

# The Commission for Children and Young People and Child Guardian

promoting and protecting the rights, interests and wellbeing of all Queenslanders under 18

**Advice to:** Australian Department of Families, Housing, Community Services and Indigenous Affairs

**Topic:** *A national framework for protecting Australia's children - Discussion Paper*

**Date due:** 14 July 2008

Thank you for inviting comment from the Queensland Commission for Children and Young People and Child Guardian (the Commission) in relation to the '*Australia's children: safe and well, a national framework for protecting Australia's children*' Discussion Paper (the Discussion Paper).

## **Summary of Commission's recommendations:**

The Commission welcomes the Australian Government's interest in child protection, particularly its involvement in secondary support. The Commission considers that the immediate priorities for a national framework should focus upon:

1. developing a national framework which contextualises child protection within an agreed strategic policy framework and action plan in support of child wellbeing and incorporates an applied public health model<sup>1</sup> which assists jurisdictions identify gaps and strengthen universal and secondary prevention and intervention support for families, children and young people, particularly the most vulnerable<sup>2</sup>
  2. developing a framework and processes for monitoring and reporting on the effectiveness of Australian and state government service delivery at the universal and secondary levels with a view to better addressing the risk factors for entry to the statutory system
  3. supporting highly vulnerable young people who are not connected to mainstream support and developmental services
  4. identifying what is working well within the existing child protection systems and their external monitoring agencies to serve as a driver of best practice across Australia
  5. assisting state and territory child protection agencies develop processes and address privacy issues to enable effective sharing of child protection information for at-risk children across state and territory borders.
- The Discussion Paper appears not to reflect on existing jurisdictional monitoring arrangements, for example, the monitoring and oversight role of the tertiary child protection services of the Queensland Commission for Children and Young People and Child Guardian.
  - A national Commissioner or entity would duplicate the monitoring and reporting functions of existing state and territory Children's Commissioners/Guardians in relation to the tertiary aspects of child protection, and the advocacy and promotional roles that the existing Commissioners have.
  - While working towards long-term national consistency is reasonable, creating a superfluous layer of reporting requirements and failing to focus attention on addressing the need for on-the-ground monitoring of child protection systems must be avoided.

<sup>1</sup> A public health model approach involves: defining the problem; identifying risk and protective factors; developing and testing prevention strategies, and; assuring widespread adoption.

<sup>2</sup> This includes: children from ante-natal to 4 years; children with a disability; homeless children, young people and families; Aboriginal and Torres Strait Islander children and their families; and families where there is substance abuse or domestic violence.

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The Commission agrees that child protection requires national action and that the Discussion Paper is a proactive initiative by the Australian Government in response to the child protection figures it presents. The Commission supports the direction of many of the initiatives proposed in the Discussion Paper, particularly those with a clear prevention and early intervention focus for vulnerable groups such as more integrated service responses for highly vulnerable groups through improved coordination and collaboration across key agencies, and exploring the role Centrelink could play in identifying and supporting highly vulnerable groups.

Such approaches are particularly important to improve outcomes for Aboriginal and Torres Strait Islander children and young people, young people who are homeless or at risk of homelessness, and in families where there is substance abuse and/or domestic violence.

The Commission would like to see a national framework place a strong emphasis on interventions with a demonstrated<sup>3</sup> cost-effectiveness such as: high-quality early childhood education programs for three and four year old children; nurse home-visiting programs to promote sound prenatal care and healthy development of infants and toddlers; primary school programs that improve the acquisition of reading and other basic skills for students, and programs that reduce the incidence of teenage pregnancy.

In the Commission's view, priorities for a national framework should focus on:

1. developing a national framework which contextualises child protection within an agreed strategic policy framework and action plan in support of child wellbeing and incorporates an applied public health model<sup>4</sup> which assists jurisdictions identify gaps and strengthen universal and secondary prevention and intervention support for families, children and young people, particularly the most vulnerable
2. developing a framework and processes for monitoring and reporting on the effectiveness of Australian and state government service delivery at the universal and secondary levels with a view to better addressing the risk factors for entry to the statutory system
3. supporting highly vulnerable young people who are not connected to mainstream support and developmental services
4. identifying what is working well within the existing child protection systems and their external monitoring agencies to serve as a driver of best practice across Australia, and
5. assisting state and territory child protection agencies develop processes and address privacy issues to enable effective sharing of child protection information for at-risk children across state and territory borders.

However, the Commission is concerned that the Discussion Paper's proposal for a national child protection framework downplays and even overlooks several critical factors, including that:

- focusing on long-term national uniformity in statistical reporting may distract states and territories from addressing the real and more immediate issues

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<sup>3</sup> Isaacs, J. 2007 *Cost-Effective Investments in Children* by Julia B. Isaacs of The Brookings Institution, Washington DC

<sup>4</sup> A public health model approach involves: defining the problem; identifying risk and protective factors; developing and testing prevention strategies, and; assuring widespread adoption.

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affecting children and young people in their child protection systems, this includes the need for effective, practical and on-the ground monitoring frameworks

- achieving national uniformity in statistical reporting would be a difficult and complicated process requiring complex, lengthy and costly legislative change
- there are effective external monitoring systems already in place in the states, although in this submission the focus will be on those relating to the Queensland child protection system – see Attachment 1 for the monitoring framework of the Queensland Commission for Children and Young People and Child Guardian
- a national Commissioner or entity would essentially replicate the monitoring and reporting functions of existing state and territory Children’s Commissioners/ Guardians in relation to the tertiary aspects of child protection, and the advocacy and promotional roles of the existing Commissioners
- a National Commissioner or entity would add a further layer of reporting obligations for state and territory child protection systems and potentially distract them from the actual issues facing children in the child protection system, and
- state and territory Children’s Commissions/ Guardians require autonomy to identify and address issues which are unique to their respective child protection systems and which may not occur on a national level.

## **1. Developing a national framework which contextualises child protection within an agreed strategic policy framework and action plan in support of child wellbeing and incorporates an applied public health model<sup>5</sup> which assists jurisdictions identify gaps and strengthen universal and secondary prevention and intervention support for families, children and young people, particularly the most vulnerable**

Contextualising child protection within a national strategic policy framework in support of child wellbeing ensures that the framework provides a clear positive vision in terms of outcomes being sought and promotes better understanding of the critical components of and linkages between universal, secondary and tertiary level support initiatives required.

Incorporating a public health model to identify current gaps in service delivery would provide opportunities for the Australian Government to offer relevant support and strengthen the prevention and early intervention continuum pertinent to child protection and which ensures that child safety is effectively embedded as a critical component of fostering improved wellbeing outcomes for children. The Commission acknowledges the investment commitments already made by the Australian Government regarding the early years and the development of a consistent framework for early learning. However, in the Commission’s view, bolstered universal and secondary prevention and early intervention support is also required in the following additional key transition points for children and young people, particularly those at risk:

- continuing to build support in the early years, particularly ante-natal to 4 years
- transitioning to school
- education support
- transitioning from primary to secondary school
- leaving school, and
- leaving care.

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<sup>5</sup> A public health model approach involves: defining the problem; identifying risk and protective factors; developing and testing prevention strategies, and; assuring widespread adoption.

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A national framework would better contextualise the universal and secondary preventative supports required at these key transition points for children and young people to assist in their diversion away from the child protection and juvenile justice systems, promote their stability and eventually alleviate demand pressures on tertiary child protection services. To this end, the Commission supports the Discussion Paper's proposal to enhance the capacity of services which usually focus on parents, to meet the needs of children as a starting point.

A whole-of-government public health model approach which promotes non-punitive and non-stigmatising assistance for families at primary and secondary levels of prevention and intervention, is essential to maximise participation in support programs and services offered. This approach is also more likely to advance long-term and sustained improvement in children's health and wellbeing and prevent the overloading of the tertiary system. In the Commission's view, families should not have to be 'in the system' before they are eligible to receive support. It would also enable support to be provided to families who need assistance, but currently do not receive any until they require tertiary intervention.

## **2. Developing a framework and processes for monitoring and reporting on the effectiveness of Australian and state government service delivery at the universal and secondary levels to address the risk factors for entry to the statutory system**

The Commission is of the view that a national framework should include a role for the Australian Government to develop, in collaboration with the states, a process for monitoring and reporting on the availability and effectiveness of the universal and secondary services for vulnerable groups.

As previously identified, quality support for vulnerable families is well demonstrated as being most effective in a child's early years of life and at other times of family stress or crises. Access to effective interventions at the appropriate time is demonstrated to be more cost-effective and result in better outcomes than waiting until a family becomes involved with the tertiary child protection system. A national framework should include a commitment to develop a monitoring and reporting model that provides measures of the availability of these services across the nation on a state by state basis, and their effectiveness in addressing risk of entry into the statutory child protection system.

The Commission would be concerned if the national framework proposed standardised data collection in the tertiary end of the child protection system because of the resultant changes this would require. Depending on the magnitude of the standardisation proposed, it could require changes to each jurisdiction's legislation, definitions, decision making instruments, policies, processes, practices and training. If child protection in each state and territory was a greenfield site then standardised processes and reporting would be ideal. As it is not, and because of the magnitude of the resources required to make such changes to systems that are already stretched to the limit, such a move is more likely to be detrimental rather than beneficial to both the health and functioning of the existing systems, and the safety and well being of at-risk children and young people.

It is important that the terms monitoring and reporting are not considered as being interchangeable. Effective, practical monitoring systems are able to detect issues on the ground as they occur as distinct from simply providing annual reporting statistics

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enhanced only by not needing the current caveats warning that the data are not necessarily comparable across jurisdictions. The things that do need to be comparable across Australia are the supports and services that vulnerable and at-risk children receive. It would be a lost opportunity if resources are expended on attempting to standardise data systems instead of implementing effective local monitoring frameworks.

### 3. Supporting highly vulnerable young people who are not connected to mainstream support and developmental services

In the Commission's view, a key priority of a national framework should be to improve support to highly vulnerable young people, particularly homeless and self-placed children and young people who are beyond the scope of, or are no longer accessing, mainstream support service providers. Such vulnerable young people frequently are unable to access Centrelink support, do not attend school and are unable to access other support services.

A more responsive and tailored approach is needed to enable such young people to make more positive life changes. The supports they need include access to accommodation, education, training, health care, and income and family support services. An integrated model which includes a thorough assessment and referral process where each young person is personally mentored and assisted to negotiate the education, training, health and support service maze with an aim to improve both their current circumstances and their future needs to be developed.

In 2007, the Commission's Community Visitors conducted survey interviews with young people who had left the child protection system without approval and were homeless. The sample of responses from young people included below demonstrates the need for tailored, integrated and holistic support.

#### **Young Person C**

(2/04/2007)

C was 17 years old and had been readmitted to the Youth Shelter on the understanding that he would (this time) abide by the house rules. This did not occur and C was directed to leave the Youth Shelter five days after arriving. C advised the Community Visitor that he:

- planned to travel from Rockhampton to Brisbane by train with a friend in order to find another Youth Shelter, and
- had also been asked to leave another facility in Rockhampton due to breaking the house rules and alcohol abuse.

#### **Young Person F**

(23/05/2007)

F was 13 years old and was not under a Child Protection Order. F had been at the Youth Shelter for approximately 2 months and had previously been in alternative care but had been returned to his mother two years ago.

Immediately prior to attending the Youth Shelter F was in family respite care but this broke down. F subsequently ran away from home and ended up on the street.

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Staff at the site advised that F had not attended school since he had been at the site.

F advised the Community Visitor that he:

- would like to go to school but has no books
- had not been to school for four months
- had recently had contact with his father but could not stay with him as he lives in a boarding house
- would like to live in a large house with a butler if he had a choice
- did not want to return home to his mother and her partner because the partner:
  - a. did not want to know F
  - b. did not talk to F
  - c. did not make eye contact with F
  - d. had hit F a few times.
- had told the police everything but the police took him home because his mother's partner made up lies and his mother supported her partner.

## Young Person J

(22/11/2007)

J (age unrecorded) advised that she had left home two months ago and had been on and off the streets. J further advised the Community Visitor that she:

- had issues with the relationship with her mother and that they were often fighting
- cannot receive an independent allowance from Centrelink because of her age and because her mother has said that she can return home
- the Youth Advocacy Centre was assisting her to lodge an appeal against this decision by Centrelink, and
- had to drop out of school five weeks ago as she had no money for public transport.

Attachment 2 includes more case studies of young people's experiences. These display consistent themes of:

- involvement with the child protection and juvenile justice systems
- moving between youth shelters and the streets and only having intermittent contact with support services
- tenuous or no contact with mainstream services, particularly education or training
- having no income because the young person does not meet the age eligibility or has been breached by Centrelink, for things such as not having appropriate identification (see case study D)
- not necessarily wanting contact with their parent/s or do not want to return home because they do not feel it is safe to do so, and
- having disengaged from education for long periods of time.

These case studies emphasize the complexity of needs to be addressed and the range of service support that may be needed including access to mental health, education and learning support, financial, housing, employment and other assistance to ultimately create a pathway to independence.

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Each of these young people require someone to help coordinate and occasionally negotiate service access and referrals which are tailored to their specific needs. Allocating a mentor to advocate for each young person's interests and support them in addressing their social and personal needs could greatly improve outcomes for these highly vulnerable young people.

## **4. Identifying what is working well within the existing child protection systems and their external monitoring agencies to serve as a driver of best practice across Australia**

Independent state and territory children's commissions already monitor and identify issues within individual state tertiary child protection systems and are best placed to address issues which are unique to their particular child protection systems. The Commission does not support the creation of an independent, national entity to monitor the ongoing performance of child protection systems as it would amount to an unnecessary further layer of reporting requirements on child protection systems that are already subject to extremely high work and demand pressures.

Over the past 10 years in Queensland, the *Forde Inquiry into the Abuse of Children in Queensland Institutions* and the Crime and Misconduct Commission *Inquiry into Abuse of Children in Foster Care* have provided the impetus and direction for developing child protection reform. Recommendations from these inquiries have strengthened the role and the power of the Commission to monitor, review, investigate and research matters concerning children and young people.

### ***The Queensland Commission for Children and Young People's Monitoring Framework***

The Commission is of the view that it provides effective oversight of the safety and wellbeing of children in Queensland's tertiary child protection system through its Child Guardian functions and powers. The Commission's monitoring functions include monitoring laws, policies, practices, and outcomes for children, particularly those in the child safety system as well as investigating and helping to solve complaints about services for children; researching child deaths and regularly visiting all children living in alternative care. The latter, achieved through the Commission's dedicated Community Visitor Program visits all children and young people in foster care, residential care and detention centres on a regular basis to identify any risks and hear children's concerns and assess and facilitate their access to appropriate services and supports.

The Commission has a commitment to engaging with children and young people, particularly vulnerable children and young people, to inform all Commission activities. Visits from Community Visitors are a key element of this strategy, as are the Commission's landmark biennial surveys of children and young people in foster care, residential care and detention centres. These surveys seek children and young people's views about being in alternative care, including what they consider is working and what they want changed. A range of other engagement activities is also included in the Commission's strategy for engaging with children and young people.

The Commission makes sure people working with children in regulated service environments hold blue cards and have effective risk management strategies for child protection. The Commission considers that these combined functions provide one of the

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most effective examples of best practice in independent monitoring of child protection systems in Australia which could be used as a model of good practice for other states and territories. See Attachment 1 for the Commission's Monitoring Framework.

The information gathered as a result of these monitoring functions is used to improve the safety and well being of children and young people in the statutory child protection system and advocate for better outcomes for them. This information is shared with stakeholders and the community through the following reports and publications:

## *a) Annual Child Guardian Reports*

These public reports provide an independent account of government and non-government service delivery, from the perspective of children identified as needing care and protection. Key findings from the 2007–2008 Child Guardian monitoring, auditing and investigation activities have resulted in:

- the establishment of an agreed framework between the Child Guardian and the Department of Child Safety for the ongoing monitoring and reporting on incomplete child protection investigations and actions in place to address emerging backlogs
- the strengthening of system level supports within the Department of Child Safety that guide decisions about placing Indigenous children in out-of-home care
- action being taken to improve cross agency collaboration in the delivery of services to children of parents with a mental illness and creating a greater focus on the needs of children in such circumstances, and
- data being provided to the Department of Child Safety indicating that many children in out-of-home care continue to request greater contact and support from the Department of Child Safety.

These reports provide a chance for government service providers to look for opportunities to work together to strengthen child protection responses and achieve positive outcomes for children and young people.

## *b) Community Visitor Reports*

The Commission's Community Visitors make regular visits to children and young people in alternative care. In 2007–08, Community Visitors regularly visited over 6,200 children and young people in foster homes and other kinds of alternative care including residential facilities, youth detention centres, and authorised mental health facilities across Queensland. Visits by the Commission's Community Visitors provide a reliable avenue for the safety and wellbeing of these vulnerable children to be monitored and for them to raise any issues or concerns which they may have. Following each visit to children in foster care, Community Visitors prepare a written report.

The reports on children in care are designed around the 17 standards of care provided by the *Child Protection Act 1999*. Community Visitors assign a rating from one to four for each standard. The numbers provided below represent the frequency with which children and young people raised a grievance or concern with respect to any of the standards of care.

- 588 or 1.4% of the 43,308 reports highlighted a rating one issue, which involved a serious matter raised or identified that could not be resolved locally. Generally, such matters require formal resolution with the relevant service provider to resolve the issue. If the matter indicates that a child or children are at possible risk of harm or

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may have been subjected to a criminal offence, the matter is immediately referred for investigation to a relevant agency, such as the Department of Child Safety, the Queensland Police Service or the Crime and Misconduct Commission.

- 12,368 or 28.6% highlighted a rating two issue, which is a grievance or concern raised by a child or young person and which could be resolved locally. These matters are generally resolved by the community visitor collaborating with staff at the local Child Safety Service Centre.

These reports also form the basis of the Commission's systemic advocacy work which is reported annually in the Child Guardian's report.

## *c) Views of Children and Young People in Care Survey Reports*

These biennial surveys of children and young people in alternative care are groundbreaking research not undertaken anywhere else in Australia or overseas. The surveys are conducted through the Community Visitor Program, are child friendly, and provide children and young people with a 'direct voice' by way of an open forum to freely express any views about their carers, Community Visitors, what's good and bad about living in alternative care, things that would make their placement better, what the Department of Child Safety could do improve the child safety system and any issues of concern. The survey findings also help guide the future work and direction of the Commission, in particular, Community Visitor processes and training, and targeted monitoring and investigative work and advocacy about laws, policies and procedures.

The findings in relation to the 2008 foster care report were largely consistent with those of 2006, with most children and young people surveyed reporting feeling safe in their current placement (98%) and young people reporting a mean rating of their level of happiness with their current placement at 8.8 out of 10. This report also identified several significant improvements since 2006, including increases in the proportion of respondents reporting that they:

- are able to contact their Child Safety Officer when needed (59% in 2006; 66% in 2007)
- are told what to expect about being in care (23% in 2006; 32% in 2007)
- have decisions explained to them (53% in 2006; 65% in 2007)
- have a Case Plan (26% in 2007; 40% in 2007), and
- have an Education Support Plan (29% in 2006; 46% in 2007).

The foster care survey indicated areas for improvement, in particular:

- including the views of children and young people more effectively in decision-making
- reducing multiple care placements and multiple reunification attempts, and
- addressing issues for Indigenous children and young people.

The residential care survey identified that a majority of young people in residential care are also satisfied with many aspects of their care. Areas for improvement relate to the quality of some facilities, the training of residential care workers, and young people having greater input into decision-making and case-planning.

## *d) Child Death Case Review Committee Reports*

The Commission's Child Death Case Review Committee (CDCRC) allows public scrutiny of the deaths of children who were known to the Department of Child Safety within the

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three years prior to their deaths. The CDCRC is an independent committee whose members are appointed by the Governor-in-Council and provides an essential and autonomous accountability mechanism and promotes greater transparency in the child safety system. The CDCRC operates within strict legislative timeframes and reviews all child death reports provided by the Department of Child Safety within a three month timeframe. By publishing its findings the Committee also prompts service providers to improve the timeliness, appropriateness and coordination of services to children and young people who come into contact with the child protection system.

Where appropriate, the CDCRC makes recommendations about strengthening the quality and consistency of services to children and their families across all cases. The CDCRC's findings and recommendations in 2007–08 have highlighted: the importance of effective risk assessment focussed on the child; training, supervision and professional development issues that impede the quality and timeliness of case work; and the Department of Child Safety's capacity to gather and exchange relevant information from other agencies and deliver holistic and coordinated case management.

## *e) Investigative review of serious or systemic issues in the child safety system*

The Commission has formal powers under the *Commission for Children and Young People and Child Guardian Act 2000* (CCYPCG Act) to investigate and review serious or systemic issues arising in the child safety system. In 2007–08, the Commission completed 12 investigations and reviews, and made recommendations for improving the delivery of services to children by service providers including the Department of Child Safety, Queensland Health and the Queensland Police Service. The key recommendations made by the Commission in 2007–08 concerned:

- measures to address the safety and wellbeing of children of parents with mental health issues
- inter-agency collaboration
- referral of children to appropriate services
- ensuring that counselling services are appropriate and effective
- reviewing and amending policies and procedures relating to children in the child safety system, and
- communicating the outcomes of investigations to families and staff for acknowledgement and learning purposes.

In addition, the Commission produces an annual profile on all children and young people in Queensland through its *Snapshot* report, it reports annually on the deaths of all children and young people in Queensland, it monitors particular policies and programs, and engages with children and young people to seek their views on the programs, policies and services that are being addressed.

The Commission also administers a working with children check to make sure that regulated businesses and volunteer organisation working with children and young people reduce risks to children and young people by developing risk management strategies, ensuring that their employees are screened for a criminal history, and implementing other safeguards.

## **5. Assisting state and territory child protection agencies develop processes and address privacy issues to enable effective sharing of child protection information for at-risk children across state and territory borders**

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Child protection information exchange between the states is currently not done well. Privacy constraints and the lack of processes for the exchange of information means that children can be placed at risk as their parents move across state borders. Sometimes this is intentional to avoid further scrutiny from a state child protection agency while in other cases it is for personal reasons. Whatever the reason, children are placed at greater risk as they go off the radar of one state's system but are not picked up as they enter another state. The family, and more importantly the risks to the child, can become invisible unless and until concerns are raised about the family in the new jurisdiction.

The Australian Government through a National Child Protection framework could play an important role in assisting state and territory child protection agencies develop processes and address privacy constraints to enable effective sharing of child protection information on at risk children across state borders. This would require the Australian Government and state jurisdictions to examine what information opportunities or triggers there may be that could be used to initiate support services for vulnerable families across jurisdictions.

Please do not hesitate to contact Vicki Hall, A/Manager, Strategic Policy (ph: 3247 5509; e-mail: Vicki.Hall@ccypcg.qld.gov.au) should any aspects of this advice require clarification.

