with, the foster carer, or preferably that it be with members of their own family with whom they are reunified or other relationships. The system in many ways is looking at what exists in children's natural relationships and we should be facilitating and encouraging the repair of that. Children, if they are coming into care, have been harmed or placed at significant risk of harm. Their relationship with adults is already one that is skewed towards—it wouldn't be sane of children in care to trust adults. Adults have hurt them and let them down. There is a lot of skilled work that needs to be undertaken to recover from that, to heal from that and to be placed in a position of assuming or developing a capacity to learn to trust again.

Mr SHUTTLEWORTH: But the community visitor, am I misreading that, I thought their role was more to establish the level of risk or potential harm within the environment, not necessarily to be that conduit between the young person and an adult whom they can trust.

Mr Wegener: You are exactly right. In doing that though the young person would need to know if I tell this person something I can trust them with this information I am giving them. Their experience of adults and people in authority is that they do not do that: adults let you down. Certainly people have raised in their submissions the kind of skill and qualification that should be held by a community visitor that is specific to the community visitors of children as opposed to adults because it is about establishing a relationship with them that they can trust in to be able to report their concerns to them, and that takes a lot of skill and particular sets of skills.

CHAIR: Dr Douglas, would you like to ask anything?

Dr DOUGLAS: No, not at the moment. It was a great presentation and I liked your submission. If I do have a question—would you mind?

CHAIR: Sure. Go ahead.

Dr DOUGLAS: On page 2 of the initial presentation from PeakCare in the fourth paragraph you state—

> Despite openness on the part of government officials to brief PeakCare and others about the thinking behind proposed responses to the Inquiry recommendations, we feel that much of the discussion about how best to progress aspects of responses to recommendations has occurred in the absence of significant input from non-government child protection stakeholders. We are therefore of the view that some of the positions proposed in the Bill warrant further consideration

I am hearing all the things you have said. Is it possible that by altering the process we are not really going to get a different outcome, we are just going to have another way of getting to the same place?

Mr Wegener: Certainly in my original statement I think the challenge set up by the Carmody inquiry was to significantly alter organisational culture and way of thinking about how the child protection system operates and that unless we bring that change of thinking into how the system operates it will not change; that we can simply tinker with the system and alter threshold points and

we will have responses that channel people in or out of services but unless we actually shift the thinking in how those families are responded to then we will have just a system that has tinkered with it rather than significantly reformed the dynamics of the system. Certainly Commissioner Carmody talked a lot about a system that was risk averse. He talked about the kind of culture that developed from being a risk averse system. Unless we address that, unless we address the cultural shifts and understandings of the community about what children and families need, unless we operate and attack that kind of risk aversion and a system that is often driven by media reactions it is not going to change. We will tinker with it but not significantly alter it. I think certainly the inquiry gave us a massive opportunity to now significantly alter the system and all the culture and the thinking that underpins that system and we should not neglect this opportunity.

Dr DOUGLAS: Do you think we are—to some extent?

Mr Wegener: Hopefully not. I think there are some parts of the bills that have not quite got it right and that through some further discussion we can go a bit further to make sure we have got it right. And we must get it right. This is the third inquiry in 15 years in Queensland. Every state is struggling with getting right, so it is not an easy task to do, but I think it goes so far, we need to go the rest of the way.

CHAIR: For the purposes of Hansard, I welcome the member for Bundamba. We understand you were held up, but I am glad you are here. Any further questions for Mr Wegener? If not, thank you for your submissions, thank you for the time taken to put them in and thank you for your time here today. Slightly in front of time I welcome Ms Ekanayake.

EKANAYAKE, Ms Jennifer, Director of Family Law, Aboriginal and Torres Strait Islander Legal Service

CHAIR: I invite you to make an opening statement.

Ms Ekanayake: Thank you for this opportunity to speak. I will just do a brief introduction and simply cover the concerns that were raised in our submission. ATSILS provides legal services to Aboriginal and Torres Strait Islander peoples throughout Queensland in the areas of criminal, civil and family law matters. This includes assistance with child protection matters to which we aim to give priority at all times. ATSILS has a special interest in these proceedings given the overrepresentation of Aboriginal and Torres Strait Islander children in the child protection system. Although they make up only 6.5 per cent of children in Queensland, close to 40 per cent of Aboriginal and Torres Strait Islander children are in out-of-home care. The majority of Aboriginal and Torres Strait Islander children are removed from their families due to neglect. Neglect is hard to define, but it is strongly associated with disadvantage and poverty.

The Queensland government's response to the child protection commission of inquiry final report sets out acceptance of the various recommendations made and stages of implementation. Although the response indicates completion by early 2014 for recommendations—I am going to give the numbers as they appear—13.4, 13.13, 13.14, 13.19, 13.21, 13.23, 13.25 and 13.28, the current bill does not appear to implement these particular recommendations. In that regard a timeline of expected changes will be of assistance and we have a particular interest in encouraging the expedient implementation of recommendations 13.13, 13.14, 13.19, 13.21, 13.25 and 13.28.

I will make some comments in relation to the three bills. In the Child Protection Act, clause 6 makes various amendments to section 13. We would ask the committee to consider two particular aspects: section 13F, the mandatory reporting requirement, does not appear to apply to foster or kin carers. This is of concern as the potential risk of harm or abuse whilst in the care of a foster or kin carer is not addressed. Perhaps the most obvious example would be if a child was being abused by a close relative of a foster or kin carer. As regards 13G(3), we see the current reading of it as being amenable to manipulation, for example seeking exemption by merely claiming a belief that the chief executive is already aware of the matter. At the very least we would recommend the words 'or reasonably supposes' be omitted.

Going on to clause 7, the Queensland Child Protection Commission of Inquiry recommendation 4.8 proposed that the Department of Communities, Child Safety and Disability Services in its review of the act consider amending section 14(1) to remove the reference to investigation and to replace it with risk assessment and harm substantiation. We note that the government accepted this recommendation to be introduced in early 2014. ATSILS' concern is that the purpose of amending section 14(1)(a) was to have a definition which focused on managing risk. In our view the amendment as it appears in the bill is open to being interpreted as whether an alleged harm can be substantiated as opposed to managing risk.

Moving on to the Family and Child Commission Bill, clause 9 sets out the functions of the Family and Child Commission and makes reference to oversight of the child protection system at section 9(1)(a). Section 23(1)(b) provides the commissioners must, in performance of their functions, ensure the interests of Aboriginal and Torres Strait Islander people are adequately and appropriately represented. The commission of inquiry recommended the establishment of the Family and Child Council to, amongst other things, 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*. We note there is no onus under the national framework for states to provide any reports on compliance with child placement principles. This is particularly concerning given the Family and Child Commission will only be required to review its functions and performances as soon as practicable after the end of five years—far too long in our view. The bill does not appear to grant the commissioners the auditing and reporting functions of the existing Commission for Children and Young People and Child Guardian set out at sections 17 and 18 of that act. ATSILS additionally has a specific interest in the timely audit and dissemination of statistical information in relation to compliance with the child placement principle at section 83 of the Child Protection Act and cultural support planning for children in out-of-home care to maintain their connections with family and culture. According to child safety reports, around 52 per cent of Aboriginal and Torres Strait Islander children in out-of-home care in Queensland are placed with either kin or an Aboriginal and Torres Strait Islander carer or residential care service. The remaining 47 per cent are placed with foster carers. It is important to maintain connections with family, community and culture for each of these children. It is well researched and accepted that a strong cultural identity is a protective factor contributing to a child's resilience.

Moving on to the Public Guardian Bill, we note that the provisions relating to relevant children in chapter 4 of the Public Guardian Bill do not take into account that Aboriginal and Torres Strait Islander children are overrepresented in the child protection system. For example, clause 109 sets out the eligibility criteria for community visitors including that they reflect the social and cultural diversity of the general community. It is ATSILS position that special provision must be made for the appointment of Aboriginal and Torres Strait Islander staff to community visitor and child advocate roles to provide services to the high numbers of Aboriginal and Torres Strait Islander children in care.

Chapter 4 of the bill makes provision for regular visits to visitable sites. This is, however, limited by further provision that the Public Guardian may decide the regularity and frequency of such visits. It is our view that regular visits are essential, especially for young people who are unable to articulate their concerns or wishes.

Finally, in relation to clause 11 and the appointment of child protection commissioners, ATSILS proposes that there be cultural input from organisations such as ours into the appointment of commissioners. Thank you.

CHAIR: Thank you. I will open it up to questions from committee members.

Mr SHUTTLEWORTH: Thank you for your presentation. You raise concern around clause 7 of the bill in terms of the adjustments that have been made to assess the risk of harm and substantiation of that harm. You indicated that your organisation's concern was that we appeared to interpret that as whether the alleged harm can be substantiated as opposed to managing the risk. The second part of that insertion says we will 'assess the child's protective needs'. I would view that as being that they would look at the environment that exists and, having made that assessment, if there is a gap they would obviously need to address that gap. I am just wondering why your organisation thinks that that is not addressed fully.

Ms Ekanayake: Perhaps more clarity is needed there. There appears to be more focus on the substantiation part of it rather than on the risk assessment and harm substantiation area.

CHAIR: Dr Douglas, do you have any questions?

Dr DOUGLAS: No.

CHAIR: Member for Bundamba?

Mrs MILLER: Part 4 of the Public Guardian Bill makes provision for the appointment of community visitors. Section 108 is the eligibility criteria. There is no specific provision for Aboriginal and Torres Strait Islander community visitors. Given the overrepresentation of ATSI children in the child protection system, would you consider it preferable that at least some of the community visitors were designated ATSI staff?

Ms Ekanayake: Precisely. That is what we are saying. This is our submission—that there be allocated a certain number of Aboriginal and Torres Strait Islander staff to provide services.

Mrs MILLER: And what would the proportion of those staff be?

Ms Ekanayake: Up to 40 per cent of children in care are Aboriginal and Torres Strait Islanders.

Mrs MILLER: Do you believe 40 per cent of the staff—

Ms Ekanayake: I would not be giving numbers, but I would be saying to take into consideration the numbers that are in care when allocating staff.

Mrs MILLER: I also have another question. The Youth Advocacy Centre have spoken about their concern that there are no specific qualifications for advocates in different capacities and that the act envisages one person undertaking legal advocacy as well as youth welfare and social work functions. Do you envisage any problems with this?

Ms Ekanayake: I would see some difficulty. The legal capacity is a totally different role to the capacity of making submissions on behalf of a child. It is a bit unclear what was envisaged in the drafting of this section when it was put together. A legal role would be, for example, if the matter is before the court, a direct representative of a child or a separate child representative in child protection matters or an independent child lawyer in family law matters. I do not know how the Adult Guardian or the child representative of the Adult Guardian would fit into that sort of role unless they are legally qualified and they were able to provide legal representation in ongoing matters before a court as well. It is not quite clear what the advocate is expected to do. Perhaps that question will be answered by the departmental officers. That would make it clear to us as well.

CHAIR: Mr Hathaway, do you have any questions?

Mr HATHAWAY: No. I am good thanks, Chair.

CHAIR: There being no further questions, thank you for your submission and thank you for your time here today.

Ms Ekanayake: Thank you.

CHAIR: We are running well ahead of time. I am hoping that the folks from the Queensland Catholic Education Commission and Independent Schools Queensland are here. If you are, would you please come forward. I am looking for Mr Peter Hill, Mr Mike Wilkinson, Ms Alison Jeffries, Mr David Robertson and Ms Helen Coyer. Ladies and gentlemen, we might take a 10-minute break to give the folks from Independent Schools Queensland an opportunity to be here.

Proceedings suspended from 2.40 pm to 2.50 pm

COYER, Ms Helen, Deputy Executive Director and Director Operations, Independent Schools Queensland

HILL, Mr Peter, Chair, Student Protection Subcommittee, Queensland Catholic Education Commission.

JEFFRIES, Ms Alison, Member, Student Protection Subcommittee, Queensland Catholic Education Commission

ROBERTSON, Mr David, Executive Director, Independent Schools Queensland

WILKINSON, Mr Mike, Secretary, Student Protection Subcommittee, Queensland Catholic Education Commission

CHAIR: I call the meeting back to order and remind everyone that these proceedings are similar to parliament and are subject to the Legislative Assembly's standing rules and orders. Under the standing orders, members of the public may be admitted or excluded from the hearing at the discretion of the committee. Mobile phones and electronic devices should now be turned off or switched to silent. 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. The proceedings are also being broadcast live on the parliamentary website.

I welcome the representatives from the Queensland Catholic Education Commission and the representatives from Independent Schools Queensland. Mr Hill, would you like to make an opening statement? We will then hear from Independent Schools Queensland and then we will ask some questions.

Mr Hill: QCEC very much values the opportunity for its representatives to appear before the Health and Community Services Committee today. All representatives at this table have been principals and teachers in Catholic schools and have had firsthand experience in identifying and reporting harm to students, and are all currently working with systems of Catholic schools.

The Queensland Catholic Education Commission is the peak body at state level for 20 Catholic school employing authorities. This year 143,000, or almost one in five Queensland students—that is 20 per cent—are educated in one of 296 Catholic schools that employ approximately 17,000 staff. QCEC regards harm to children as indefensible and contrary to everything that the Catholic Church and its schools stand for. The concerns expressed in our written submission do not question the need for rigorous legislation in the area of child protection but seek to address a range of practical issues which have the potential to produce some unintended consequences should the Child Protection Reform Amendment Bill 2014 in its current form be enacted.

Catholic schools, like all non-government schools in Queensland, are subject to the stringent requirements of the Education (General Provisions) Act 2006, the Education (Accreditation of Non-State Schools) Act 2001 and the Education (Accreditation of Non-State Schools) Regulation 2001 to have processes in place to ensure that harm to students, including sexual abuse by any person and the likelihood of sexual abuse occurring, is reported to police and the Department of Communities, Child Safety and Disability Services.

QCEC believes that the proposed changes to the legislation contained in the amendment bill do not sufficiently meet the government's policy objective to consolidate all mandatory reporting requirements into the Child Protection Act and, as such, is unlikely to reduce the rate of reporting to the department. In our written submission to the committee, QCEC listed eight areas of concern which are set out on pages 1 and 2 of our submission.

Today we would like to highlight four particular issues which are of major concern. Firstly and importantly, teachers should not be put in a position where they are required to assess whether the child may not have a parent able and willing to protect the child from harm. Such a critical assessment is the role of experts from the department. Teachers should report their concerns to the Department of Communities, Child Safety and Disability Services but not assess the parents' capacity. Teachers are not equipped to assess parents in this way, nor is it appropriate for parents to be subjected to this type of assessment by teachers. In the course of seeking information to inform an assessment, a teacher could inadvertently compromise a prospective investigation by the department. The assessment of a parent to be able and willing to protect the child from harm must be made by an expert.

The second point we would like to make today is that the draft bill at clause 25 does not propose to extend the protection of confidentiality afforded to notifiers of harm in section 186(1) of the Child Protection Act to include teachers. It is our firm view that teachers should be afforded the same level of confidentiality as an authorised officer, be that a police officer or a nurse.

Our third point that we would like to shine a light on today is that under current legislation staff members, which include teachers, firstly must make a report to the Queensland Police Service immediately for any instance of likely or actual sexual abuse, as is reflected in section 366 and 366A of the Education (General Provisions) Act and, secondly, must have a process for reporting a reasonable suspicion of harm to the relevant state authority—namely, the department of police—under regulation 10 of the Education (Accreditation of Non-State Schools) Regulation. It is immaterial how that harm was caused. However, the amendment bill does not recognise these existing responsibilities and the duality of reporting that will result for teachers in the non-government school sector. Appropriate amendment to the legislation must be considered.

A fourth matter which is of vital importance to the implementation and effectiveness of the legislation relates to training. Recent experience has shown that legislation of itself will not ensure the safety and wellbeing of children and young people. Training of notifiers such as teachers will be essential for the success of legislation once it is enacted. It is noted that Commissioner Carmody regarded the department as the lead agency in the matter of training. We consider it vital that the department is adequately resourced for this task and that it collaborates closely with all agencies responsible for implementing the legislation. This will be particularly important for the education sector.

In summary, firstly, while we accept that teachers will be notifiers under the amendment bill, we are seeking the removal from the bill of any reference to teachers being put in a position where they are required to assess whether or not a parent is willing and able to act protectively of their children. Secondly, to remove doubt regarding the responsibilities for teachers we seek a coherent system for reporting sexual abuse, likely sexual abuse and suspicions of harm which includes physical, psychological, emotional abuse or neglect, or self-harm which is readily understood and implementable by teachers and other school staff. Thirdly, teachers should have the same confidentiality and protection as other notifiers and, finally, provisions for appropriate training are essential. With that, we would welcome any questions from the chair or committee members.

CHAIR: Thank you, Mr Hill. Mr Robertson, would you like to make an opening statement?

Thank you, Mr Chair. I thank the committee for the opportunity to be involved in this hearing today. Independent Schools Queensland is the peak representative body for the independent schooling sector in Queensland. Our membership comprises 190 independent schools operating on some 200 campuses. These schools are educating over 115,000 students this year or approximately 15 per cent of all Queensland students.

Child protection is of critical interest and concern to all who govern and manage independent schools. Schools must be safe places where children can learn and grow, and where they are supported by systems and staff. In this context, ISQ supports any changes designed to improve child protection. I am sure committee members are aware that independent schools are autonomous schools governed at the local level. Each school's governing body is responsible under the Education (Accreditation of Non-State Schools) Act for ensuring that their school meets the accreditation criteria which includes a requirement to have processes about student welfare.

As well, as has already been pointed out, under the Education (General Provisions) Act, each school's governing body is responsible to ensure that school staff members report incidents of sexual abuse or likely sexual abuse through the principal or through the governing body to the police if they become aware of the abuse in the course of their employment at the school. So independent schools' staff members already have an obligation through legislation and through school policy to report harm including physical, psychological, emotional, neglect, abuse, sexual abuse or exploitation and to report sexual abuse or likely sexual abuse.

ISQ understands that these reporting requirements will continue to exist alongside the requirements proposed in the Child Protection Reform Amendment Bill 2014. As detailed in our submission to the committee, these three pieces of legislation—that is, the general provisions act, the accreditation act and the Child Protection Act—may require school staff to report the same incidents of harm to multiple agencies in order to fulfil all of the legislative requirements. ISQ hopes that the committee might consider that, in order to ensure clarity of reporting agencies, processes and requirements, there be consistency of reporting requirements and of the penalties for non-reporting for school staff.

ISQ would also request the committee give further consideration to the introduction of the parent test in the Child Protection Reform Amendment Bill. The inclusion of this test along with the more restricted definition of types of harm and the introduction of the word 'significant' into the definition of harm potentially brings a great deal of uncertainty into the requirement to mandatorily report harm and may mean that children in need of protection are not reported to authorities due to the subjective nature of the definitional test.

Finally, ISQ member schools have expressed a concern that the proposed reporting processes under the Child Protection Reform Amendment Bill do not require the teacher to include the school principal or governing board in the reporting process. I thank the committee for this opportunity to make this statement and would be happy to take any questions.

CHAIR: Thank you, all. Is there anyone else at the table who wants to make a statement? No? We will open it up to questioning from the committee.

Dr DOUGLAS: This is in no particular order, but I will go to David. I really like the parent test. I am a GP and I know that everyone has their own perspective from which they look at things, but I particularly like that and I do agree with you. Is there some way of doing it in a way that is non-controversial? Have you thought through exactly how you would frame that up?

Mr Robertson: The first thing I would say is that, under the current legislation under which the independent schools have to operate, there is no parent test.

Dr DOUGLAS: That is right.

Mr Robertson: It is black and white; they report. Under this new provision coming in, there is a parent test. Whilst I probably do not have the solution or a resolution of that, we just want to draw to the committee's attention to the potential for some confusion or subjectivity around what teachers have to deal with in reporting. To me it would seem to be of benefit of the overall system that we should at least have consistency across all of the legislation.

CHAIR: Mr Hill, would you like to comment on that?

Mr Hill: Just in relation to the committee's questions, we are of a firm view that teachers' main role is in relation to teaching and learning and the pedagogical practices that are involved in that process and the relationships with their students. We do not believe that they have the appropriate expertise to be making that particular assessment of a parent who is willing and able to act protectively. We believe that to be the role and function of someone with a greater expertise than a classroom teacher.

Ms BATES: Following on from that, I have seen it increasingly in the health sphere, particularly in the role of nurses, that that has escalated so that they have to deal with issues that are not in their specialty area, and the same obviously goes for teachers. So I do understand where you are coming from in that area, particularly where it is including reporting or assessing levels of potential abuse that they may not even be aware of. They would only be aware of what they see in the hospital or, in the case of teachers, what they see in the schools. It was really just a follow-on from that; I appreciate that the roles of teachers and nurses have gone in all sorts of directions over the years that they probably should not have and that there are people who are more adept at dealing with those issues. In regard to anonymity, I think anonymity when reporting suspected child abuse should be afforded to everyone.

CHAIR: I will take that as a comment. Dr Douglas?

Dr DOUGLAS: Can I go back to it then? Maybe I phrased the question incorrectly. I have to look at it in the way that I have to conduct what I am doing, maybe as a doctor. I have to make decisions about people and situations and groups of people coming towards me, and I have to report that in an orderly way. There is an evolution of that process of maybe involving other people and how you might report it. Are you saying that you think that teachers, by virtue of their current training, are unable to report some sort of assessment about what information they have gained from parents of specific children? Are you saying that they cannot do that?

Mr Robertson: I will defend teachers. I am not saying that they cannot do it. What we are saying is that for several years now it has been black and white for teachers as to what they have to report and when. This is another overlay. Whilst we understand the intent of this particular amendment, we need to make it very clear that this is going to be confusing for teachers. Do they report under the existing accreditation act and the GP act, or do they refer to the Child Protection Act? I think, as you would all be aware, each individual will have particular skills about how they interpret and make decisions about the parent test. Again, that potentially is an area of inconsistency because it is a somewhat subjective judgement.

Dr DOUGLAS: I think that—

CHAIR: Can I get Mr Hill to answer that as well please, Dr Douglas?

Mr Hill: I might make some introductory comments and my colleagues are gesturing that they will also. I can concur with the comments from my colleagues from Independent Schools Queensland insofar as it becomes more confusing if the objective of this legislation is to minimise reporting; I think it is going to maximise reporting and they are going to have teachers and individuals hypervigilant, hyperanxious and overreporting in my opinion.

In addition to that, the assessment is about a parent who is able and willing to act protectively. There may be some information that may only be available to certain people in the school or may not be available to a particular teacher in a school. The example that we have used in a submission is in relation to family formation. Because of the protections that may be involved in that family, we may actually have a situation where we have two parents and, due to family law restrictions, one may be willing to act protectively but not able. That information may not be available to that teacher and, therefore, they may not be in a position to make that determination. My colleagues may also like to make a response.

Ms Jeffries: I guess I would like to make a comment around our appreciation of the level of sophistication of the determination about what willingness and ableness might constitute and in terms of some of the things that teachers would have to consider; they would be extensive. It could be around the parenting patterns themselves and how that parent is able to operate within that family, the degree of harm and where that has been caused. It could have to do with any history that may be known or unknown about the parents and previous issues around abuse, which might not be known, issues in relation to the relationship with the student themselves and that parent and whether or not that will contribute to it, or concerns about parental behaviour themselves. Would we necessarily know whether there was alcohol or substance abuse, mental health issues, intellectual impairment, a medical condition or any other—something that is private and personal to a parent that would not be part of the information that we would gather as teachers in looking after our students. That is beyond our capacity as teachers to make a determination about ableness in that context. Whether or not there is domestic violence, often that is a hidden thing that could contribute to willingness and ableness. There is also parental protective factors themselves in terms of if there is a very confronting situation, whether that parent is able to exercise care and concern for themselves and then extend that to the child. It is such a complex area. For a teacher to manage that to a level that would provide enough expert care to know whether or not we are protecting a child ably is probably in a practical sense more than a teacher could achieve on the day of a notification and manage along with all of their teaching responsibilities. Putting the notification through is manageable; making that extensive assessment could compromise a child's state of safety.

Mr Wilkinson: I look at it from the other point of view, from the point of view of the parent. I am a parent and a grandparent. To be quite honest, personally, if I thought that teachers were assessing my willingness and capability to act protectively with my children or grandchildren, I think I would be quite outraged. Teachers are there to teach. There are other people in the community who are charged with the responsibility of making those investigations as required. The relationship between teachers and parents in a school community is a very sensitive one. I had experience many years ago of trying to gather information from parents and was rapped over the knuckles because I had gone too far. I think this goes too far as far as teachers are concerned. From the point of view of parents, I do not think that they would find it acceptable.

CHAIR: I will come back to you shortly, Dr Douglas.

Mr SHUTTLEWORTH: Keeping with this point, previous speakers today spoke about the need for the child or the young person to establish a level of trust in a mentor—and often that will be teachers. If they know that you have to extend yourselves to then also assess their parent environment, they may be less willing to engage in that mentoring role with teachers. Do you think that would be an unintended consequence of that as well?

Mr Wilkinson: Can I put it this way? Alison and her term at Brisbane Catholic Education would have very practical experience of trying to gather information under the normal provisions under which schools operate. It is very, very difficult at times to get children and young people to divulge information if they think there is some sort of negativity or threat about the situation. If this proceeds in this particular bill, I think we are only exacerbating that situation.

We have had a recent example, to which Alison could speak more specifically than I could, where the school investigated a particular situation to a certain extent which they felt was appropriate. When it got to the point where they thought, 'We need Child Safety,' or, 'We need

police,' they brought them in. But by that time the children closed shop; they were not willing to talk. Here we have a situation where teachers in a school, who are not specifically trained and schooled for this particular task, undertake the task and they can taint the evidence that police require to proceed through the courts. It is a very, very sensitive issue.

Dr DOUGLAS: I have heard you say basically that you want the parent test out and I hear the reasons for it. Is there anything within what was originally proposed regarding some issue of parents that you feel is worthwhile and should be progressed towards? It is like what is the lesser of evils?

Mr Robertson: Just to clarify our position, whilst we do have concerns about the parent test, our concern is consistency. So we either have it or we do not. If we are having it, we should have it across all of the legislative provisions that apply to our schools. I just wanted to clarify that position.

CHAIR: Thank you, Mr Robertson. Mr Hill?

Mr Hill: If I could answer in a similar way, at the moment our primary purpose is the safety of children in our schools. At the moment teachers in our schools and all staff must act immediately upon knowledge of any harm or sexual abuse or likely sexual abuse occurring to that student. There is a concern in my mind and in the minds of my colleagues that there is a delay in making an assessment of what the significant harm might look like in terms of a parent being willing and able to act protectively. To concur with my colleague from Independent Schools Queensland, there is a lack of consistency in the introduction of this legislation.

Dr DOUGLAS: Thank you.

CHAIR: Can I thank you all. Your submissions both were very well written and were quite easy to read. So we appreciate the logical manner in which you presented them. Thank you for your time here today. We are slightly ahead of time. We will take another break for 10 minutes.

Proceedings suspended from 3.15 pm to 3.26 pm

HEALY, Professor, Karen, President, Australian Association of Social Workers

CHAIR: We will reconvene the hearing now, folks. I remind those present that these proceedings are similar to parliament and are subject to the Legislative Assembly's standing rules and orders. Under the standing orders, members of the public may be admitted or excluded from the hearing at the discretion of the committee. Mobile phones or other electronic devices should now be turned off. 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. The proceedings today are also being broadcast live on the parliament's website.

I now welcome Professor Karen Healy of the Australian Association of Social Workers. I would invite you please to make an opening statement.

Prof. Healy: Thank you and thank you to the committee. The Australian Association of Social Workers welcomes this opportunity to speak to the three bills before parliament. We support the reforms that are being put forward in the main part. However, there are areas of concern for us.

Firstly, with regard to the bill related to the Family and Child Commission, we are concerned about the issue of independence. The role of the Family and Child Commission should be to fearlessly advocate for changes and for monitoring of the child welfare system in Queensland. We are concerned that the current proposed governance arrangements will not entirely allow for the level of independence and fearlessness that we think is necessary for this council to function as a body that effectively monitors the child protection system. We are concerned in particular about the reporting arrangements that involve reporting to the minister of the agency for whom the commission is expected to monitor.

We are also concerned about some gaps in the proposed bills, in particular, the neglect of the transition from care needs of young people leaving the care system. We know that young people leaving care—and they begin leaving care at around 15 years of age—are extremely vulnerable to homelessness, educational disadvantage and a range of health issues. We are worried about the silence in the proposed reforms around the need for transition-from-care arrangements and we think that Queensland needs to be brought into line with other states about continuing to deliver support to young people once they leave the care system.

In relation to the Child Protection Reform Amendment Bill, one of the issues that worries our members is around the multiple reporting requirements—that one of our members who works in the non-state school system observes that now social workers and child protection workers working in private schools now have three pieces of legislation with various reporting requirements and processes.

Many of our members have also raised concerns about omitting emotional abuse and neglect from 'reportable suspicions' definitions and we would like the committee to note that emotional abuse and neglect can have a significant impact on the welfare of children, such as the failure to thrive. In terms of case review, it is noted that it is curious that a significant case review can only be triggered by serious physical abuse and injury. Why not sexual abuse of a young person in care, for example?

We are also concerned with regard to the Public Guardian Bill and we notice that many of the other submissions also have this concern around how the needs of young people and children can effectively be housed within the same office of the public guardian. We are particularly concerned around the capacity of the public guardian to deliver on advocacy services for young people, particularly young people held in youth detention centres which, in the current bill, will involve the same reporting arrangements to the Attorney-General as the public guardian. These are our opening concerns. Thank you.

CHAIR: Thank you, Professor Healy. I will open it up to the members of the committee.

Mrs MILLER: With the reporting lines for the public advocate to the Attorney-General, there is a potential conflict where the public guardian is exercising advocacy roles in relation to other agencies housed within the department of justice that have the same reporting lines, for example, detention centres and boot camps. What problems do you see for staff who have identified a possible conflict of interest and how should they handle them?

Prof. Healy: We identified the same problem. We believe that there should be separate reporting lines. There should be some independence for front-line staff who identify a problem within the agencies. Housed within the public guardian there needs to be an external reporting line for those front-line workers.

Dr DOUGLAS: You mentioned the very important group of people who drift out of the system beginning at age 15. It was highlighted today by one of the people that it was at 18, but as GP I would say it is definitely 15 and, in some cases, even earlier, unfortunately.

Prof. Healy: Yes.

Dr DOUGLAS: Do you have some ideas about what you think should be included to try to stop that to some extent or to try to address that?

Prof. Healy: Yes, I think there are several things that need to happen. One area of policy reform relates to better-quality placements in the first place for young people in the care system—so greater stability in the care system. Some of the people leaving care at age 15 and above are not going into a stable placement, as you already know, and they often experience placement breakdowns. It has been very unpopular to talk about residential facilities in Queensland for a whole range of reasons, but I think high-quality residential care is an important consideration.

What we definitely need—and this would bring us into line with international best practice—are much more flexible post care arrangements for young people 15 years and above as they exit the care system. As any young person matures they require the holistic assistance of a primary caregiver. Many of these young people leaving the system do not have anyone like that to turn to and that makes them extremely vulnerable in a range of ways, in addition to the fact that they will often live in poverty. These post transitional arrangements are important. Preparing young people before they leave then having someone they can turn to—having post care support services—is a really important set of services that we need in this state and it is in line with Commissioner Carmody's recommendations.

Dr DOUGLAS: Are there any existing models in other places that could be incorporated into something like this? Are you aware of any?

Prof. Healy: In the UK and also in Victoria I understand there are post care services of a greater range than we have in this state currently. One of the things that is being argued for in Victoria at the moment is a post care housing guarantee so that young people leaving care are given a rental supplement to help them in their housing stability in those years, up to 25 years of age, after they leave care.

Dr DOUGLAS: Do you think it is appropriate that that should be included in this bill? Should it be an amendment to the bill? Should it be something we work towards or should we copy an existing model? Do you have any thoughts on that?

Prof. Healy: It should be in our child protection legislation. Our current child protection legislation says something along the lines of 'reasonably practicable' for the chief executive to have a responsibility to young people leaving care. There is not a suite of services available to those young people. Yes, there are models in the UK and in other states of Australia that I think we could replicate. I think it should not be 'reasonably practicable' but should be a requirement on government that if we are removing children then we provide their post care support needs. These are amongst the most disadvantaged young people in Australian society.

Dr DOUGLAS: Thank you.

CHAIR: Mr Hathaway, do you have any questions?

Mr HATHAWAY: No, I am good, thank you.

CHAIR: Professor Healy, thank you for both your written submission and for turning up here today. We appreciate your time.

Prof. Healy: Thank you very much.

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

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

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

MAYFIELD, Dr Belinda, Program Manager, Child Protection Inquiry Taskforce, Department of the Premier and Cabinet

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

PARKER, Ms Natalie, Child Safety Director, Department of Justice and Attorney-General

CHAIR: I welcome the representatives from the Department of Justice and Attorney-General, the Department of Communities, Child Safety and Disability Services and the Department of the Premier and Cabinet. I have an order here, and I am hoping it will be acceptable—if not I am happy to change it. Ms Parker I will ask you to make your opening statement and then we will move to Mr Lupi, Dr Mayfield and Mr Armitage. Because of the overlap, if there is something that someone else wants to say I am happy if you alert me and I will acknowledge you so that you can comment. This is really about getting comments in relation to the evidence we have heard today and the submissions we have received. This is an opportunity for the various departments to clarify or to add clarity to some of those concerns or comments. Ms Parker, I will hand over to you to make a statement.

Ms Parker: Thank you for giving me the opportunity to provide you with further information on the Public Guardian Bill. Thank you very much to the witnesses who have given their time today to help us further consider the provisions of the bill; it is much appreciated. My brief today, as advised before I came, was to address issues specifically raised today by the witnesses. My department and other departments will be providing a written response to issues raised in other submissions. If it pleases the chair, I will just focus on the comments made by the witnesses today.

CHAIR: Please, thank you.

Ms Parker: Mr Johnson, Mr Wegener and Ms Ekanayake raised issues about the child community visitor program, and particularly about the bill needing to be more prescriptive about the visiting schedule. Specifically, Mr Johnson raised the need for an initial visit for children who come into care and then also a regular review of the child during their time in care. For example, he raised the issue of a visit at one year and then at two or three years. Mr Wegener raised the associated issue that there should be more consideration of the factors contained in the bill around who needs to be visited. He also questioned whether we got the factors in the bill right—the non-exhaustive factors; do they actually reflect what the Public Guardian should be taking into account in determining the visiting schedules?

As we advised the committee at our last hearing, the government accepted recommendation 12.8 which was that the most vulnerable children in the child protection system and in other visitable locations be visited. For this reason, we are not including a mandatory legislative obligation to visit all children in care which is currently the situation under the Commission for Children and Young People and Child Guardian Act.

What the bill does instead is provides a framework so that resources can be focused on children who need the visits most and the frequency of those visits is matched to the children's needs. This means that the Public Guardian, when formed on 1 July 2014, has the ability to develop policies to be applied to determine the regularity and frequency of visits to ensure that the children who need the visits most get the visits and that this is done within the budget provided by government.

The bill does not prevent other forms of contact with a child. For example, if there is not going to be a formal visit we have the provision that the child can be contacted via phone or email or text, whatever technology is best for the child. The policy of the bill on not mandating and providing for overprescription for the visiting schedule is that entrenching detailed arrangements regarding a

process for determining regularity and frequency of visits in the legislation at this early stage of the child reform agenda would risk entrenching a model that may fail to adapt to changing requirements.

This is a new piece of legislation with a new independent statutory head. We need to have flexibility to determine the visiting schedule based on the overarching principle that the purpose of the visiting program is to protect the rights of children who are in the child protection system and who live in visitable sites.

I could go on further and provide you with the specific clause numbers and so forth that underpin that policy analysis, if the committee wishes.

CHAIR: Do you intend to include that in the written submission that would come to us?

Ms Parker: Yes.

CHAIR: I think it would be sufficient at this time if you included the clause numbers at that time. That would suffice.

Ms Parker: Just to make sure that I address all the issues in relation to visiting schedules, I point out that Mr Wegener specifically asked why children who are under guardianship orders with a third party—for example, a relative or other person—continue to be in the ambit of the community visitor program when these children live with and are cared for by court approved family or other adults? Just to answer that question, that is exactly why we do not want to have a mandatory visiting framework. We want the flexibility to ensure that we are visiting the children who need it.

Under that question, if it was found that those children and those arrangements did not need to be visited, we have the ability not to visit them under clause 57, which provides the non-exhaustive list of factors that we would be visiting on.

Another issue that has been raised by Mr Johnson and Mr Wegener and also by Ms Healy is the ability to continue to assist young people after they leave care or when they turn 18. That is about helping the child transition from care. The Public Guardian Bill does provide for this. Under clause 52 of the bill, it provides that the Public Guardian may help a person once they turn 18 and they request it. Further, clause 52 also provides that the Public Guardian can help a person when they are transitioning from care, whatever age. As I said previously, from 1 July the Public Guardian will develop policies and procedures in relation to that overarching ability to assist children and young people as they transition from care.

CHAIR: Just to clarify, the provision exists; the detail to that provision will be left to the guardian?

Ms Parker: Yes. So we have a head of power to allow it and then—as we do, to make sure that the statute only covers matters that need to be covered in statute and allow government the flexibility to develop the best policies to underpin the legislation—we will have further work done on that post 1 July, but we definitely have the ability under the current bill.

CHAIR: Thank you.

Ms Moy: The provision of the bill that Natalie is speaking about actually just provides the scope for the Public Guardian in terms of the children that they can provide services to. We have made sure that there is provision in there to cater for that transition-type arrangement.

CHAIR: Thank you.

Ms Parker: Thanks for clarifying that, Angela. Ms Ekanayake from ATSILS has raised the need for the bill to specifically provide that some community visitors be Aboriginal or Torres Strait Islander. Our view is that a specific provision is not needed for this in the bill and it is a matter for policy and for the Public Guardian to decide. The bill clearly provides the Public Guardian with the capacity to appoint Aboriginal and Torres Strait Islander staff to be community visitors. Under the bill, the Public Guardian can appoint people who have the ability to engage effectively with Aboriginal and Torres Strait Islander children and Aboriginal and Torres Strait Islander stakeholders. It is clear that, of course, Aboriginal and Torres Strait Islander people would be well placed to be appointed as they have those skills.

Further, the bill beds that down in its principles that are set out in clause 7. That guides any person who undertakes functions under the bill to guide their actions under the bill. Under that provision, when a person performs functions under the bill they must apply the principle that an ongoing connection with the child's culture, traditions, language and community is important for the child's welfare and wellbeing and must be taken into account. Again, with that principle, Aboriginal and Torres Strait Islander people are well placed to be appointed as CVs under the legislation if the Public Guardian sees them as meeting the requirements under clause 109.

Given the over representation of Aboriginal and Torres Strait Islander children in the child protection system and the requirement to reflect the social and cultural diversity of children in Queensland, discussions have already been taking place in this stage of implementation before 1 July with relevant agencies that have lead roles in Aboriginal and Torres Strait Islander matters to ensure that the Public Guardian will be able to effectively discharge its obligations to this part of the community. Those discussions and dialogue will continue post 1 July with the new organisation being formed.

Sensitivity to cultural issues involving Aboriginal and Torres Strait Islander children will be a factor in the recruitment of all staff and other service providers by the Public Guardian and, where considered appropriate, the Public Guardian will work with service providers with appropriate skills to deliver these services. The bill provides a framework that not only an Aboriginal and Torres Strait Islander who works in the organisation but any person who works in the organisation will need to follow these principles to be able to perform their functions under the bill.

As previously stated, it will be up to the Public Guardian from 1 July 2014 to appoint people to the role of community visitor. Under clause 109, they must have the knowledge, experience or skills needed to perform the functions of a community visitor (child). Again, that confirms that one such skill will be the ability to work with Aboriginal and Torres Strait Islander people and children. In appointing a person as a community visitor (child) under this clause, the Public Guardian must take into account the desirability of community visitors having a range of knowledge, experience and skills relevant to the exercise of the function of community visitor (child). The Public Guardian must also take into account the desirability of reflecting the social and cultural diversity of children in Queensland. We think that the clause is broad enough to cover what Ms Ekanayake was getting at without being overly prescriptive. How am I running for time, Chair?

CHAIR: You have probably about three or four minutes. We would like to get to these folks. That will leave us probably about 20 minutes. There will be one or two questions and the team will need to restrict it to a couple of questions.

Ms Parker: Ms Ekanayake also has asked the department to clarify the role of legal advocacy for child advocacy officers. Did you want me to go through that response now or did you want me to include that in the written submissions? The other ones were Ms Healy's answers.

CHAIR: If you speak quickly, we might get to both of them. Let's see how we go.

Ms Parker: Okay, I can speak quickly. The Child Protection Commission of Inquiry, in relation to the legal advocacy question, found that children in the child protection system are particularly vulnerable and need to have their voices heard, and that assisting children and young people to understand the system and allowing them to be involved in decision-making processes sets them on the right path for the future. In the report, the commission drew attention to the fact that the Children's Court did not always have access to information about the child's views in child protection proceedings and noted a role for the Child Guardian in supporting children and young people at family group meetings, at court ordered conferences and assisting them to seek or respond to a variation or revocation of the order.

The commission further noted that there was scope for the Child Guardian to help a child express his or her own views to the court or actually take part in proceedings, particularly where the matter does not warrant the appointment of a direct or separate legal representative. The government accepted the recommendation where those statements were made, so the bill is reflecting the policy set out in the commission's report. For that reason, the Public Guardian Bill establishes a role for the Public Guardian in legal proceedings.

The Public Guardian's main role in legal proceedings is set out in clause 13, which provides a range of advocacy functions all focused on helping children resolve disputes in a whole manner of forums and also making sure that the children's needs are being met and that service providers are doing what they say they are going to do. It certainly is an oversight role in terms of that advocacy. Also, where things are not happening for the child, it is a measure to prevent systems failure or systems gap. It is the voice of the child when the child is not able to have a voice. That is the broad range of advocacy and it is clearly set out in clause 13; a range of different functions that are legislated.

Quite a couple of those parts of clause 13 relate to legal advocacy. As I said, if existing agencies are working effectively and properly representing the views of the child, including in any direct legal or separate representative role, there should be no need for separate legal representation or advocacy by the Public Guardian. It is anticipated to be a role of last resort; a role when there is a systems failure. We are just reflecting the evidence that was heard by the commission of why that new role is necessary as part of the child advocacy functions in clause 13.

Under clause 13(1)(l), one of the functions is for the Public Guardian to be a support person for a child in a legal proceeding, including at the Queensland Civil and Administrative Tribunal. As I have said previously, under clause 13(1)(c) the Public Guardian can support a child and participate at a family meeting, conference and mediation. Further, under clause 13(1)(m) and (n), the bill provides the Public Guardian with the statutory right to intervene in any legal proceeding in the Children's Court in relation to a child protection matter. So the Public Guardian can effectively advocate for children in child protection proceedings. This addresses the commission's finding that the views and wishes of children are to be heard in proceedings.

The bill then provides even more detail about the legal advocacy role in clause 128 and clause 201 that specifically provide for their role in QCAT and in the Children's Court. For example, clause 201 says that in the Children's Court for child protection proceedings, the Public Guardian can communicate the child's wishes, appear, make submissions, lead and test evidence as required and provide support to the child. It specifically says that the Public Guardian is not a party in a proceeding, so it just has the right of intervention. The department will follow up specifically on those clauses in our written response, because we are running out of time.

CHAIR: Thank you.

Ms Parker: I will raise the last two issues that Ms Healy raised. Ms Healy from the Australian Association of Social Workers was worried about the capacity of the Office of the Public Guardian to do both child related oversight work and also case work in relation to the adults with impaired capacity. So that is in their guardianship functions and also in their community visitor function as well, and also in overseeing the role of attorneys that are appointed under the Guardianship and Administration Act and other functions, which we will set out more clearly in our response.

The policy of the bill is that there should be only one person with the Office of the Public Guardian who is the Public Guardian to ensure there are clear lines of accountability for decisions made. The bill is saying there is one person responsible to promote and protect the rights and interests of those two groups and that is the Public Guardian.

And all delegations to ensure that the people that the Public Guardian engages to do the work will be done to ensure that both streams of work are performed effectively. The bill assists with that. The bill differentiates the role of the Public Guardian in relation to those streams. Clause 12 of the bill provides the Public Guardian with specific Adult Guardian functions related to adults with impaired capacity. Clause 13 provides the Public Guardian with specific child advocacy functions related to relevant children and children residing in visitable sites. That is then followed up with clause 6 of the bill that provides for principles in schedule 1 of the Guardianship and Administration Act to continue to be applied by the Public Guardian performing Adult Guardian functions and then clause 7 provides for specific principles when the Public Guardian is performing the child advocacy functions and other functions related to children.

The Public Guardian will be assisted by highly qualified staff in discharging the duties placed upon the statutory office from 1 July 2014. The Office of the Adult Guardian as currently established comprises of staff suitably qualified for managing the needs of vulnerable adults. The Office of the Public Guardian will be building upon and utilising the skills and experience already available from the Commission of Children and Young People and Child Guardian as well as those staff from the Office of the Adult Guardian in establishing its new role.

The last issue raised by Karen Healy was will the Public Guardian be able to fully exercise the advocacy functions in relation to youth detention centres as the Public Guardian shares the same reporting lines to the Attorney-General. This gets to the independence of the Public Guardian, this question, and the answer is that the Public Guardian is an independent statutory officer who controls the Office of the Public Guardian. Clause 15 of the bill provides that the Public Guardian is not under the control or direction of the minister. So the Public Guardian will be totally independent. Further, all staff of the Public Guardian are under the control of the Public Guardian.

Mr HATHAWAY: Pardon me, chair, and Ms Parker, I have to take my leave. I now have to cut away. Thank you very much for the presentations here today.

CHAIR: Thank you, member for Townsville. Ms Parker, if you would continue.

Ms Parker: Community visitors and child advocates have a direct reporting line to the Public Guardian. In summary, child advocates and community visitors can fearlessly exercise their role of providing an independent voice for each child when required because they report solely to the Public Guardian. I just want to make the point that the Public Guardian has to sit in some portfolio.

The Public Guardian will undertake its role, which is provided for under the legislation, whether that complaint is made about youth justice or child safety or health or education because it is independent from the Attorney-General. Thank you.

CHAIR: I will allow a couple of questions if anyone has a question that they would like to ask?

Mr SHUTTLEWORTH: I did have one very quick one. When you began your presentation you referred to a couple of the earlier witnesses we had this afternoon who suggested initial visits within that six week period. You said that the framework to align to a specific child's need was in place. I was wondering how would that need be established if there was not a visit?

Ms Parker: My answer is that the legislative framework does not prevent a visit occurring in the first six weeks, and that is a matter of policy. The comments made by the witnesses will be passed on to the implementation team and to the Public Guardian when the Public Guardian commences on 1 July and will be taken into account. That visit could in fact take place if it was needed and it could be included in the policies.

Ms Moy: Can I add to that? There are various other provisions within the bill that fit together to make the whole system work. There are a variety of provisions in regard to working with other agencies and organisations so there will be an ability for the Public Guardian to work with other agencies, including some information exchange provisions, which will allow them to identify children and get information to know when to go out and visit without having to actually go and visit. There are also provisions about Child Safety providing particular information to the Public Guardian. So that will be triggers for the Public Guardian to do certain things. The whole system, particularly the information exchange and that to'ing and fro'ing of information with Child Safety and the courts and QCAT, will assist the Public Guardian in regard to that without actual visits occurring.

CHAIR: Thank you. Thank you for your time and for your information. We look forward to your submission. I will move now to Mr Lupi.

Mr Lupi: Thank you, Mr Chair, thank you, committee members. I will address you this afternoon on the Child Protection Reform Amendment Bill and in particular what I have grouped together as six key areas that have come up through the oral presentations you have received today and are reflected also in the written submissions. As my colleague mentioned, we will be providing more detailed descriptions in the written submissions so I will not go into clauses today, I will talk more broadly about the themes.

The first one obviously that has come up is the issue that has been raised by a number of submissions about provisions in the Education (General Provisions) Act 2006 that require staff members at schools to report cases of sexual abuse and likely sexual abuse of students. The Child Protection Reform Amendment Bill does not change the provisions in the education bill as it has been described because the reporting provisions in that bill relate to suspected criminal offences that must be investigated by Queensland police. Police have that responsibility. Child Safety's role is a second responsibility and that is to assess whether a child is in need of protection, including whether or not they have a parent willing and able to protect them from harm. The threshold for whether or not a criminal offence may or may not have been committed is quite different to the threshold for determining a tertiary child protection investigation. So they do deal with quite separate issues and offences and have different tests of evidence and threshold and therefore are dealt with quite differently.

In many circumstances it is quite thankful that parents and families act quite protectively to care for their children when they have been unfortunate enough to experience the horrendous effects of sexual abuse. Consideration of all sexual offences against children was outside the gambit of the Child Protection Commission of Inquiry. The commission of inquiry's terms of reference was focused on parental harms and abuse as per the child protection system. Given the serious nature of sexual offences committed against children, including by employees of school, it is important that these matters continue to be addressed directly to the Queensland Police Service. Submissions to the committee from the Catholic Education Commission and Independent Schools Queensland refer to some inconsistencies or perceived inconsistencies between the amendments in the bill before us and the Education (Accreditation of Non-State Schools) Regulation 2001. I am advised by my colleagues at the Department of Education, Training and Employment that they have met with both bodies to discuss planned amendments to the regulation, which imposes conditions on schools in order to look to find areas of consistency within that regulation to allay some of the concerns raised by the two independent school bodies and I am advised that they have both been advised of that by the Department of Education and Training. They have commenced work with the non-state school sector to look at the relevant provisions to deal with those issues.

They also raised the issue of consistency between various reporting regimes. The intention of the commission of inquiry and the recommendation by Carmody which the government has accepted was about consolidating and developing a single standard of reporting child protection concerns. It did not cover all mandatory reporting of every type of offence or harm. So the issue of consistency was about the consistent standard, threshold and response to suspected abuse or harm as it is defined by the Child Protection Act.

The other issue that has been raised by a number of submissions is the important point that a child may need protection as a result of harm caused by emotional or psychological abuse. The Department of Communities, Child Safety and Disability Services totally agrees and supports the assertion. To address this issue the threshold for a tertiary child protection intervention in the Child Protection Act will not be changed by this bill. The department will continue to be required to consider all cases where the chief executive reasonably believes that a child is in need of protection. This can be caused by any type of abuse to the child. Clause 5 proposes to implement recommendation 4.1, however, and that is that harm to a child has been defined in section 9 to include psychological, emotional or physical detriment.

The bill proposes that the new section be inserted that allows any person to report a suspicion of harm. This new provision applies to all people in the community, including those named in the bill as mandatory reporters. The purpose of the bill was to consolidate and clarify the current requirements on professionals, either by law or by policy, when it comes to reporting harm to child safety. I mentioned that earlier as the difference between the reports to Queensland police. The proposals in the bill do not preclude reports about a reasonable suspicion that a child is in need of protection that is caused by harm other than physical or sexual, rather it highlights the need for certain groups to be mandated to report those two harm types because they often require a more urgent and serious intervention or response. This proposal aims to address the concerns that the commission of inquiry found about the current risk-averse, 'better safe than sorry' culture that has sprung up over the last 10 years. It is also the first step to implementing a dual pathway of referral as per recommendation 4.5. The commission specifically believed that family support responses to emotional and psychological harm were more effective and more appropriate but the pathway still exists for Child Safety to investigate those where they are of a significant nature as defined by our act.

In relation to the reasonable suspicion of a child in need of protection, the bill proposes to consolidate and clarify when a report can be made to Child Safety and it refers to a reasonable suspicion. This does require a reporter to have a reasonable suspicion that the child has suffered or is suffering significant harm and does not have a parent willing or able to protect them from harm. Both elements are currently in the Child Protection Act 1999 and first came into effect when that act was introduced. Those provisions, that dual test, is not new. The commission found that the policy settings by various agencies in how they chose to define what amounted to a reasonable suspicion to trigger a mandatory report was inconsistent and it was his recommendation that by consolidating them in the Child Protection Act and aligning them with the specific definition of the obligations under the Child Protection Act was the way to go with mandatory reporting and hence that is the proposal contained within the bill.

The effect of the new sections is that a mandatory reporter is required to make a report if they have a reportable suspicion. This does not require a mandatory reporter to undertake an active investigation or assessment as some submissions have put; rather it requires them to turn their mind to whether the child is in need of protection or maybe in need of protection because of the two triggers covered by our act—significant harm and parent willing and able. This aligns with our legislative responsibilities for intervention with those families. It is our proposition that it is reasonable to ask mandatory reporters to turn their mind to the capability of parents in the discharge of their obligations.

Child safety as a last resort has been mentioned by a couple of submissions. The wording is not designed to abdicate but it is designed to ensure that the right intervention at the right time is provided to families, and we wholeheartedly agree with that proposition. However, at the moment, the commission noted that more than 80 per cent of reports received by Child Safety do not meet the threshold for a statutory intervention. So that currently is not right time or right place, and there is some change needed to be able to change both culture and practice in reporting.

In relation to the implementation of the amendments to reporting guides, we concur that there will be a need for training, information and assistance over a sustained period to change the response of many of those obligated under mandatory reporting arrangements. We will continue to work, and have already started work, with DETE, the Queensland Police Service and Queensland

Health to look at what opportunities there are to streamline and consolidate training materials and education materials to support a mandatory reporter to discharge their obligation. There is already a tool—the *Queensland Child Protection Guide*—which assists referrers and reporters to understand the provisions of the act and various factors to consider when determining a reasonable suspicion to report.

The other area that was raised and that my colleagues have already mentioned was the issue of supporting children and young people post the age of 18. Adam raised it, and I commend Adam for his presentation as your first speaker today. The current legislation does not limit our capacity to support children and young people post 18. So there is no current legislative impediment. The government has accepted the commission of inquiry's recommendations—and they are recommendations 9.1, 9.2 and 9.3—that substantially change the way in which we provide support to children and young people transitioning from care. It recommends extending that support post 18 to 21 and it recommends a range of priority services and access to a range of services to meet their needs.

We believe that the implementation of the government's response to those recommendations will address both at a policy and program level the issues raised in the submissions before you. In the future when the Child Protection Act is reviewed—which the government has committed to as part of the implementation—there is a view that if some provision within a legislative amendment is required it could be considered then. It was not one of the things the commission recommended as being urgent and necessary in the first stage of legislative amendments. I will close on that and invite questions.

CHAIR: Thank you, Mr Lupi. In the interests of time, I will take a couple of questions if there are any; otherwise, we will move on. Thank you, Mr Lupi. Dr Mayfield, would you like to make your statement?

Dr Mayfield: Thank you, Mr Chair, and committee members for the opportunity to address you this afternoon and to provide information. Given the time, I will limit the comments to the issues raised in the oral presentations today. We are preparing in addition a written and more detailed submission that will look at all written submissions as well as the oral submissions made today.

CHAIR: Thank you.

Dr Mayfield: I will address the issues raised in the order in which they were raised by the speakers. I will commence with the issues raised by Ms Ekanayake from the Aboriginal and Torres Strait Islander Legal Service. I will also say that a couple of the issues raised here were also raised in the written submissions, although not discussed today, by PeakCare and CREATE—so acknowledging that some of these concerns are shared more broadly in the submissions. One relates to the current function of the Commission for Children and Young People and Child Guardian. The function that was raised was the current function of monitoring compliance with the child placement principle. So it has been raised as an issue that that function is no longer reflected within the functions as described within clause 9 of the Family and Child Commission Bill.

It is important I think to draw attention to the findings of the commission of inquiry report. It noted that the commission considered that there was no longer a need for the functions of the Commission for Children and Young People and Child Guardian to be retained in their current form. So that was a function that has not been retained. The shift in the establishment of the Queensland Family and Child Commission is that it will have a systemic oversight function. It will not go to examining individual cases or individual matters and it will not retain an investigative or monitoring function with regard to the business, for example, of Child Safety in meeting their legislative obligation in relation to the child placement principle, section 83 of the Child Protection Act. The suite of recommendations made by the commission of inquiry saw that each department had an obligation to establish its own quality assurance and performance management monitoring mechanisms. So the onus will be on the Department of Communities, Child Safety and Disability Services in meeting their obligations under section 83 of the Child Protection Act.

Another finding of the commission of inquiry that is important to this matter is that it concluded that in our current system we have an overlay of external monitoring that has caused duplication and complexity within the child protection system. I think this is an example which the commission in its report specifically spoke to. While there were some benefits to the current approach to monitoring compliance, in fact it considered the audits as conducted have given little insight into the actual barriers to why we have not been able to place more children with kin or Aboriginal and Torres Strait Islander carers.

In relation to the concerns that we should continue to see how we are tracking, certainly the function of evaluation and monitoring performance at a systemic level will continue with the Queensland Family and Child Commission. So, as part of the obligations under clause 40, subsections (1), (2) and (3), there will be an obligation to evaluate Queensland's performance against state goals that we set as part of the performance in monitoring the implementation of this suite of reforms but also against national goals. Currently, as part of our reporting, we do report against how well we are doing in placing. So, as part of the annual report we make as part of the Report on Government Services nationally, we do report on the proportion of children in out-of-home care placed with relatives or kin, by Indigenous status and also the placement of Indigenous children in out-of-home care. So, in terms of the concern that has been raised, I think we can point to those sections within the bill that as part of annual reporting we will not lose that monitoring function as part of the systemic oversight that the Family and Child Commission will retain. While the function of monitoring compliance will no longer exist, we will still retain that function.

Also, I briefly mention in relation to some of the broader concerns raised that there are a number of safeguards in relation to overrepresentation. I think I remember speaking to some of these issues at our first meeting with the committee. I briefly reiterate that one of the commissioners will be an Aboriginal person or a Torres Strait Islander. In terms of requirements, under clause 23 and the ways in which the commissioners are to perform their functions, they certainly must ensure the interests of Aboriginal people and Torres Strait Islanders are adequately and appropriately represented.

As I have mentioned, there will be ongoing reporting. In relation to clause 40, some of the detail of the reports are yet to be fully teased out. We have written those provisions as enabling provisions, so some of the detail will be developed. Remembering that the Family and Child Commission will have the ability to establish advisory councils, we would expect that it is very likely they would seek expert advice on the nature of both the evaluation framework and the reporting requirements that they would be tracking and looking at. So I hope that goes to those issues.

Then just briefly I will address some of the issues raised by Professor Healy. In relation to the independence of the commission, I note that care has been taken to ensure that the Queensland Family and Child Commission does not report to a minister or department for which it will have oversight. So it was a recommendation of the commission of inquiry that it will report to the Premier. The body will be subject to direction. But, in terms of public accountability and its annual report, any direction given would be transparent and explicit in the report and any actions taken by the organisation.

Finally, both Professor Healy and certainly Adam from CREATE spoke about the criticality of our transition from care program and providing further support to young people transitioning. I note that, in terms of the scope of the Family and Child Commission Bill, the definition of young people specifically included young people from 18 to 21 who have been children in care and who are transitioning. So that is clearly within the scope of the commission to see how well we are doing on that issue. That will be a critical element of the new programs that we hope to see implemented as part of the reforms that this body will monitor and track. I think, as people have expressed, it is a critical area of interest.

CHAIR: Thank you, Dr Mayfield. Does anyone else at the table wish to make any further comments? If not, are there any final questions?

Mr KRAUSE: Chair, I have just one. I do not know that this issue has been addressed. I think the question is for Mr Lupi. There were some concerns raised by Independent Schools Queensland and the QCEC as well about the reporting requirements set out in one of the bills in relation to adding to their mandatory reporting requirements or changing those requirements. Do you have any comment to offer in relation to their concerns?

Mr Lupi: If I understand your question, as I heard their concerns, they believed that the new mandatory reporting does duplicate provisions that they have in the Education Act.

Mr KRAUSE: That is right.

Mr Lupi: In fact my proposition would be that, as per the recommendations of the commission of inquiry, it simply moves into a legislative frame what they are already obliged to do by policy. It requires by policy that they already report to us. They have an act that requires them to do that. This is shifting that obligation into a consolidated act that covers both police and health and a range of mandatory reporters. It sets a consistent threshold across all of the professionals that have to report and it will require some changes. That is my understanding of your question.

Mr KRAUSE: That is correct.

Mr SHUTTLEWORTH: Mr Lupi, further to that, you said just then that it provides consistency across all reporting professionals. It does in terms of the requirement to report but there was that level of protection afforded to three of the professions indicated with the exclusion of teachers. I am just wondering how you would address that.

Mr Lupi: All reporters are covered by the confidentiality of notifiers. So there are reports. Section 186 of the Child Protection Act does identify the protection across all notifiers. It specifically does refer to notifications made to Child Safety or to police. If a teacher notifies Child Safety, their identity is protected in the same way as the identity of any other notifier. It is one of the sacrosanct provisions within the Child Protection Act.

The amendments I think that were referred to in the submissions were for a different purpose. The provision there also protects those who have an obligation currently under the Public Health Act, but we would not be of the view that they are somehow excluded from the provision of confidentiality or protection from liability that is afforded to any professional notifier.

Mr SHUTTLEWORTH: To clarify that section, I think it is 13E from memory, in relation to the health provision that you just mentioned but also all other reporting officers or professions have protection under section 186 of the Child Protection Act?

Mr Lupi: Correct. If you want some more technical advice, my colleague Megan Giles could probably answer the relevant section.

CHAIR: As long as it is about 30 seconds.

Ms Giles: That sounds like a challenge. Section 186 of the Child Protection Act provides protection for the identity of all notifiers to Child Safety. That includes teachers and it will continue to apply to teachers. What the amendments do is pick up the fact that sometimes people can raise their concerns with other people—so they can raise with the police that they have a concern about a child or they can raise with a doctor or a nurse their concern about a child. The amendments cover those people—those third parties who report on to someone else, not Child Safety. After we consulted with the education department, they felt that was not necessary for teachers because teachers play a different role and people are not likely to report a child protection concern to a teacher and then them report to us.

Mr SHUTTLEWORTH: Say a parent of a friend of a child who they feel may be at risk reports to a teacher: under those provisions, how would that be covered?

Ms Giles: The report by the teacher to the department protects the teacher. It does not protect the identity of the person who raises that concern with the teacher. We consulted with the department of education about whether that was required, and it was felt that teachers play a different role from doctors, nurses or police officers and so that was not required. But absolutely teachers who report to Child Safety are protected now and will continue to be protected under these amendments

CHAIR: That is a good clarification, being that my wife is a teacher. That brings the time for this hearing to an end. It has been very interesting and we have certainly appreciated your attendance through the afternoon and your reporting to us. We look forward to the extra information coming forward that will help us with our report. Thank you to everyone who attended. I declare the hearing of the Health and Community Services Committee closed.

Committee adjourned at 4.33 pm