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

Members present:

Ms L Linard MP (Chair)
Mr MF McArdle MP (Deputy Chair)
Mr SE Cramp MP
Ms LE Donaldson MP
Mr AD Harper MP
Dr MA Robinson MP

Staff present:

Mrs M Johns (Acting Committee Secretary)
Mr J Gilchrist (Assistant Committee Secretary)

PUBLIC BRIEFING—EXAMINATION OF THE CHILD PROTECTION REFORM AMENDMENT BILL 2017

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 23 AUGUST 2017

Brisbane

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Committee met at 9.38 am

CHAIR: Good morning. I declare this public briefing of the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee open. I want to acknowledge the traditional owners of the land on which we meet and pay my respect to elders past, present and emerging. My name is Leanne Linard. I am the chair of the committee and the member for Nudgee. Other committee members are Mr Mark McArdle, the member for Caloundra and deputy chair of the committee; Ms Leanne Donaldson, the member for Bundaberg; Mr Sid Cramp, the member for Gaven; Mr Aaron Harper, the member for Thuringowa; and Dr Mark Robinson, the member for Cleveland. Today's briefing is part of the committee's examination of the Child Protection Reform Amendment Bill 2017. The bill was introduced by the Hon. Shannon Fentiman, the Minister for Communities, Women and Youth, Minister for Child Safety and Minister for the Prevention of Domestic and Family Violence, on 9 August 2017. The committee is required to report on the bill by 28 September 2017.

Turning to a few procedural matters before we start, this 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 briefing is a formal proceeding of the parliament and is subject to the Legislative Assembly's standing rules and orders. The committee will not require evidence to be given under oath, but I remind you that intentionally misleading the committee is a serious offence. Witnesses have 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. This briefing will also be broadcast live on the parliament's website.

GILES, Ms Megan, Executive Director, Legislative Reforms, Department of Communities, Child Safety and Disability Services

STROHFELDT, Ms Merrilyn, Deputy Director-General, Service Delivery and Practice, Department of Communities, Child Safety and Disability Services

CHAIR: I welcome Ms Merrilyn Strohfeldt and Ms Megan Giles. Thank you both for joining us again on this bill. I invite you to brief us on the bill—and thank you for the written material—and then we will open for questions.

Ms Strohfeldt: Thanks for the opportunity to brief the committee today on the Child Protection Reform Amendment Bill 2017. I too would like to acknowledge the traditional owners of the land on which we meet today and pay my respects to elders past, present and future. My name is Merrilyn Strohfeldt and I am the Deputy Director-General of Service Delivery and Practice within the Department of Communities, Child Safety and Disability Services. I am joined by my departmental colleague Ms Megan Giles, who is the Executive Director of Legislative Reform. I will begin by providing the committee with an overview of the reforms before Ms Giles proceeds with the detail in the respective clauses in the bill.

On 1 July 2013 the Queensland Child Protection Commission of Inquiry released its report, *Taking responsibility: a roadmap for Queensland child protection*. The commission of inquiry made 121 recommendations to reform the child protection system over the next decade. The Queensland government accepted all 121 recommendations and embarked on an ambitious program of reform to fundamentally change the way government, child safety professionals and community organisations work together with vulnerable families and each other. In 2016 this government released *Supporting families changing futures: advancing Queensland's child protection and family support reforms* to affirm the commitment to implementing the commission of inquiry's recommendations, report on achievements and support the ongoing implementation of the reforms.

Recommendation 14.1 of the commission of inquiry's report was to review the Child Protection Act. The review of the Child Protection Act was undertaken between 2015 and 2017 and it provided an opportunity for the department to work with the community to design new contemporary laws that are based on evidence of latest best practice and on the lived experience of children and families.

The review led by a team within the department has involved extensive research into the legislation in other jurisdictions in Australia and internationally, as well as the current best practice in child protection and legislative approaches. We also considered the outcomes of other reviews into the system in Queensland and other jurisdictions, including the Royal Commission into Institutional Responses to Child Sexual Abuse.

The review of the act has involved extensive public consultation, including two stages of broad consultation based on public issues papers. The first stage began in September 2015 with six months of public consultation on the *Supporting families and protecting children in Queensland: a new legislative framework* public discussion paper. The discussion paper sought the views of Queenslanders on a range of broad issues to improve opportunities and life outcomes for children who have contact with the child protection system and their families. Across Queensland, 348 people participated in 16 community forums. The department received 51 written submissions in response to the discussion paper and over 100 Aboriginal and Torres Strait Islander people participated in one-on-one, small group and yarning circle consultations. Based on the feedback received through this first stage of engagement, in October 2016 the department released the *The next chapter in child protection for Queensland: options paper* that proposed options across 13 key topics to inform how the act could be redesigned.

During the second stage process 250 people participated in nine community forums. The department also received 128 written submissions in response to the options paper. The department also contracted the Queensland Aboriginal and Torres Strait Islander Child Protection Peak organisation to lead engagement with Aboriginal and Torres Strait Islander people from eight communities.

Between May and July of this year targeted consultation was conducted on consultation drafts of the bill. This included consultation with members of the Child and Family Reform Stakeholder Advisory Group, statutory officers such as the Public Guardian, Director of Child Protection Litigation, the Public Advocate and with legal sector representatives. Feedback received during this consultation helped to refine the bill.

Overall, the key finding of the review of the act is that the legislation is generally operating effectively. However, there are opportunities for the legislation to be strengthened and improved. Some of the opportunities for legislative reform identified through the review require significant changes to the legislation. Given the magnitude of the changes being implemented across the system as a whole and the ongoing impact of reform and significant change on our staff and non-government partners, it was decided to initially progress the priority reforms in the bill.

The key changes proposed in the bill support and enable reform initiatives already underway across the department. A second stage of legislative reform will be considered in 2018. Our goal is to build a new legislative framework that is relevant and effective now and over the next decade and beyond. The amendments in the bill are supported by a number of reform initiatives already underway within the system. These are outlined in our written briefing to the committee so I will not go through them in detail today. I will now hand over to Ms Giles who will provide an overview of the key provisions in the bill. I am also happy to provide answers to any questions that the committee may have.

Ms Giles: I thank the members of the committee for the opportunity to brief you this morning. I too would like to acknowledge the traditional owners of the land on which we meet and pay my respects to elders, past, present and emerging.

As we have outlined in our written submission or written briefing to the committee, the bill covers three broad key policy objectives. The first is to support permanency and stability for children in out-of-home care and known to the child safety service system now and throughout their lives including support when they leave care. The second objective is to provide for the safe care and connection of Aboriginal and Torres Strait Islander children and families with their communities and culture. The third objective is to establish a contemporary information-sharing framework based on children's safety and wellbeing.

There are a number of other amendments that we have taken the opportunity to include in the bill. Those arise from operational issues that have arisen over time. I will not go through those in any great detail today, but I am happy to answer any questions that you may have on those particular provisions.

I turn to the first policy objective around permanency and stability for children in out-of-home care. I should also say that in relation to each of these key policy objectives, as is usually the case with pieces of legislative amendment, there is not one provision that achieves that objective but rather a suite or a package of reforms across the bill that work together to achieve that policy objective.

The paramount principle for administering the Child Protection Act is that the wellbeing, safety and best interests of the child are paramount. That aligns with the United Nations Convention on the Rights of the Child to which Australia, of course, is a signatory. The first amendment in the bill is to insert within that provision in the legislation the words 'now and throughout their lives'. That amendment aims to achieve a greater focus not only on immediate safety decision-making for children known to the system and in out-of-home care but to think about the longer term impacts for them across their life course. We heard through consultation, particularly from adults who were formerly involved in the child protection system as children and from some of our post adoption stakeholders, of the importance of having a lifelong frame in terms of decision-making.

In this suite of amendments, clause 6 inserts a new section into the legislation that contains principles for achieving permanency for a child. Importantly, we have included in that clause a definition of permanency and this definition focuses on three key areas: relational permanency, so what are those key significant relationships that a child in out-of-home care or known to the system needs to maintain to achieve permanency and stability in their life; what are the living arrangements for that child; and, thirdly, what are the legal arrangements that are needed to achieve permanency for that child.

Often in the rhetoric in the media and in people's feedback we hear about the legal permanency issues for children—what kind of order they are on—and we miss the other two really important elements of permanency. We heard through consultation that often for families, for example, despite the chaos in their lives they have managed to maintain significant relationships for a child and how important it is for them to be maintained throughout the child's life, and those important living arrangements that are about connections to place. Often, for example, parents say it is really important that a child stays at a particular school or maintains connections within a local community.

Also within that provision we have introduced for the first time principles that provide an order of priority for options for achieving permanency for a child. You will notice that those are not focused on particular orders again but, rather, on particular types of intervention that should be considered within an order of priority for achieving permanency. That is consistent with some other legislative provisions in New South Wales and Victoria which have also moved to that kind of approach.

Clause 17 of the bill makes an amendment that helps to achieve permanency for children in out-of-home care by requiring a case plan for a child to include permanency goals. At the moment the requirement is that the case plan includes goals for the intervention. The bill will introduce a new requirement for the case plan to also include how we are going to achieve permanency for an individual child. That also requires that there be permanency goals included in the case plan should reunification of a child with their parents not be achievable within a reasonable time frame. That introduces the requirement for what is sometimes referred to as contingency planning—having alternative plans in place should we be able to return a child home or, if not, what is the alternative plan.

Clauses 34 and 35 of the bill also work towards achieving permanency for children by limiting the number of successive short-term orders that can be made for a child, or extension of short-term orders to beyond a period of two years. This was a recommendation from the commission of inquiry; that we look at placing some limits on the number of times a short-term order can be made. Often we see that successive short-term orders are made one after the other with the consequence for the child that they end up being in out-of-home care for a long time, until they are 18 even, without the benefits of the having the stability and security that a long-term order can put in place for them. This amendment is aimed at focusing practitioners and the court on considering, in the best interests of the child, whether another successive short-term order is required or whether it is time to make a longer term order for the child.

Clauses 31 and 33 introduce a new type of child protection order called a permanent care order. This order grants guardianship of a child to a suitable person other than a parent or the chief executive. Unless there are exceptional circumstances the proposed guardian must have been caring for the child already for a period of 12 months prior to the application for a permanent care order being made.

There are some specific additional things about the suitability of that person—the guardian—that a court must be satisfied of before making one of these new types of orders. That is because that guardian will have legal guardianship of the child and capacity to make both short-term custody type decisions and longer term guardianship type decisions for that child.

There are additional considerations for the court in clause 32 of the bill when an application for a permanent care order is made for an Aboriginal or Torres Strait Islander child—for example, to take into consideration the need to maintain connections with kin, community and culture.

Clause 36 amends section 65 in relation to the court process for an application to vary a long-term guardianship order or revoke one and make a permanent care order. This amendment recognises that when a long-term order is already in place for a child the court has already made some significant findings of fact—for example, that the child is in need of protection and that long-term out-of-home care is required to meet their needs. This application is going from one type of long-term order—long-term guardianship to the chief executive going to long-term guardianship to another suitable person or, ultimately, to a permanent care order, so getting more and more stability and security for children—without needing to relitigate those issues that a previous court has already made a determination of fact about. What we hear from children and young people in out-of-home care is that often even knowing that a court process is happening can create a great deal of uncertainty for them and knowing that those issues are going to be relitigated can also create uncertainty.

Clause 38 of the bill is an amendment that provides for when an application can be made to the Childrens Court to vary or revoke a permanent care order. This is one of the key differences between this type of new order and the existing long-term guardianship orders for a child. That is, the Director of Child Protection Litigation, on referral from the department, needs to be satisfied that the child who is now subject to a permanent care order is either a child in need of protection or that the permanent guardian is no longer able to meet their obligations under the act. This is really designed at limiting the circumstances where a permanent care order can be varied or revoked, because that is the key difference between the existing long-term guardianship orders and this new type of permanent care order. It creates a perception for children and young people in out-of-home care and provides them with real stability and security that they do not currently have under other types of long-term guardianship orders because those can be varied or revoked at any time.

A child's parents would be a party to such a proceeding. The bill establishes a new complaints mechanism for complaints about long-term guardians under a permanent care order not meeting their obligations to be made known to the department which provides a mechanism for the department to become aware of any issues that might exist for that child under that type of order.

Clauses 41, 42 and 43 relate to various obligations to be placed on a permanent carer under a permanent care order—for example, ensuring that a permanent guardian maintains the charter of rights for a child in out-of-home care; that they update and keep the department advised about where they are living so we know where they are; and that they maintain contact between the child and the child's significant relatives. These were obligations recognised for shifting focus under a permanent care order from the department having the primary responsibility for the case management of a child in that type of order to the permanent guardian being the primary guardian for the child. It is more like a family structure in a family relationship. It sits on the continuum between long-term guardianship child protection orders and adoption but does not go as far as adoption which severs a child's legal identity and their relationships with their siblings, their grandparents and other significant people such as relatives in their lives.

Clause 41 replaces the existing section 75 in the act which relates to making sure as far as practicable that help is available to support a young person as they transition from out-of-home care to independence. The key change is the requirement to make sure help is available until the young person reaches the age of 25. This is an amendment that has been advocated for long and hard by organisations such as Create Foundation and we are very pleased to finally include it in the bill. It recognises the fact that whilst the order for children and young people in out-of-home care expires on their 18th birthday they may require additional support as they transition into adulthood, just as people and other young people in the community require that additional support after the age of 18.

I will move on to some amendments around Aboriginal and Torres Strait Islander children. Importantly, in this suite of amendments the first amendment I would like to talk to you about is the new principle that recognises that for the administration of the act Aboriginal and Torres Strait Islander people have a right to self-determination. That will cover the span of the operation of the act so the exercise of the chief executive's functions ranging from how we design, implement and procure services aimed at Aboriginal and Torres Strait Islander people through to making decisions about a particular child and their family.

The principles are also proposed to be amended to include and embed in the legislation the five elements of the Aboriginal and Torres Strait Islander child placement principle—prevention, partnership, placement, participation and connection—for the first time as the first jurisdiction in Australia. The bill proposes that we fully embed that child placement principle and recognise its full intent, not just the element relating to placement in our legislative framework. Importantly, in the bill

there is an amendment to create a new section 6AA that will place an obligation on the chief executive, litigation director and an authorised officer that they must have regard to those principles in the administration of the act.

We are also proposing an amendment in the bill to section 83 which is the existing provision in the act that enshrines the placement element and how that operates in practice, so the considerations and the hierarchy of placement options for an Aboriginal and Torres Strait Islander child will be strengthened through the proposed amendment in clause 46. Clause 8 makes an amendment to provide greater flexibility for the choice of Aboriginal and Torres Strait Islander children and their families about who is culturally appropriate to support them to participate in decision-making and moves away from the current requirement which is limited to a recognised entity.

The bill creates a new concept called an independent Aboriginal and Torres Strait Islander entity and includes a much broader definition of who can be included to perform those functions and shifts the focus from providing cultural advice to the department to supporting families to participate in the decision-making and recognises that families are the source of cultural advice about themselves. That is a significant shift in the legislation and one that has been advocated for by the Queensland Aboriginal and Torres Strait Islander Child Protection Peak, and we have worked very closely with them to craft the provisions in the bill. Importantly, the definition does not exclude the current role of recognised entities and those services will continue to be funded by the department until September of next year, at this point, and beyond. That will just add to that suite of entities that can perform that function.

Some of the other amendments in relation to Aboriginal and Torres Strait Islander children that I will just talk about quickly is the power to delegate some or all of the chief executive's powers and functions in relation to a particular child to an Aboriginal and Torres Strait Islander entity. That is based on section 18 of the Victorian legislation.

I will move on to information sharing. The key thing to note about the information-sharing provisions in the bill are that essentially all the information sharing that is enabled under the current act is retained. What we heard loud and clear through our extensive consultations during the review of the act was that the current way the provisions in the act are crafted is very complicated and requires people to turn from one suite of sections back to another suite of sections and to constantly be trying to use them together. We have amalgamated them together with the aim of making them simpler and easier to understand.

There are some important changes, though, where those provisions have been expanded. One of those is to create a new type of entity called specialist service providers and to enable those specialist service providers to share information with each other for particular purposes. The aim of those amendments is to enable organisations or services such as our Family and Child Connect services and Intensive Family Support services to share information about a family without the need for that to come back through the department. Other important new provisions are recognising the need for us to share information with other child protection authorities in other jurisdictions and also enabling the department to provide information to an adult who was in out-of-home care or a child as they transition to out-of-home care about their records or the information that we have about them in a child protection file. I will leave it there and we are happy to answer any questions that the committee may have.

CHAIR: Thank you both very much for that briefing on the bill.

Ms DONALDSON: Thank you again for the briefing and welcome this morning. I am quite excited to see such a broad review happening and the amendments look like they are going to be welcomed throughout the community and with staff, I imagine, as well as stakeholders and families. In terms of implementation, it is quite a significant shift in practice for staff and there would be some challenges of embedding such a wideranging review. Is there a thought on how implementation might happen to ensure that meaningful activity takes place and that the intent of the amendments is happening on the ground?

Ms Giles: Thank you for the question; absolutely there is. You will notice that the bill includes a provision that it commences upon proclamation. That requirement is recognising exactly the issues that you have raised around the work that will need to be done to support implementation. We have already started thinking and planning and have done some preliminary work about that—for example, working across the department and also starting to work with our external partners. If the bill is passed, then we will pull together a suite of work packages or programs to ensure that the operational framework is developed that sits underneath each of the key components of the legislation. For example, the Aboriginal and Torres Strait Islander focus provisions will require us to work and continue to work in partnership with our Aboriginal and Torres Strait Islander peak body and also

stakeholders in that area. For some time we have had a piece of work underway that is reviewing the current model of recognised entities and that work will continue with the added benefit of the foundational elements that the bill will provide in terms of the new legislative framework. Did you want to add anything?

Ms Strohfeldt: Thank you, Megan; I think you have covered the main points. We are acutely aware of the need to get this right in terms of implementation, so we will be having a very fulsome implementation schedule and plan.

Mr CRAMP: I have a couple of questions around the long-term care orders. I have obviously been approached in my electorate by foster carers who are concerned in that the ones who are currently doing foster care are frustrated with the ongoing short-term care orders and they feel it is a barrier to entry for other foster carers who perhaps do not want to do it because of the lack of stability. I am not after personal opinion; I am after department direction. Are the changes to long-term care orders to overcome those barriers, or they just did not come into the equation? Did you have that sort of feedback from foster carers?

Ms Strohfeldt: Definitely we have had that feedback from foster carers. I think the key issue for us, while we have taken that into account, has been what is in the best interests of the child. To have this sort of merry-go-round of continuing to go back and forwards with court orders is not necessarily in the best interests of a child. It really was about trying to get as normal a life experience for these children as possible which is not being party to court proceedings every two years.

Mr CRAMP: A long-term care order is enacted. Earlier you mentioned—and I am sure there is some further detail—the biological parents' involvement in the child's life. Can you give me some scenarios how that would work? That would include, in various cases, visitation rights and involvement with the family. How does that work?

Ms Giles: Thank you for the question. I will just clarify at the outset that long-term guardianship orders are a type of child protection order that have existed in the legislation, and those long-term guardianship orders can be made in favour of another suitable person. Often carers who have been caring for a child in out-of-home care for a long period of time are considered as possibly being suitable people for those types of orders to be made in favour of. This bill creates another type of permanent care order that will also include consideration of long-term carers as an option as a guardian for a child. In terms of your question, sorry, but you will have to remind me of the question now.

Mr CRAMP: That is all right; just parents' involvement overall.

Ms Giles: Parents' involvement, yes. Parents are always a party to a proceeding in court for any application for a child protection order and they will continue to be a party to the proceedings on an application for a permanent care order. As I have indicated previously, sometimes parents contest but sometimes they do not contest the making of the final order. There are other things that are important for them as part of the proceeding and the usual provisions in the legislation around the court being satisfied. If the order is contested and there has been a conference held, it can go to hearing if parents contest the making of a permanent care order. Parents may not contest the making of the order but they may have other issues that they want to raise through the proceedings, so important things like maintaining contact with the child or other arrangements for the living arrangements for a child. All of those matters can be considered by the court in determining the application before it.

Mr CRAMP: Nothing is excluded as such?

Ms Giles: No. In fact, some amendments that were passed last year broadened the scope and discretion of the court to also include other people as parties, so now we have the situation where a grandparent or another significant person in a child's life can also seek the court's leave and approval to become a party to those proceedings.

Mr CRAMP: That is another issue that has come up. I have had grandparents come into the office who are responsible and are being, I guess, put to the side even though they would actually be the best option, yet the parents themselves are seeking for whatever reasons to ensure that the grandparents, who would be the best option for the child, not have that child and they would prefer the child go into state guardianship. I guess that is now going to play a part in that they could bypass or circumvent the parents as grandparents and move in for the facilitation of what is best for the child in that sense. Is that correct?

Ms Giles: Considering a child's full family dynamics and all of their kin relationships is part of the department's practice through all involvement with children and young people in the system.

Mr HARPER: Good morning and thank you very much for being here today. The brief was exceptional. It is a mammoth undertaking by the department to change fundamentally how we look after children in care. I was interested to talk about your scheduling of how you will get there and arrive at the end of the journey in terms of what the deliverables are, what the outcomes are and how you will measure those in terms of real outcomes in communities. One of the interesting points I read was the number of Aboriginal and Torres Strait Islander percentage of those children in care is around 41 per cent or 4,000 roughly. I want to look at the big picture. How many children are in care in Queensland? I ask that because I am just trying to figure out if we are closer to 50 per cent, because 1,400 are at risk of intervention.

Ms Strohfeldt: We are just over 9,000 children in care across the state.

Mr HARPER: Okay. That is significant. Like I said, it is a big body of work. Again, I would hope that one of the outcomes would be a reduction of the broad numbers that you have just looked at.

Ms Strohfeldt: Absolutely.

Mr HARPER: It is significant. Can you unpack self-determination for me? What does it really mean in terms of how are we going to—

Ms Strohfeldt: For the purposes of the act, this is simply recognising that families have a lot of wisdom about what is best for their children and rather than just making a decision that ignores that wisdom we now incorporate that into our decision-making. We know that when children come into care they have worse outcomes than for children who do not come into care in terms of whether they go to prison, whether they end up on long-term benefits et cetera, so we know that body of work. What we are trying to do, before we make that decision, is to look at what else we can do to keep this child safe within their family and within their community. We really need to call on the people who are important in that child's life to help us with that information. For us, when we talk about family led decision-making, we are asking that that family come to us with some solutions. For example, sometimes it might be that the child is not safe to live with mum and dad but they would be safe if grandma came to live in that household and take over the day-to-day care of that child. They are the sorts of things that we are encouraging in family led decision-making for that community to be part of the solution for that child. I will hand over to Megan for the legal side.

Ms Giles: I do not know if I can be legal, but I can probably give a couple of examples of what people told us during consultation. One is that the department's growing capability in terms of cultural capability over time means that some of the things we have done in the past with the best intentions may not have actually achieved best outcomes for Aboriginal and Torres Strait Islander children and families. That is driven home to me by two examples that we received through consultation. One is that through best intentions when we design services that are to be delivered to Aboriginal and Torres Strait Islander children and families we need to be mindful of the fact that we need to involve the people themselves in the design of those services—how they work in a particular community, who the community already has engagement and relationships with, who do people in the community go to for advice and how do we build off that cultural wisdom and capability within a local community in designing the service, in procuring people to deliver that service and then on the ground how it operates. That is one example. The second is that a stakeholder—an Aboriginal and Torres Strait Islander person—through the design of the legislation described to me how it feels to have us go to an entity that we have created—these recognised entities—to ask them for advice about cultural advice about a family, remembering first and foremost that we should ask the family themselves for that advice, and that we need to recognise that all families are complex but they themselves are the source of best advice about themselves and their own cultural background. I hope that helps. It helps me in terms of understanding self-determination, but those are two examples that I think were really driven home to us during the consultation process.

Mr HARPER: There are 9,000 children in care and seven per cent of Queensland's population is Aboriginal and Torres Strait Islander, but they make up nearly 50 per cent of children in care. Therefore, I am glad there is a focus in that particular area. In the implementation, particularly with rural and remote areas, will you require more resources on the ground in terms of staffing and moving forward to reduce that and get those outcomes?

Ms Strohfeldt: Definitely Aboriginal and Torres Strait Islander children are disproportionately overrepresented as children in care. It is really important to understand that we have already done a significant number of reforms to try to bring those numbers down. We have just established throughout the state Aboriginal and Torres Strait Islander wellbeing centres for families. They are designed to look at not just the health of the family but also the functioning and making sure that children have food on the table and all of those sorts of things. We also have our Family and Child

Connect and other intensive family support services. Some of those are actually run by Indigenous controlled organisations. We are trying to put those wraparound services not just at the tertiary end but also at the universal and secondary end, so that we can actually stop that trajectory into care and put some safe practices around that family. Often the families are referred to us for neglect issues, not necessarily physical or sexual harm. It is more about the cleanliness of the house and things such as that. These services actually help us to reduce the number of families needing to come to our attention.

Ms Giles: I would add that in that, as the Our Way strategy that the government released in May of this year points out, resolving the issues that you are talking about require a generational change. The proposals in the bill form a very important part of that reform program, but they themselves will not achieve the outcomes that we need to see in terms of reducing that disproportionate representation of Aboriginal and Torres Strait Islander people in the system. They do set an important foundation for that work and clearly in good faith indicate to our partners, with whom we have started that work, the intent for us to continue that work with them.

Mr HARPER: I guess that is why we have a 10-year trajectory of those 121 recommendations. Thank you very much. I commend everyone who is involved in Child Safety. They do an outstanding job throughout the department.

CHAIR: Before I move to the member for Cleveland, I note that the School of Public Health and Social Work at the Queensland University of Technology is hosting a student exchange from Fulda University in Germany. I would like to acknowledge those social work students who are now in the public gallery and also their senior lecturer and course coordinator, Dr Niki Edwards from QUT. Thank you for being with us today to listen to our inquiry.

Dr ROBINSON: Good morning, ladies, and thank you for your time today. I have two questions, largely in terms of appropriate entities as we look at Aboriginal and Torres Strait Islander children and the delegation of functions and powers in relation to specific children by the chief executive officer to appropriate Aboriginal and Torres Strait Islander entities. Firstly, could you give us an understanding of what factors are considered when deciding what is an appropriate entity?

Ms Giles: You will notice in the bill that there are some specific requirements in the clause that require the chief executive to be satisfied about the entity and also about the chief executive of that entity in terms of them being a suitable person to provide services and also to perform the functions to be delegated. The way we envisage that would operate would be that there would be a case-by-case assessment in relation to the particular powers and functions to be delegated in relation to an individual child. For example, if it were the powers and functions in relation to providing case management to a child who is the subject of an order, it would be looking at whether or not that chief executive and that entity is a suitable entity to perform those functions.

The bill outlines that the chief executive of the organisation is an Aboriginal or Torres Strait Islander person; that they have a positive prescribed notice, so a blue card; that the chief executive of the department is reasonably satisfied that the person is appropriately qualified to perform the function or exercise the power in relation to the child. As I have said, that would be in relation to the particular power or function to be delegated in an individual case. There is also a requirement before delegating a function or a power to a person for the chief executive to be satisfied that the views of the child's family are taken into consideration. Also, the person to whom the powers and functions are to be delegated has to accept that delegation. We cannot impose it on an entity without them having the corresponding accepting of that delegation. The delegation does not happen until they have accepted the delegation.

Ms Strohfeldt: A significant part of our implementation plan will be to develop operational policy and procedures about that approval process and about the ongoing monitoring of that arrangement, as well.

Ms Giles: One of the things we heard very clearly through consultation, through the review of the act and also on the bill resoundingly across the community, was the need to include these safeguards in the bill around the requirements on the entity and on the chief executive to accept those delegations. For example, in Victoria when they implemented a similar provision they trialled it for a period within a particular community through the delegation of certain powers and functions and developed an operational framework, so they got more information around the particular capabilities that were required of a particular entity to perform those powers and functions. It is a delegation as well, so it is not a mandatory requirement that the chief executive starts making these delegations. We can implement it over time when we are ready to implement it.

Ms Strohfeldt: It is case by case, as well.

Dr ROBINSON: As a follow-up question, clause 11, page 16 of the bill, deals with the amendment of S21A (Unborn children). Following the theme of what is an appropriate entity, can you firstly unpack that a little in terms of the purpose of that clause and what is the need or what is the background to the change being made? Secondly, what sort of appropriate entities might be involved in the process that is being achieved there?

Ms Giles: I just missed the clause that you were referring to.

Dr ROBINSON: Clause 11, page 16 of the bill. The title is 'Amendment of S21A (Unborn children)'. It is partly dealing with entities. Can you can give us some understanding of the need and the background to that and what it is attempting to do to bring about some sort of change? How does that relate to the sorts of appropriate entities? Perhaps you could give us some examples of who could be appropriate in that process?

Ms Giles: This is an amendment to the existing section 21A of the act. This is the section that deals with unborn children and places a statutory obligation on the chief executive. If the chief executive reasonably believes that an unborn child is likely to be in need of protection after they are born, the department must take action that is considered necessary. That could include offering support and assistance to a pregnant woman. In the current framework of that section, it requires the department, if the pregnant woman is an Aboriginal and Torres Strait Islander woman, to consult with the recognised entity. The particular amendment to section 21A that you are referring to is picking up, almost as a consequential amendment, the fact that we are removing the concept of recognised entity from the legislation and replacing it with independent Aboriginal and Torres Strait Islander entities, that is, a broader frame of organisations or individuals that can perform that new function. We are making it clear that, for the purposes of deciding what support or assistance or taking other action considered necessary in relation to a pregnant woman in these circumstances, the obligation is for the department to engage with that independent Aboriginal and Torres Strait Islander entity under these new provisions, not the recognised entity. Is that helpful?

Dr ROBINSON: That is very helpful, thank you. Could you give us some examples of the types of entities that might provide that service?

Ms Giles: The definition of an Aboriginal and Torres Strait Islander entity is contained in clause 8, which is an amendment to section 6 in the legislation. We really are trying to include a broad definition, because it is dependent on what is appropriate for the particular Aboriginal and Torres Strait Islander child or family. We have included there, on page 13 in subsection 2 of the new amended section 6, some examples of who it could include: a person of significance to the child or the child's family; a suitable person for associating on a daily basis with the child; a person who has appropriate cultural authority to speak on behalf of the Aboriginal and Torres Strait Islander child or family; it could include an organisation that is funded by the department. We really are trying to pick up examples such as an elder in the community or another significant person, such as an aunty, for a particular family or another person who has some cultural authority. We are recognising the fact that the focus of the role of that entity shifts to them supporting the family themselves participating in decision-making. We really want to try to get someone who has an existing relationship, as far as possible, with that family.

CHAIR: I am mindful of the time, but I have a few quick questions and then the deputy chair has some questions. Thank you both very much for the information that you have provided already and the additional information gleaned from questions that my colleagues have asked. I would appreciate some additional information in regard to transition care. What is provided currently for those exiting the system formally? What are the key differences that will be provided following the bill?

Ms Strohfeldt: Currently, once they reach an age between 15 and 18 when they exit care, all children have a transition to independence plan. That is where we start to look at what housing they will need, what education they are considering, looking for jobs, whether or not they have independent living skills, cooking, et cetera. We have an app called Sortli, which young people can use. It has a range of information available about things that they will need when they leave care. All of our government partner agencies have agreed on priority access to services such as health, et cetera, for those young people. Going forward, we have extended the support that is available to young people to the age of 25. We have funded some services, such as Next Step, which enable young people to connect and be assisted to access other services up until the age of 25, as well.

CHAIR: The key difference is that you are extending the age limit that you provide the services to. Does the department provide that direct assistance? You mentioned priority services and access to services, which obviously are very important, particularly when you think about housing, how

complex it can be and the time it can take to find appropriate housing. The priority access is there. Do you intervene, mediate, support or mentor? What is the role of the department in assisting those transitioning adults?

Ms Strohfeldt: Certainly we work to help that young person find somewhere to live. It really depends on their choice. Some choose to stay with their existing foster families, some choose to live independently, some choose to move to other arrangements. We would always advocate and always work with the department of housing to get either a market rental or social housing for that young person.

CHAIR: Has the decision to extend that to 25 years been made on the basis that you have seen that a successful—and I am interested in what your definition of that would be—transition into out of care and into adulthood is not being achieved or needs a little more assistance to get them further along? What have you seen?

Ms Strohfeldt: There is a growing acknowledgement that children do not just suddenly grow up and become adults on their 18th birthday. Just as for any other Queensland young person, who is tending to stay a little bit longer with their parents, we want to make sure that there is not just an arbitrary cut-off point, but that those young people are supported as much as they can be until they are really able to stand on their own two feet.

CHAIR: I think that is great. The report that you referred to earlier—a significant report into child protection matters in the state—comments a lot about permanency. There is a move to have permanency as a paramount principle, which I think is excellent—and I think the bill achieves, as my colleague said, some quite profound changes in how the department and also supporting agencies look at and deal with children. From the point of view of someone who is not a practitioner in this space, were short-term orders about trying to place significant focus or attention or respect for the rights of parents, hoping that if they give them a little bit longer with the child in care the parents may come along the journey and the child can return home? Where did that come from? Was it more a focus on perhaps partially the rights of adults at the expense of the broader longer term best interests of the child?

Ms Giles: In terms of what the commission of inquiry identified when they had their inquiry and produced their report, which was back in 2013, they did comment about that. They were also concerned about the focus of courts on making multiple short-term orders and a reluctance to move to a long-term outcome for a child. They were also concerned about the number of delays in court proceedings. Their recommendation talks about limiting the period of time from the point an application is made, rather than from the point an order is made. However, the decision was made that, given we have had extensive reforms to child protection court work that were implemented only from 1 July of last year and the primary goal of those changes was to reduce the number of adjournments—there were a whole lot of other goals as well but one of them was around reducing the number of adjournments—it is too early to see outcomes from that process. The amendment is about limiting the period from the time an order is made to two years.

The amendment in the bill does not aim to reduce the discretion of a court to make a successive short-term order or to extend a short-term order. The intent is to focus that decision-making again on the needs of a child, rather than on perhaps giving parents multiple opportunities to reform. Having said that though, it is important that we acknowledge that families have multiple and complex needs. The particular issues that face a particular family that may have prevented them from dealing with issues to enable them to support a child may not always be their own fault. There is limited access to all sorts of services across the state that may be what is required to support a family. We also do not want to see arbitrary outcomes where just because a period of time has elapsed a child then has to progress to a longer term order if perhaps positive signs are being made, as Merrilyn said, because we acknowledge that the reunification of a child returning home, if it is at all possible, achieves better outcomes.

CHAIR: The committee is hoping to do some travel including to a discrete Indigenous community, so we are really looking forward to hearing directly from the community around the self-determination and placement change in approach that you have mentioned. The committee is looking forward to meeting with those stakeholders and having the opportunity to talk to you afterwards. Thank you for coming in. We look forward to continuing that dialogue.

Mr McARDLE: Ms Giles, you mentioned the term self-determination being embedded into the act. What does that really mean in relation to the process in a legal proceeding? What are you trying to achieve with that?

Ms Giles: It is a principle in the legislation, so it will sit in the front part of the act. The bill proposes that the act be amended to include the right to self-determination in the front part of the act, in the principles of the legislation. It is intended then to apply throughout the administration of the act across all intervention, across the continuum. As you have acknowledged, that would also apply to court processes. It would operate in conjunction with the existing provisions in the legislation such as obligations on the court to ensure that parties understand the proceedings, that there is opportunity given for them to participate in the proceedings, that there are conferences held if they contest the proceedings. There are already throughout the legislation numerous opportunities or obligations on the court to ensure the parties before it understand and can participate in those proceedings. This new principle at the front of the act is designed to augment and sit alongside those existing provisions in the legislation.

Mr McARDLE: Are you saying it adds nothing more to the current regime?

Ms Giles: I think it adds in terms of it supports and focuses us, including the court, on the need for the parties themselves to participate in those processes.

Mr McARDLE: Could I paraphrase it by saying the ordinary meaning of those words would imply, 'I have a right to self-determine my future.' You are not saying that the court or the department is obliged to follow the wishes of a family member or an entity in relation to the outcome of an application—that either the court or the department are not bound by self-determination by an organisation or a family as to what they think should happen to a child.

Ms Giles: In framing the provision as a principle for the administration of the act, I do not think that it overrides the existing obligations on a court to follow natural justice and procedural fairness or in recognising that there are provisions in the act that require the court to consider the best interests of the child as the paramount direction.

Mr McARDLE: That is the paramount consideration?

Ms Giles: Yes, absolutely.

Mr McARDLE: That is the paramount consideration, overriding the principle of self-determination. It is a secondary principle to the best interests of the child.

Ms Giles: Yes, absolutely. There is also an additional provision in the act—I think it is section 104—that that is the paramount consideration for the court and the court is not bound by the rules of evidence and can inform itself in any way it sees fit in order to get to that paramount principle of the best interests of the child.

Mr McARDLE: The department itself would follow the same principle, wouldn't it—that the best interests of the child is paramount over and above any other determination, wish or desire by a party?

Ms Giles: Yes, absolutely. The right to self-determination goes to the process that is used in terms of getting to the best interests of the child.

Mr McARDLE: You mentioned, Ms Strohfeldt, 9,000 children in this state are now in care. How many children are at risk do you think in the state, given that on page 3 of your report you indicate a number of families that are at risk? How many children in addition to the 9,000 do you think could be at risk? Can you break that down into Indigenous and non-Indigenous?

Ms Strohfeldt: I would have to take that question on notice.

Mr McARDLE: In relation to the almost 4,000 children who are Indigenous and are now in care, can you indicate how many families those children represent?

Ms Strohfeldt: Once again, I would have to take that question on notice.

Mr McARDLE: When you talk about a permanent care order on page 6 of your brief to the committee—and thank you for that too; it is very comprehensive—I take it that it is only the litigation director who can make an application for that sort of order?

Ms Strohfeldt: That is correct.

Mr McARDLE: That order is a marked distinction between what takes place now because it is a permanent order that can be varied under very unusual circumstances. I take it that there is a practitioner appointed to assist the court, not a lawyer for the child but a court assistant. Is that right?

Ms Giles: A permanent care order is a type of child protection order. An application for a permanent care order is treated the same as an application for any other type of child protection order. As we have already outlined, yes, it would be the Director of Child Protection Litigation that makes that application, as they do for other types of orders. The existing provisions that apply to who is a party to those proceedings, who may seek leave to become a party including the child and the

child's parents, and legal representation for the child—so the existing provisions in the legislation that refer to either direct representation or separate representation of the child—apply to proceedings on an application for a permanent care order.

Mr McARDLE: Maybe a Legal Aid lawyer may appear.

Ms Giles: Absolutely. Separate representatives are, of course, appointed by the court.

Mr McARDLE: Exactly. Does the Office of Public Guardian also have a role in this? Do they appear as well?

Ms Giles: They can do under legislation. They can appear in applications for child protection orders. Those provisions will apply the same as they do for other applications.

Mr McARDLE: What is their role when you consider the court may appoint a child representative or a separate representative? Where does the function between the two differ?

Ms Giles: The direct representative for a child is acting on their legal instructions.

Mr McARDLE: Of a child?

Ms Giles: Of a child, yes. A child can engage their own lawyer in the proceedings. A separate representative, as you are well aware I assume, is acting in the best interests of the child. A court appointed representative is a little bit akin to counsel assisting the court. The Public Guardian's role is a little bit different in that it is assisting the Public Guardian to exercise the powers and functions that the Public Guardian has as an advocate for children in the system in the proceedings. They are not representing the child or necessarily representing the child's best interests in terms of collating the evidence for the court and making submissions based on what evidence there is in the best interests of the child and what weight should be placed on that, but rather as an advocate in the proceedings.

Mr McARDLE: You could have four banks of lawyers—

Ms Giles: There could be.

Mr McARDLE:—with wigs and gowns on, looking magnificent in front of the court. They love to dress up.

Ms Giles: They are in the Childrens Court (Magistrates Court), so they are not often in wigs and gowns.

Mr McARDLE: Page 7 of your report refers to a permanent guardian being granted legal guardianship. That does not sever the legal relationship with the family of the child, but guardianship tends to imply long-term planning, so religion, residence and education falls to the permanent guardian in these circumstances. Is it the issue of contact we are talking about predominantly between child and the biological parents?

Ms Giles: I would not say predominantly. That is obviously a very important consideration. That is one of the reasons why we have included in the bill the extra considerations for the court to be satisfied not only that this type of order is appropriate for a child but that this proposed permanent guardian is an appropriate person in whose favour the order should be made because they then exercise those guardianship decisions for the child and they need to be able to do that in a way that, if it is practicable and safe to do so, takes into consideration the interests and views of the child's family. That could be about contact. It could also be about things like health or medical treatment or other ongoing care needs.

Mr McARDLE: There will tend to be a limited capacity for a parent in legal issues to deal with the child. Is that right? It is a bit like the Family Court orders.

Ms Strohfeldt: The parent does not have decision-making powers; the guardian does.

Mr McARDLE: On a long-term basis. In terms of the long-term guardianship order and a permanent care order, where do they differ?

Ms Giles: It differs insofar as the limited capacity for a permanent care order to be varied or revoked. We heard very clearly from children and young people in care and also from adults who were children and young people in out-of-home care that they really wanted a type of care option that gave them the certainty and stability that they themselves knew that their order could not continually be contested in a court, that they knew what their living arrangements were and where they would be until they were 18 and that they knew that that would not be subject to ongoing contested proceedings in the Childrens Court. This is about that.

Mr McARDLE: In a permanent care order, as I read the documents, it is only the litigation director who can make an application to vary that—a child cannot, nor can a parent, nor can a guardian in whose favour an order is made. Is that correct?

Ms Giles: That is correct.

CHAIR: There being no further questions, we will now conclude this public briefing. If members require any further information, we will contact you. As I mentioned, the secretariat will be in contact to organise another opportunity to meet once the committee has travelled. A number of matters were taken on notice. The secretariat will also be in contact with regard to a due date for those responses to be provided. I thank you both for attending and assisting the committee. We certainly appreciate your assistance. I declare the hearing closed.

Committee adjourned at 10.43 am