



Speech by

Lawrence Springborg

MEMBER FOR SOUTHERN DOWNS

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CHILD SAFETY LEGISLATION AMENDMENT BILL

Mr SPRINGBORG (Southern Downs—NPA) (Leader of the Opposition) (11.37 a.m.): I rise to deliver the opposition's reply to the Child Safety Legislation Amendment Bill 2004. I believe this is one of the most important pieces of legislation that will be debated in this House over the course of this term. It marks the first of a three-stage legislative reform process to implement many of the 110 recommendations of the Crime and Misconduct Commission's report *Protecting children: an inquiry into abuse of children in foster care*, which was delivered in 2004.

The Nationals' opposition offers its 100 per cent support to the reforms that are required to ensure an integrated and holistic approach to protecting our children and providing them with the best possible care. Being supportive of the reforms and legislation does not mean that we will not criticise the government when and where we believe that improvement is necessary. However, the minister is aware that we have chosen to bring most matters to his attention in the first instance rather than bring them to the public's attention. That is our commitment to bipartisanship.

I think it is also important to be frank about why we are debating these reforms. These reforms have come about following what I have previously described as systemic failures in the culture of administration over a considerable period of time within the Department of Families.

I am very much of the belief that these problems are as a result of systemic, not individual, failures. A very sad indictment on the way this department has operated from the top down was in a memo from a departmental officer some 12 months ago where they said that they only had the resources to deal primarily with children who were at risk of physical abuse rather than sexual abuse in the first instance because they were the children who were going to be killed or injured. Children who were at risk of sexual abuse or being sexually abused were not necessarily killed.

Cases relating to the Department of Families' handling of matters requiring protective intervention of children which were first revealed in the media and which went on to form the basis of Operation Zellow were effectively denied by the government, and the people who were found to have made inquiries about the case were disciplined.

Any suggestion that the government was keen to have these matters investigated and initiated the CMC inquiry is completely incorrect and would be a rewrite of the processes that led to the decision to establish an inquiry. When the opposition leaked material that substantiated the claims, and community groups like Bravehearts and the media were also able to substantiate these claims, the government moved to conduct an internal audit and establish a hotline. Further revelations about the repeated denial of problems associated with cases was then enough pressure to finally force this government to take some action, but not until after considerable kicking and screaming.

Even when the parameters of the CMC inquiry were announced, the Premier and the then minister for families chose to cast doubt on the evidence that was being put forward. I found it curious, to say the least, that the Premier and the minister were challenging the veracity of the process which they claim to have implemented.

The Nationals' position has always been for a broadly based examination of all the issues and processes through a royal commission, and in particular to encourage witnesses to come forward by being offered indemnity. The failure to extend the terms of reference, I believe, was one of the greatest acts of social negligence we could perpetrate on the children in the community which relied on the Department of Families to protect them from abuse. By way of explanation, in the time since this CMC inquiry, in which I believe the commissioners did their very best, I have had a range of people raise other issues with regard to the abuse of people in other areas of care, particularly disability care.

The inquiry confirmed that the management processes of the department had failed totally in its administration of its child protection functions. It was unthinkable that anybody could accept that other functions of the department would be exempt from the same systemic failures, given that they emanated from such fundamental failures, including the lack of appropriate record systems, reporting systems and accountability.

It is incredible to think that a department can knowingly be in breach of its own legislation for three years without this basic failure being reported to government. It was inconceivable that a minister of the Crown did not know about this failure. If that really was the case, how was it possible for a minister to fail to identify such a basic failure?

When the opposition raised these matters in parliament, the minister consistently and deliberately refused to provide the basic information that would have permitted increased accountability in the operation of the department. For example, the minister consistently refused to provide information to the parliament about how many family services officers were allocated to child protection responsibilities, yet the director-general, at the same time of the hearing, was able to provide that figure. During the hearings the minister advised that section 88 of the Child Protection Act was not necessarily being complied with, yet on the floor of the parliament she had previously denied any such failure.

Another concerning aspect of the running of the department was the failure of data and information management. It was unacceptable that the children of Queensland would have to wait five to seven years for the department to acquire an information system that has such a long delivery path.

Child protection task force chairman Peter Forster's report identified a lack of suitable information systems and that there was no funding for the necessary information technology architecture, for the upgrade of the IT infrastructure for the necessary data warehouse or for the record keeping improvement project. The report confirmed that the existing network infrastructure is obsolete and slower than most home computers using modems, that there is no statewide access to client files and that there is no computerised system regarding foster-carers.

I note that the target given in the blueprint for implementing the 110 recommendations from the CMC for the completion of the upgrade of information systems begun by the Department of Families is June 2006. This is a crucial part of the reform process and has to be in place by the target time frame to ensure that the new Department of Child Safety has a functioning record keeping process which will allow for the best possible internal operations and coordination between the eight different departments that will play a part in the new processes. These systems are only as good as the data they contain and, frankly, at present the data is either trash or does not exist.

For this reason I still have some concerns over how effectively the backlog of child abuse notifications is being addressed. Other important components of an effective child protection system that the opposition has argued strongly for is on the recruitment and retention of family services officers. As I understand it, some 28 per cent of staff in the Department of Families at the time of the inquiry had only a year or less experience. There was a turnover rate of 15 per cent and there were many concerns about the juniorisation of staff compounding some of the problems.

In any workplace, but in particular one that can quite stressfully play on those employed at times and requiring good judgment, unless these people are valued and encouraged, it will make it more difficult to be able to keep them and to be able to build a base of corporate knowledge and experience which is so crucial for addressing these issues in the future.

I do not think any excuses should be made, and I am not seeking to justify any examples where individuals may have failed their duty to children in care, but it has always been concerning to the opposition that the government sought to place much of the blame on the front-line staff who were working under enormous pressures and circumstances.

The opposition did receive, during the period prior to the CMC hearings, a number of personal accounts from families and staff who felt they were being left to cop all of the blame and demonised by the administration when they were the ones who were actually doing all of the work in dealing with these difficult areas. They said that they were working under policies and processes which were put in place by the government and the department which does not properly recognise them, resource them or provide them with the powers of intervention which they need to be able to protect children not only in these abusive foster care relationships but also with general child protection needs. That is exactly where the

system has fallen down over a number of years. A sad indictment of the Department of Families is that these front-line workers did not feel that the system would provide them with the support and encouragement to voice these concerns.

One of the first tasks that has been embarked on following the release of Peter Forster's blueprint is the recruitment of 518 service delivery staff. That is a lot of staff. There is no argument that we have to get more people working in the new department, and people who have experience to provide a stabilising influence.

It is positive to see the Minister for Child Safety saying that he is confident that the new structure of child safety service centres, together with mentoring and professional development opportunities, will ensure it has the staff with the support it needs to achieve positive outcomes for children and young people.

These are important steps to ensure the new systems will have a transparent and open culture. As the first part of a three stage legislative reform process, this bill seeks to do the following in broad terms: establish a new Office of the Commissioner for Children and Young People and Child Guardian, extend the community visitor program, extend the children services tribunal jurisdiction, establish the child death case review functions, enable responses to an unborn child notification, annual public reporting for departments, provision to support the child safety directors and new principles for the Child Protection Act of 1999.

I will talk to these reforms more specifically in the committee stage of the debate depending upon the response from the minister, but I do wish, in my second reading reply, to touch on some of the concerns the opposition has at this early stage with the reforms proposed in stage one. This bill extends the statutory Office of the Commissioner for Children and Young People to become the Office of the Commissioner for Children and Young People and Child Guardian. With the additional role of Child Guardian, the commissioner will be responsible for an extended range of monitoring, auditing and reviewing functions in relation to children who come to the attention of the Department of Child Safety.

Given the total and absolute failure of the Department of Families to protect our children it would be a pretty good assumption that this litany of failure is also testament to the corresponding failure by the position of the Commissioner for Children and Young People. As I have said before, I believe that this is a case of the process of this position not living up to its expectations.

The opposition has not sought to blame any one individual over what has been a failure of existing legislation and implementation. An example is when the government acted to repeal the Children's Commissioner and Children Services Appeals Tribunal. Its particular responsibilities in relation to the investigation of paedophilia were removed. The standing reference to the investigation of paedophilia that existed with the Crime Commission was also deleted when it was combined with the CJC to create the CMC.

I made it clear, as did the previous Leader of the Opposition, that we were very concerned about the removal of this particular reference at the time of the formation of the CMC. With regards to the extended range of monitoring, auditing and reviewing functions provided to the commissioner in her capacity as Child Guardian, the opposition believes very strongly that the appropriate reporting and performance mechanisms need to exist and be followed accordingly. I acknowledge that I have raised this point with the minister and the minister has provided significant encouragement on that point and has said that he will be making sure that that is the case.

As I understand from my reading of the legislation and the briefing that was provided to me, the commissioner does have a number of specific reporting requirements to the minister who will obviously bring them to the attention of the parliament. If we legislate for certain reporting requirements it is imperative that they are consistent across the entire role performed by this office or that other government agencies also have a role to annually report on departmental operations relevant to child protection.

I am concerned that in this legislation the reporting requirement has not been applied as stringently as it should be. For example, in the section of the bill that looks at child deaths and the responsibility of the commissioner to prepare a report each year on the matters that are required, there is then a further clause which states that the commissioner may—and I repeat may—also prepare and give to the minister other reports arising from the performance of the commission with reference to how previous recommendations have been implemented. Again I put emphasis on the word 'may'. I believe that it should be stronger than 'may', that it should be 'must'. This means that the commissioner is not legally bound to report on previous recommendations which she—and I say she in this case—sought to implement with regards to child deaths. If we are going to talk about this new system being absolutely open and transparent then I believe these reporting requirements have to be mandatory. They must apply, they have to be mandatory; not simply providing the respective office with a choice which they may or may not decide to take.

The minister has to know about these things and following on from that there must also be an avenue where ultimately the parliament must know about these things. That has been the failure of the system in the past: the failure of the information to get from the department to the minister. In some cases

I think the previous minister may have had it but did not necessarily act on it, or it may have been hived away somewhere in the office. But the information has to properly go through.

The oversight provisions that the commissioner has to ensure things are happening also have to be transparent. The minister has to know about it; not only that, the parliament has to know about it. There has to be an avenue where the public has an opportunity to be able to scrutinise the performance, because when the information is not out there that is when there is a problem. When the information is reluctantly given or not given, that is when the cover ups and the incompetence continues. That is when, as we say in modern parlance, the clients of the department, the children in this case, really miss out. We need to be able to properly scrutinise the performance of the department, the performance of those officers and the performance of the Child Guardian in this case. We know that the reluctance to provide that information in the past led to a lethargic response and probably the response coming much later than it would have otherwise come. We know the experience that we had. Basically it was like trying to pull teeth to get the information here in parliament. The minister indicated that she was having some difficulty and things were being found lying around the place. If there was a reluctance to give information and that information was conflicting, if it was different in here to what it was in the CMC inquiry, then we really have to question what was going on.

Any reporting provisions have to be absolutely mandatory because that is the only way that we will be able to ensure that children are going to be properly protected by this new legislation. We will keep a watching brief on it through you, Mr Deputy Speaker, to the minister. We would encourage you to keep an eye on that because we think it is very, very important. We do not feel that it is necessary to be opposing legislation based on that, but we would encourage the inclusion of mandatory provisions at some future time. Certainly, whilst it may not necessarily be in the legislation, we would encourage by way of practice or convention the mandatory exposure of these particular oversight provisions.

A common approach to monitoring, auditing or reviewing the performance of a function within a government department or agency is by setting key performance indicators, otherwise referred to as KPIs. We see these in the ministerial portfolio statements and annual reports year after year and amazingly, despite what the feeling is on the ground, the target or benchmark is always met or is very, very close. One of my concerns is that when you are benchmarking yourself, what sort of independent process is going to be in place to ensure that these benchmarks actually provide some concrete feedback to the client group you are dealing with? If there is a benchmark that says 80 per cent of this has been achieved, does this reflect the real feeling out there on the ground? Whatever benchmarks or KPIs are put in place to test the effectiveness and efficiency of these reforms, they need to be reported openly and accurately and appear in each year's ministerial program statements or annual report.

Last year we saw a number of these scrapped within the Department of Families, such as the workload management lists, which was an unfortunate example of how the department had failed to benchmark its activities so that it could be open and accountable. As I understand it, the next stage of the legislative reform process will extend the monitoring scheme to cover other government agencies which provide services to these children in care, including the Departments of Health, Education, Housing and Police.

In his second reading speech the Premier addressed the issue of information exchange. It cannot be emphasised enough the importance of ministers and staff from other departments assisting the Children's Commission wherever possible prior to the enactment of the second stage of reforms.

This leads on to the Children's Commissioner's existing monitoring functions being expanded to include the monitoring, auditing and reviewing of the handling of cases of children in the child safety system by service providers and the monitoring, auditing and reviewing of systems, policies and practices of service providers in relation to these children. As I said before, there was a clear failure by the department to be open and accountable with its workload management lists. I know that it is the minister's intention—and I hope that these new processes are truly adhered to—to require information sharing about case loads. This will hopefully lead to a more transparent and open culture within the Department of Child Safety.

The bill re-orders the child protection principles in the Child Protection Act 1999 so that the act is to be administered according to an overarching principle that the welfare and best interests of the child are paramount. This includes reinforcing the existing requirements that children's rights, interests and welfare should take precedence over the rights and interests of adults where there is a conflict.

The bill also seeks to ensure that the child be kept informed of matters affecting him or her in a way that is appropriate, having regard to his or her age and ability to understand. The opposition is supportive of this particular revision of principles guiding the Child Protection Act. However, I would appreciate the Premier or minister's clarification of where families are involved in the decision making process. Do these reforms intend to erode the involvement of the family in the decision making process—I note the minister is shaking his head and is saying that that is not the intention; I would appreciate his clarification on the record later—or do they simply seek to reinforce the child's rights.

I cannot actually recall seeing this in the bill or in the explanatory notes. This is an issue that I have expressed some concern about given the evidence brought forward which clearly points to a failure in this area of the process. I believe the power given to the Child Safety Department to respond to notifications made before a child is born where the child may be in need of protection after he or she is born is a crucial part of the legislation.

We would all remember the recent recommendations of the Ombudsman in the 'Baby Kate' report. In this particular instance, and previously with the Brooke Brennan case, the Ombudsman established maladministration. It is sad that it has taken these tragic circumstances to ensure that the system will more carefully monitor children who are in these most vulnerable situations.

The new processes and reforms that will guide the Department of Child Safety in its coordination with other departments and agencies are set out to provide for a proactive approach to children in care. This is instead of a failed system that simply did not have the capacity, by virtue of the way it was being administered and the culture that had developed, to detect and intervene in the most severe cases but also care for all children who had come to the attention of the Department of Families.

I think that the strengthening of the Children's Commissioner's ability to investigate complaints with regard to all children who are brought to the attention of the department, not just those under a formal order or subject to statutory intervention as is currently the case, should provide some real teeth to this position and an investigative role that simply has not existed. Reactive procedures or processes are not there to compensate for a lack of proactive approach and I would hope that they do not have to be used at all.

However, given the previous record of the Department of Families under the stewardship of this government in the past six years, which has seen 94 children known to the department die, there is a need to have a more stringent and transparent process in place which will ensure that these mistakes are not repeated. This process will occur through a legislative requirement for the Department of Child Safety to conduct a child death case review in circumstances where a child may have come to the department's attention and died within three years after that contact.

As the Premier stated in introducing this legislation, the review of a child death will determine whether the department and its associated agencies acted appropriately in relation to a child. A child death case review committee will act as an accountability measure to monitor the reviews undertaken by the Department of Child Safety. The causes and circumstances of a child's death will be reviewed through the establishment of a register and child death research function which will fall under the responsibility of the Children's Commissioner.

These processes will have to be put in place, but I stress again that they are there because mistakes have been made in the past. We will have failed our children in care if in another five or six years we look back and an unacceptably high number known to the department have died. If mistakes are made, they have to be properly scrutinised and the department's processes improved. We should not accept a standard lower than this.

I have been a strong advocate for improving the legislation we have in place and also ensuring its proper implementation, resourcing and enforcement. We can have good laws in place, such as section 88 of the Child Protection Act with regards to six-monthly reviews of children in care. Nobody would argue against this. However, it has not been implemented in its three years of existence. It is good to have fantastic laws but unless they are complied with and unless they are being overseen and monitored in some way then they fail this parliament and they fail the people that they were put in place to support.

Section 88 of the Child Protection Act, which deals with six-monthly reviews of children in care, failed to protect those people it was put in place to support and protect. It failed the kids. I hope that we have a situation where the mechanisms, which are to be put in place by this bill, are adhered to, are overseen by appropriate compliance mechanisms and are appropriately resourced.

When a government legislates it gives the impression that it is fixing the problem. If properly implemented and administered it should work and do just that. If the implementation, resourcing and administration fall down then it is doomed. That has been a concern of the opposition and a concern of other people. From what I have seen to date, I believe these legislative reforms provide us with the platform to establish a more open and accountable system and culture for ensuring the wellbeing of our children in care. Over the next two years these reforms, as well as the stage two and three legislative reforms, have to be supported with the necessary funding, resources and commitment to implementation otherwise these will be nothing more than aspirational documents. Whilst I cannot talk about the budget, I am encouraged by what appears to be the government's funding commitment to this new department and its implementation.

Our children should be the first priority of any government. There needs to be no justification for this. The Premier called the election in order to secure a mandate from the people of Queensland to implement the CMC's 110 recommendations. That was despite the opposition offering complete bipartisan support

and the fact that the Labor Party held the largest parliamentary majority its ever held—it was huge. In proportional terms, it is probably as large as the Bjelke-Petersen majority in 1974. Why the government needed a mandate to do this I do not know. The opposition said it would provide absolute bipartisan support for this measure. The Beattie government ignored all the warnings in the 1999 Forde inquiry recommendations as well as several other inquiries into child abuse over its first two terms in office.

The Premier again has a large parliamentary majority, and the opposition is going to provide support to these reforms to keep the government accountable on child protection when and wherever it is required. We all expect real change, and the children of Queensland cannot afford anything else.

Before concluding, I again say that I appreciate the briefings and the openness of the minister and his departmental officers to date in briefing myself and the shadow minister and member for Burdekin, who will be following through on these issues during her contribution to this debate. I also commend the shadow minister, who has shown a very tenacious and very dedicated approach to this issue since she became the shadow minister. It is not an easy portfolio to take first up.

I also want to personally acknowledge what I believe is a genuine commitment from the minister. I think the minister has a genuine commitment to this issue—a personal, genuine commitment. However, the opposition will of course continue to monitor the issue. As I said, we will give praise where praise is due—as I have done here today—for the minister's commitment in what he has done to date, because he is starting off with a new brush. If there are areas where we do have some concerns, it is our role to raise them, and we will raise them. To date, we have raised some issues pretty responsibly. But we do have to provide a watching brief on this new legislation, because quite frankly, honourable members, we have a situation where a brand new world is being embarked upon, so to speak, in that we are designing and constructing a new department from the ground up. We all support that.

There is some degree of dissection from the former Department of Families. There is the creation of the Department of Communities, the Child Safety Department and all of the complementary functions of other government departments here. We need to ensure some sort of seamless exchange of information, data gathering and compliance of this process. I suspect that that is going to be a major challenge, particularly when designing a new department. There are functions which the Child Safety Department has to deal with as being the first responder in order to protect kids. However, there is also an ongoing role for the Department of Communities. There have been traditional things in the past such as patch protection and sometimes there are departmental jealousies. That happens under all governments and has happened under all governments.

I remind the minister that years ago we spoke about the need for more interaction, more involvement and more coordination between TAFE and Education. It was just absolutely unbelievable. There should be seamless interaction, and we are starting to see that happen now to the benefit of everyone. Frankly, the sky did not fall down then, and the sky will not fall down now. However, I acknowledge that the minister has an enormous task ahead of him. His department has an enormous task. The other real challenge is to ensure that the culture which was part of the problem and the maladministration which was a significant part of the problem in the past do not in some way manifest themselves again, and that is going to require a lot of diligence on the minister's part. Sometimes these things are very big and just happen. Many things are happening on the ground level in order to run many different things in a department. In any event, some little thing may start and move its way through to become a huge issue. That is going to require a lot of diligence and a lot of oversight.

There is also an enormous amount of community responsibility with regard to the issue of child protection. It concerns me greatly that some people who have children do not want to assume their responsibilities. They believe that children are a commodity—an item that can be virtually cast aside. I am a parent of four children. My wife does an extraordinarily brilliant job of bringing up our children on her own, and that is not without a lot of challenges. People say to me, 'When I have kids I'll be able to go about the life I had before. We'll have the same social life. We'll do this, we'll do that.' It is amazing the number of my contemporaries whom I have spoken to who have said, 'We didn't have a clue that somebody so small could be so demanding and change our life. The bushwalking that we used to do on the weekend, the going out on Friday nights and meeting with friends. It's easier sometimes just to stay at home!' That is a responsibility of parenthood, and it can be very stressful. There is no doubt about it.

The majority of people in Queensland who have children are extremely responsible parents. We probably all get stressed from time to time and feel like losing our cool, but the simple reality is that children are an enormous responsibility. I am concerned that some people do not want to assume their responsibilities and want to cast their children off to somebody else. There is also the issue of dysfunctional families. However, when one looks at the number of children that the minister's department looks after, it is a small proportion of the children in Queensland—a minuscule number of children in Queensland of a couple of per cent or thereabouts. Yet we have to spend hundreds of millions of dollars protecting those kids. It is an appalling indictment on our society when one thinks about it. We probably spend more on looking after those few children than we spend on assisting parents who are doing the right thing. That is not a reflection on the government; that is just the reality.

We are spending hundreds of millions of dollars dealing with the health and welfare of a few thousand children. We have to do that, but it is an appalling indictment on the way that people look at raising children, the dysfunctionality in families and the failure to make a commitment to each other when it comes to children. I know that things happen in relationships, and I understand that. I really do understand that. But raising children requires an enormous commitment, not only a commitment to the children but a commitment to supporting each other. That is not always possible. We have to keep advocating what we believe are the right value systems. That does not mean a political value system, but there are some things that are right that need to be taught—respect, commitment, understanding and a whole range of those things. It is not a political partisan thing; it is about the right values in bringing up children and understanding responsibility.

Sometimes we step away from being judgmental. When it comes to dealing with children in these situations, we cannot afford not to be judgmental. Many parents who are doing the right thing say the same thing. I know that is probably a sticky issue for the minister, but unless we get this under control the minister is going to be going into the CBRC process—the Cabinet Budget Review Committee process—each year asking for funding for another 50 staff or an extra few million dollars. He is going to do that. That may be the case; I hope that it is not. But that is where we are heading unless we can bring this under control. It has been a problem for a long time. Sometimes we do need to look at values and we need to unashamedly say what we think is right and what we think is wrong. The opposition is very pleased to support the bill before the House. We commend the minister for his work in this area. We will of course be keeping a watching brief on this issue and will be very keen to see tranches 2 and 3 come before this parliament and be implemented as well.