PeakCare Queensland Inc.

The Research Director
Health and Community Services Committee
Parliament House
George Street
BRISBANE QLD 4000

14 April 2014

Dear Health and Community Services Committee

Re: *Child Protection Reform Amendment Bill 2014*

PeakCare Queensland Inc. (PeakCare) welcomes the opportunity to make a submission in response to the *Child Protection Reform Amendment Bill 2014*, which was introduced into the Legislative Assembly on 20 March 2014.

PeakCare is the peak body for child protection services in Queensland. PeakCare has 60 member agencies, which are a mix of small, medium and large, local and statewide, mainstream and Aboriginal and Torres Strait Islander non-government organisations that provide family support, child protection, and out-of-home care services (eg. foster and kinship care, residential care) to children and young people who are at risk of entry to, or in, the statutory child protection system and their families. PeakCare has an additional 16 members that are individuals and other entities supportive of PeakCare's policy platform relating to the safety and wellbeing of children and young people, and the support of their families.

PeakCare members directly provide care and support for some of the most vulnerable of Queensland's citizens - children and young people who have been harmed or are at risk of harm from abuse and neglect, particularly those children who have been removed from parental care and placed on an emergency, respite, short or long term basis in foster, kinship, residential and other out-of-home care environments.

Our interest in this Amendment Bill relates to children[1] in contact with community-based and statutory interventions, services, programs and agencies that together comprise the child protection

[1] The terms 'children' and 'child' have been used to refer to children and young people aged 0 to 18 years, unless otherwise stated.

17 Ross Street (PO Box 159) Paddington Qld 4064 | Email: office@peakcare.org.au | Web: peakcare.org.au |
Phone: 07 3368 1050 | Fax: 07 3368 1160 | ABN 46 517 600 227 |

system. As indicated in our submissions and other contributions to the Queensland Child Protection Commission of Inquiry (the Inquiry), we are highly supportive of legislative amendments, policy changes and ensuing changes in day-to-day practice that enable children and young people who have been harmed or are at risk of harm, and parents who need assistance to care for and protect their children, to receive the help they need, when they need it, for the time they need it, from the right provider. For some children, this means investigation, assessment and determination that the child is in need of protection and without a parent able and willing to protect them.

We understand the proposals in the Bill seek to enable legislative changes in response to Inquiry recommendations about the administration of court processes, oversight of child death reviews, handling of complaints about the child protection system, administration of the working with children regime, and clarifying reporting requirements and the threshold for statutory child protection intervention.

In preparing this submission, we have considered the speech that the Attorney-General and Minister for Justice made when introducing the Bill to Parliament, the explanatory notes, and the Bill. In a number of places, the speech and explanatory notes refer to the work that Child Safety, the statutory agency, undertakes as the 'last resort' because parents have failed in caring for and protecting their children from harm. PeakCare respectfully submits that there are many reasons why children or parents come to the Department's attention, a significant reason being that those families have not had or do not have ready access to the range of interventions, services and programs that, for example, would work with them to address domestic and family violence, child and adult substance abuse, child and adult mental health issues and / or housing issues.

While we appreciate that the intention may be to emphasise the importance of building the secondary system and providing increased access to universal services as well as intensive family support, this is better underpinned by the notion of children and families being able to receive the help they need, when they need it, for the time they need it, from the right provider. Sometimes a statutory response does, in fact, provide the help the child and family need, when they need it, for the time they need it and the statutory agency *is* the right provider. The Inquiry's recommendations are based on their finding that the 'right response' has not been available and/ or children and families have been unable to exit the tertiary end of the system once they have been assessed as having 'failed into it'. PeakCare is concerned that the notion of 'last resort' that seems to underpin much of the Bill may do little more than alter thresholds and the mechanisms used to channel children and families either away from or into the tertiary end of the system without, as is needed, more significantly shifting understandings about the 'dynamics' of the system, creating a better understanding about the appropriate use of statutory interventions and ensuring that children and families actually do have access to the right services at the right time and for the right reason.

Also reflecting the Inquiry's findings and Roadmap are the stated objectives to reduce the number of intakes to Child Safety and divert families from the statutory system. These 'objectives' are not the same as stating that children and families are legislatively entitled to receive the right response to concerns or reports about significant abuse and neglect (eg. assessment and family support services

as opposed to a forensic investigation) or that the Department's only response should be an intrusive tertiary, statutory response. The Inquiry commented on three main strategies to divert families from the statutory system – creating the mechanisms and processes by which families are streamed to the right service, creating an effective, viable secondary service system able to provide intensive family support, and creating the means for children and families to cease unnecessarily prolonged involvement in the tertiary system which can only be achieved if the right services are provided to facilitate access to less intrusive or tailored support.

Reporting thresholds and mandatory reporters

PeakCare is supportive of clarifying the threshold for statutory child protection intervention - a child who is in need of protection - through qualifying that the harm must be of a significant nature (clause 5). In respect to seeking to clarify the statutory agency's role in responding to reports of reasonable and reportable suspicions, we are interested as to the rationale why clause 7 does not seek to amend the introduction to section 14 of the *Child Protection Act 1999* (the Act) in addition to the description of what authorised officers do on receipt of these reports. Section 14(1)(b) still leaves scope for the department to take other action (i.e. advice to reporter, referral etc) where the report does not meet the threshold.

We are supportive of clarifying reporting obligations and of common reporting obligations across the range of current mandatory reporters in Queensland.

In respect to licensed care services, we are confused by references in the explanatory notes (page 8) about mandatory reporting by persons in residential care services as if these are the only out-of-home care services licensed by the Department under the Act. Administratively, the Department has determined that a 'care service' includes all out-of-home care settings (eg. residential care, foster and kinship care service) in which a child is placed under section 82 of the Act. The current section (section 148) and proposed 13F place the obligation to report on persons employed in a licensed care service.

By putting parameters around 'reportable suspicions', we understand that the amendments aim to facilitate the statutory agency's receipt of reports about significant harm that have undergone a preliminary assessment by mandatory reporters. We are not convinced by the inclusion in clause 6 (13E and 13F) that the significant harm must be caused by physical or sexual abuse. We believe that statutory child protection intervention may be the right response for children subject to serious neglect or emotional abuse, which can cause significant harm of a detrimental effect on a child's physical, psychological or emotional wellbeing. A glance at various States' child death review reports makes it very clear that neglect can be fatal, as can emotional abuse as a precursor to, for example, adolescent suicide. The limitation to physical and sexual abuse reinforces out-dated notions that neglect is not as serious and that emotional abuse is 'hard to define'. Other examples include failure to procure vital medical attention for a child, exposing a child to significant trauma as a result of domestic and family violence, chronic scapegoating of a child such that their mental health is impacted, or chronic failure to supervise small children such that they are at significant risk. This is

not to argue that an assessment and family support services response is inappropriate, rather that we are not convinced that this distinction should be the arbitrary basis of a differential response framework to children and families. In the face of entrenched poverty, structural disadvantage, discrimination or homelessness, parents' willingness and capacity to protect and care for their children is undermined. Doctors, nurses, teachers and police come in contact on a daily basis with vulnerable and at risk children and parents.

It is particularly concerning that licensed care services' reporting about significant harm to the children placed in their care would be limited to physical and sexual abuse for the very reason, that the children are in the care of the State and the person responsible for the harm is generally, though not always, a staff member or approved carer in whose care the child has been placed, or the child themselves.

Without further information, PeakCare is not prepared to support the proposal in 13E and 13F that the obligation on mandatory reporters is limited to reporting significant harm caused by physical or sexual abuse.

We are curious as to why penalty units would no longer apply to mandatory reporters who do not discharge their obligations and whether there is evidence that they acted as an incentive or disincentive to make a report.

Notwithstanding that we are aware that the Act will be subject to comprehensive review, we are confused by the absence of explicit references to reportable suspicions about the risk of harm to unborn children once they are born or, in 13B, to the taking of other appropriate actions under the Act or making referrals for help and support.

We support 13B(2) including greater detail about "other appropriate action under the Act" that could be taken by persons who suspect child abuse or neglect to trigger (other) help and support to a child, family or pregnant woman. This could include an example or reference to other sections in the Act. We are particularly of this view if it is intended that 13B somehow implements the Government's response to Inquiry recommendation 4.5, although this is not referred to in the Explanatory Notes. In accepting the recommendation, Government stated that a "dual pathway approach" offering an alternative to reporting to Child Safety Services would exist through a "regional community based referral point" by 1 January 2015. In our view, further amendments, similar to those about community-based child and family services in Victoria's *Child, Youth and Families Act 2005* would be required to implement a dual pathway.

In respect to the rationale for clause 22 which seeks to amend section 159C, the explanatory notes state that the purpose is to enable prescribed entities "to directly refer a child and their family to a service provider" to stop children becoming a child in need of protection. Diversified and non-stigmatising pathways to the right services at the right time for the time needed from the right provider are ostensibly the objective. Self-referral and referral by other types of services that support families must flow through to program and funding guidelines such that the target group is

inclusive of children and families who have had or are still subject to statutory intervention, and families where the suspicions are new, or at least to the prescribed entity.

We are the view that clause 13I(b) (Reporting obligation arises when reportable suspicion is formed) would benefit from the inclusion of an example about 'other action in relation to child' to support relevant persons initiating necessary or apparent help and support to the child or family and to avoid any confusion about actions that could compromise the making of a report to the statutory agency or to the police.

Child death and other case reviews

PeakCare is generally supportive of the provisions in the Bill about child death and other case reviews. We support amending the Act to cover departmental reviews of departmental involvement with children who have suffered serious physical injury, in addition to reviewing some child deaths. We also support the one-year timeframe, flexibility for the Minister to request a review, and the chief executive's discretion in deciding the extent of a particular review. In respect to the Child Death Review Panels, PeakCare supports a mix of external and internal review panel members and the mandatory inclusion of an Aboriginal person or Torres Strait Islander on a panel reviewing the review of a matter involving an Aboriginal or Torres Strait Islander child. We are perplexed as to why the pool will include non-public servants who hold specialist knowledge and expertise in child protection issues whereas this will not be required of departmental officers or non-departmental public servants.

Amendment of the Childrens Court Act 1992

PeakCare is supportive of the proposed amendments to childrens court processes.

Amendment of Commission for Children and Young People and Child Guardian Act 2000

PeakCare understands the rationale for the proposed amendments that will transfer the working with children check regime and annual risk management strategy to the Public Safety Business Agency as a result of the dismantling of the Children's Commission.

Clause 52 (section 5) sets out two principles under which the *Working with Children (Risk Management and Screening) Act 2000* is to be administered. PeakCare is of the view that there is scope for an additional principle that focuses on recognition of the protection afforded to children by their parents' and extended family's involvement in their children's social, recreational, sporting and cultural activities. The intent of including a principle of this nature would be to reinforce that parents and other family members should be supported, not dissuaded or excluded, from volunteering and being involved in their children's activities.

Thank you again for the opportunity to make a submission. Please contact me if you have any queries or require further information.

Yours sincerely

Lindsay Wegener
Executive Director