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HEALTH, COMMUNITIES, DISABILITY SERVICES AND DOMESTIC AND FAMILY VIOLENCE PREVENTION COMMITTEE

Members present:

Ms L Linard MP (Chair)
Mr MF McArdle MP
Mr SE Cramp MP
Mrs T Smith MP
Mr AD Harper MP
Mr JP Kelly MP

Staff present:

Ms D Jeffrey (Research Director)
Ms E Booth (Principal Research Officer)

PUBLIC BRIEFING—INQUIRY INTO THE CHILD PROTECTION (MANDATORY REPORTING—MASON'S LAW) AMENDMENT BILL 2016

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 11 MAY

Brisbane

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Committee met at 11.12 am

CHAIR: Good morning, ladies and gentlemen. Before we start, I request that mobile phones be switched off or to silent mode. I declare the public briefing of the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee's inquiry into the Child Protection (Mandatory Reporting—Mason's Law) Amendment Bill 2016 open. I would like to acknowledge the traditional owners of the land on which we are meeting today and pay my respects to elders past, present and emerging.

My name is Leanne Linard. I am the chair of the committee and the member for Nudgee. The other members of the committee are Mr Mark McArdle, member for Caloundra and deputy chair; Mr Joe Kelly, member for Greenslopes; Mrs Tarnya Smith, member for Mount Ommaney; Mr Aaron Harper, member for Thuringowa; and Mr Sid Cramp, member for Gaven.

The private member's bill was referred to the committee on 17 March 2016. The purpose of this briefing is to receive additional information to assist us in our examination of the bill. The primary objective of the bill as stated is to ensure that mandatory reporting obligations apply to the early childhood education and care sector individuals in accordance with the Queensland Law Reform Commission's report titled *Review of child protection mandatory reporting laws for the early childhood education and care sector*.

There are a few procedural matters before we start. The committee is a statutory committee of the Queensland parliament and, as such, represents the parliament. It is an all-party committee which takes a nonpartisan approach to inquiries. This hearing is subject to the Legislative Assembly's standing rules and orders. You have previously been provided with a copy of the instructions for witnesses so we will take those as read. Hansard will record the proceedings and you will be provided with a copy of the transcript. The hearing will also be broadcast. I remind witnesses to speak into the microphone.

DAVIS, Ms Tracy, Member for Aspley, Queensland Parliament

CHAIR: I welcome Ms Tracy Davis, the member for Aspley, who has introduced the bill into the parliament. We thank you for making time to come and meet with the committee. Would you like to make an opening statement before we ask questions?

Ms Davis: Thank you, Chair. I, too, would like to thank members of the committee for affording me this opportunity to provide a statement. I would also like to acknowledge the traditional custodians of the land on which we meet and pay respects to elders past, present and emerging.

As the chair indicated, my name is Tracy Davis and I am the member for Aspley and the shadow minister for education. I would like to begin by touching on the review that was undertaken by the Queensland Law Reform Commission which has informed the development of the bill and outline the key provisions that are contained in the bill.

Each jurisdiction or each parliament across Australia has enacted mandatory reporting laws as they are seen as an important part of the broader child protection system. However, the laws are not the same across all jurisdictions, with the main difference being who has to report and what types of abuse and neglect have to be reported. There are also differences in these laws across the jurisdictions such as the triggers of the reporting duty—for example, having a concern, suspicion or belief on reasonable grounds. In Queensland our current mandatory reporting laws are triggered when a mandatory reporter becomes aware or reasonably suspects significant detrimental effect on the child's physical, physiological or emotional wellbeing. In Queensland our mandatory reporting provisions are contained in the Child Protection Act 1999 and were first introduced in 1980.

By 2004 the former Crime and Misconduct Commission recommended that mandatory reporting provisions be expanded to include registered nurses but found at that time there was little point in extending mandatory reporting categories past that in a system that could not respond to the

demands placed on it at the time. There had been other provisions introduced in 2003 in other acts that required school staff—and by this I mean teaching and non-teaching staff—to report the actual or suspected sexual abuse of a child attending the school by another school employee.

As committee members would be aware, in 2012 the LNP established the Queensland Child Protection Commission of Inquiry because we knew that the system was struggling. It had become overburdened and was unsustainable, and a holistic review was required so that we could protect children better and strengthen families through an improved secondary support system.

During its inquiry the commission examined the role of mandatory reporters and formed the view that the problem of escalating reports to Child Safety Services which was overwhelming the system would not be solved while the legislative provisions of mandatory reporting remained fragmented, unclear and inconsistent. It recommended that a coherent legislative framework for mandatory reporting be developed along with a child protection guide as part of the new reporting framework together with training about key thresholds, definitions and concepts.

The commission proposed that the various mandatory reporting obligations contained in several pieces of legislation be consolidated into one piece of legislation—namely, the Child Protection Act—and that agency's policies be realigned accordingly. As I mentioned, mandatory reporting laws are contained in the Child Protection Act, which currently identifies the following groups as mandatory reporters: a doctor, a registered nurse, a teacher, a police officer who works in child protection and a person engaged to perform a child advocate function under the Public Guardian Act 2014. All other jurisdictions apart from Queensland and Western Australia extend their mandatory reporting obligations to the ECEC sector.

The impetus for Queensland to have another look at this came from a public campaign led by John and Susan Sandeman, who live in Townsville, and I understand that the committee may have an opportunity to have a conversation with Mr and Mrs Sandeman. Their grandson Mason Parker, who was just 16 months old, was murdered by his mother's then partner in 2011. In the weeks leading up to Mason's death, bruising was observed on his little body by staff at the centre that he regularly attended. These bruises and concerns were raised to the appropriate person within the centre who was the director, but unfortunately those concerns were not reported to the statutory authorities. Tragically for Mason, it could be said that the reporting system failed him.

John and Susan Sandeman have relentlessly campaigned since Mason's passing for the ECEC sector to be mandatory reporters of harm. Mason's case attracted much media in Townsville, and the member for Hinchinbrook sponsored a petition on behalf of the Sandemans I think in 2013—I could be corrected on that—so the ECEC sector could be considered as mandatory reporters. I had an opportunity to meet Mr and Mrs Sandeman. They are wonderful people. Whilst this started because of the death of their most beloved grandson, I can assure the committee that this is much bigger for them. They do not want to see any other child tragically lose their life because the reporting system failed them.

Having met Mr and Mrs Sandeman back in 2014, I came back to Brisbane and it was determined that the LNP when in government would refer this matter to the Queensland Law Reform Commission, which I will refer to as the QLRC, so it could have a good look at whether mandatory reporting should be extended to the ECEC sector. I think it is really important to put on record my thanks to the QLRC under the stewardship of Justice David Jackson. They did a great job. There are over 140 pages in the report. I think they investigated very thoroughly the matter of mandatory reporting in the ECEC sector.

The overwhelming number of submitters were not opposed to mandatory reporting. There were a number of submitters that raised some points of concern. I think that is why it is so important to not make a policy decision on the run but to refer to a body which is made up of eminent lawyers who will thoroughly investigate the matter. One submitter, Early Childhood Australia, identified that the ECEC sector is one of the largest universal service systems working with families with young children and that young children are particularly vulnerable to child abuse and neglect as their capacity to communicate and understand their world is still developing. Independent Schools Queensland submitted that mandatory reporting benefits very young children who may be unable to speak up and seek help for themselves. I think that was certainly the case for little Mason.

The report noted that ECEC services are already subject to child protection obligations, have internal policies and procedures in place, and can and do voluntarily report concerns to Child Safety, but I have to stress that this is voluntary. It is not mandatory. The QLRC considered that the expansion of the mandatory reporting obligation to the ECEC sector aligned with these existing obligations. It also aligned with increasing regulation of ECEC services and professionalisation of the workforce that has taken place in recent years.

As I said in my introductory speech on this bill, the QLRC report identifies in the list of recommendations that mandatory reporting is only to apply to individuals where it sets out which individuals the mandatory reporting obligations should apply to. The amendment is therefore reflected as an individual who is a Queensland approved provider under the Education and Care Services Act or an approved provider under the education and care services national law.

The bill is quite straightforward. It is simply inserting a new cohort which is reflective of the ECEC sector. There are no other changes to the act; there no penalties. It aligns very neatly with the reporting obligations of every other mandatory reporter that appears in the Child Protection Act. I respectfully ask the committee to seriously consider this. I was very heartened last night to come across the Queensland government's response to the QLRC report. I think it must have been released very recently. What it proposes is that they accept the recommendations of the QLRC—they accept two and one in principle. I have no issue with the rationale behind the in-principle acceptance. I think working with the ECEC sector to ensure that the right people appear and become noted as mandatory reporters is entirely appropriate.

I am fully aware that there is a review of the Child Protection Act currently. As a result of my former role I understand how long these things take. It would concern me if the committee were not aware that it could take up to 18 months to implement any legislative changes that come of a full review of the Child Protection Act, and I would respectfully ask that this legislation be viewed independently. We look after children who are five and above through mandatory reporting. This will capture our most vulnerable kids aged zero to five. I would ask that this be progressed as a matter of priority, although I do appreciate that there is a full review of the child protection system at the moment.

CHAIR: Tracy, thank you. You have just answered one of the questions I had for you in regard to the overall review of the act. You mentioned the commission of inquiry report—recommendation 4.2 I believe you referenced—about leading a whole-of-government review of these processes. What was the outcome of that whole-of-government process review? I believe you were the minister at the time. Why did that not include the early childhood sector at that time? What was the thinking there?

Ms Davis: When the Carmody inquiry was being undertaken, he looked a little at mandatory reporting but in the context that the different agencies needed to be brought into alignment. He did not specifically look at the ECEC sector. In my opening statement it refers to that. It was about getting alignment for the mandatory reporters who were already mandated to report.

There has been a school of thought that by expanding to the ECEC sector it might increase the number of reports to Child Safety and that may start to overburden them. I think it is fair to say that it is likely more people will report. I do not think it will be overwhelming. This is a sector that is highly professionalised that has worked very hard over the last several years to have policies in place to address child protection issues. Now that the 2014 legislation has been passed and all the mandated reporters are in alignment I think it is appropriate to look at mandatory reporting of the ECEC sector quite separately. That was why it was important to have a body like the QLRC look at it so we did not just mandate the ECEC sector without some investigation, just as we did with the Carmody inquiry. It sat aside and looked at the matter of child protection independently. We felt that mandatory reporting of the ECEC sector needed that same scrutiny.

CHAIR: That is why teachers and police, who it is my understanding at that time were not legislated reporters, were dealt with but ECEC was not, and that is why you referred it to the Law Reform Commission?

Ms Davis: Correct.

CHAIR: The other point I was going to raise is that it is about balance, because the Carmody report raises to some degree overreporting and pressure on the system and some of the submitters raised concerns that this may cause that issue. I appreciate your comments about the professionalism of the sector, but even if it did increase the number of reports I appreciate the balance has to be found between making sure the report has been made.

Ms Davis: It was important as part of the Carmody inquiry that we started to look at the secondary system, because what was happening is the tertiary end of the child protection system was becoming overloaded. People were coming in and were not being diverted. They were coming into the system when they could have been assisted outside of the statutory regime. Family and Child Connect—which the committee may know about; it is part of the reform—is working with families who need not necessarily come into the child protection system but who need some assistance to strengthen their capacity. What that means is that those children who are seriously at risk of neglect, Brisbane

harm or abuse will be treated as they should in the tertiary system. They will come in and child protection services will be monitoring their case, but there are some families who can be diverted, who can be provided with the tools and assistance so that the children can remain safely at home.

If you look at the early data you will see that the number of reports going to Child Safety has in fact started to go down or plateau, so that will only get better. Carmody in his report talked about the fact that the numbers of kids coming into care would still probably increase a bit just because of growing populations and the like, but it would start to plateau and then hopefully at the end of 10 years we might even start to see it reduce because of the strengthening of those secondary services. Whilst I accept that people are concerned that there might be more reporting, I do believe that there are the programs and systems in place to divert those families that just need some extra help rather than being in the statutory system which is why it was overburdened.

CHAIR: Thank you. I have one final question before I hand over to the deputy chair. One of the concerns raised is that the date included in your bill from when it would take operation does not leave enough time for services to adequately equip themselves, train and educate, and be prepared for it. What is your response to that?

Ms Davis: It is the same length of time that we gave doctors and nurses and those who are already mandated reporters dealt with by Carmody, so we felt that that was an appropriate time. I think also it is around the start of a school year period and that was just a neat and tidy fit. It was really about mirroring what was asked of the other mandatory reporters to get themselves ready but there is, as I understand it, the framework now that can be provided to the ECEC sector in terms of the material that they would need.

CHAIR: Is it fair though, Tracy, given the comment you raised earlier—that is, that ECEC was not included along with the changes that were made to legislate teachers and police, who had already been operating under fairly established policies and procedures about reporting? The ECEC sector had not and that is why it went to the Law Reform Commission and they are different in that respect. Your comments were that those parties may need longer given that they have not been included and do not have the same established processes in that regard.

Ms Davis: I appreciate your comment except that the ECEC sector in the main already has established policies in place, so it is not something new that is being put on them. It might look a little bit different, but it is not a whole new process. Some of the conversations that I have had with providers are that it is unlikely to be hugely problematic. We always like a bit of extra time for anything that we do, but that is why the timing was selected and I think it is entirely doable, particularly if there is a sense of resolve by government and the sector to make this happen. That is certainly the sense that I have.

CHAIR: Thank you, Tracy.

Mr McARDLE: Thank you, Ms Davis, for your submission and for being here today. I also acknowledge Ms Ros Bates, the member for Mudgeeraba and current shadow minister of the portfolio. Tracy, you mentioned earlier that the review of the act might delay this bill being put into place. But you could lift this bill, couldn't you, into the review? It could be put in place now?

Ms Davis: Absolutely.

Mr McARDLE: The review of the act could simply fit into the new bill going forward, couldn't it?

Ms Davis: I think they could align themselves very easily. The full review of the act can chug along and, really, this is a technical amendment. It is just an insertion; it is just an addition. It is not a major overhaul of any piece of legislation, so I think government could very easily make this happen earlier and not really impact at all on the full review of the Child Protection Act.

Mr McARDLE: Indeed, it harmonises this state with other states, outside of Western Australia.

Ms Davis: Yes, Western Australia.

Mr McARDLE: Yes. We would be aligned to Victoria, New South Wales, South Australia, Tasmania and the like, so it is not a major step forward in relation to the review. We could have the bill in the House and passed. The review could take place and lift the new bill into the act and keep moving forward.

Ms Davis: Absolutely, indeed.

Mr McARDLE: Secondly, there are two organisations that filed reports raising the issue of overreporting and raising the issue of costs. Can you comment upon this: to be professional any volunteer organisation or organisation involved in this area would now have in place protocols and steps with regard to reporting any allegation or suspicion of abuse. Would that be right?

Ms Davis: Yes, that is my understanding. If I have understood your question correctly, there were a couple of organisations that did register some concerns. One was PeakCare, which is the peak body in this policy area, and the other was C&K. I have had opportunity to speak to representatives from both of those organisations and one childcare provider and I certainly got the sense that there was no opposition to mandatory reporting. Their concerns were about any cost imposts and how the training would roll out. When it comes to PeakCare it talked about its concerns that the amendments were not evidence based, but I do not agree with that. I think what Lindsay Wegener was in fact trying to get at was that he was talking about mandatory reporting in general—that is, whether mandatory reporting actually makes a difference as opposed to just having the community being able to report or agencies being able to report to Child Safety. My view is that in the main there is no great opposition to this.

In terms of any financial impost, when we in government delivered our response to the Carmody inquiry committee members might know that there was an additional \$406 million that went alongside the reform package. In addition to that there was an amount of around—and maybe one of the committee members can jog my memory on this—\$20 million that was set aside in Treasury but was not in the forwards as a contingency fund so that for policy changes that came as a result of the rollout of the reform there was an amount of money that was accessible. Mind you, the minister and the department had to come up with a very good reason to access to contingency money. It was not able to be accessed easily. In terms of the costing, Mark, there is money there. The cost, if I recall correctly, to roll out in the education sector was around \$2 million. That was the estimated cost. I do not expect it is going to be that high with the ECEC sector, though I do not have the resources to look at that. Government has that. But there would certainly be money in the contingency allocation in order for those who are concerned about additional costs in terms of training.

Mr McARDLE: To summarise, you would say that this bill could become an act, be picked up in the review, put into the new act in due course and therefore get into the House quickly and into law ASAP; you would expect organisations of this nature to have in place already regimes and practices to capture this effort so the impost upon them in relation to new steps et cetera would not be onerous; and funding does exist already to assist in training and the like.

Ms Davis: I am loath to say it would not be onerous because I do not run their businesses, but I did not get a sense that it was like starting from scratch and there is additional funding sitting in this contingency fund. Given that the government has accepted that mandatory reporting of the ECEC sector be implemented, there is a strong case to access the contingency fund.

Mr KELLY: Tracy, I just wanted to start with an observation. I have worked most of my career with a mandatory reporting obligation, but in another field we introduced changes in relation to managing deteriorating patients. While we initially saw a vast increase in the number of nurses and other health professionals reporting patients who were deteriorating, we saw a massive decrease in the number of code blues or crisis situations. I am not overly concerned about the increase in reporting; I think that will be a good thing. Having been through about 10 years of child care recently—thankfully behind me—and always surprised at the various people coming in and out of childcare centres, are you confident that the definition provided in clause 4 of your bill captures all ECEC staff working with children and volunteers?

Ms Davis: Our bill reflects what the QLRC had in its report. They did the investigation and we felt that, based on that, that would be fine. I think the concern for the government really is around making sure that that definition does not have any cracks in it, and I think I mentioned before that I do not have any issue if there needs to be a tweaking of that so that there are no unintended consequences. That is what the committee process is all about—that is, to pick up those things. I am not unhappy for that to happen. I do not think it will take a very long time to resolve that matter once the government speaks to the ECEC sector to resolve that matter and so this could go ahead quite quickly.

Mr KELLY: I notice that recommendation 4.2 of the inquiry suggested that there should be a whole-of-government process review, because I was surprised that ECEC workers were not already under a mandatory reporting scheme.

Ms Davis: And there are a lot of people who think they are.

Mr KELLY: Where did that review get to? Has that been conducted and are there other groups that we should be thinking about or looking at?

Ms Davis: I am not sure. I cannot answer that because I cannot come from a place of current authority on it. To your point about the ECEC sector, from the people that I spoke to—and certainly this was my sense from Mr and Mrs Sandeman when they were doing their petition, and they were

very active—people were very surprised to learn that those in the early childhood education and care sector were not mandatory reporters. I think there is already an assumption in the community that they are mandatory reporters and this will really reflect what the community believes anyway.

Mrs SMITH: Thanks, Tracy, for coming in today. I probably just have a quick comment. As you said, once five-year-olds go to school there is mandatory reporting. This is just an extension to cover kids from nought to five.

Ms Davis: They are the most vulnerable cohort—zero to five—and I do not think you would find anybody in early childhood education who would not hold that view. They are most vulnerable for a range of reasons, particularly that they cannot articulate necessarily what has happened to them. The ECEC sector is made up of very caring people. People who work in early childhood do not do it for the money; they do it because they care about our children. I think this just provides them with an extra tool should they feel that there is an issue of abuse or neglect surrounding a child.

Mr HARPER: Thank you, Tracy. I have to start with just acknowledging the work to date from the former government and this government. Obviously bipartisan support is needed to get this through for such an important reason—that is, the children of course.

Ms Davis: Absolutely.

Mr HARPER: There were a number of submitters that put together a good body of evidence— from the Queensland College of Teachers to United Voice. We know they cover thousands of childcare workers and they put significant submissions in. Interestingly, the Queensland Law Society highlighted the case for consideration as to whether paramedics in Queensland should be included in the class of persons. As you know, police, nurses and teachers are on that list for mandatory reporting. I do know through my experience in the ambulance that I have a bit of a personal desire to see this happen. The Ambulance Service here in Queensland confirmed it is not mandatory, but it is allowable without breaching confidentiality. It has been in place with the New South Wales Ambulance Service for 20 years. Do you think there is a need here?

CHAIR: We need to remain relevant to the bill as well as keep to time, although I appreciate the member's passion for his former profession.

Ms Davis: It is all about the kids, so I get it.

CHAIR: Yes, but—

Mr HARPER: I just wanted to get your comments as to that.

Ms Davis: I think that is probably something you need to speak to both the health minister and Minister Fentiman about as to whether it needs to be expanded. I think there is opportunity for paramedics, particularly if the child then has to go to the next stage of medical assistance in that we have nurses and doctors as mandatory reporters, so in that continuum of service there is probably opportunity there. In the ECEC sector that is not there. They go to school and they come home, so having somebody watching over them in terms of their care I think is a little different. I appreciate your passion for wanting to make sure that children that you will have seen who are not safe be provided the safety that they need. That is the resolve of all of us. That is why we do what we do.

CHAIR: Tracy, thank you very much for coming before the committee today. We are, as always, running behind time. I can see the former deputy chair sitting in the front row. As she would well know, we always want more time in these hearings.

Ms Davis: I just want to mention one thing, though, and I do apologise that I missed it. When people are mandated as reporters it provides them with some protections of confidentiality. When a person makes a report to Child Safety, it is done in confidence. Anybody can make a report to Child Safety. I can make one; any of the committee members can do that. This also provides protection for the reporter, and that is something that has not really been highlighted. I think that is important for those who are very concerned and may feel that there would be retribution or that the family might know that a report has been made. They are covered with confidentiality provisions in the act.

CHAIR: Thank you very much, Tracy. Our time has expired. Thank you for coming before the committee today. Thank you for your testimony on the bill.

Committee adjourned at 11.47 am