Speech By

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Record of Proceedings, 20 May 2014

PUBLIC GUARDIAN BILL; FAMILY AND CHILD COMMISSION BILL; CHILD PROTECTION REFORM AMENDMENT BILL

Ms D'ATH (Redcliffe—ALP) (12.44 pm): I rise to make a contribution to this cognate debate of three bills introduced by the government in response to the recommendations of the Queensland Child Protection Commission of Inquiry *Taking responsibility: a roadmap for Queensland child protection*, whose findings are widely known as the Carmody report. Unfortunately, the shadow minister for community services and child safety, the member for Woodridge, is unwell today and I will be speaking on her behalf. The three bills under consideration today are the Public Guardian Bill, the Family and Child Commission Bill and the Child Protection Reform Amendment Bill. The opposition will be opposing these bills. I will now make some preliminary remarks before dealing with the substance of each bill in turn.

The Forde Commission of Inquiry into Abuse of Children in Queensland Institutions provided the government in 1988 with its findings and made 42 recommendations relating to contemporary child protection practices, youth justice and redress of past abuse. In response to these recommendations, the then Labor government introduced a number of pieces of legislation to rectify the mistakes of the past and prevent the future mistreatment of children in Queensland.

The Beattie government introduced the Commission for Children and Young People and Child Guardian Act 2000 and created the Commission for Children and Young People. Following a 2004 CMC report and the Murray audit, the commission's functions and powers were expanded and the role of the child guardian was assigned to the commissioner. The commission's increased oversight function was reflected in August 2004 with amendments to the Commission for Children and Young People and Child Guardian Act 2000. The Beattie government allocated $100 million over four years to improve existing services and establish new child protection services and committed to hiring 70 new staff in child protection roles.

In June 2007 the CMC issued a review of the implementation of recommendations in its report *Protecting children: an inquiry into abuse in foster care* and affirmed the commission's oversight activities and the way in which they have been implemented. The Queensland Commission for Children and Young People and Child Guardian has been an active and influential participant in the Australian Children's Commissioners and Guardians network. The commission has contributed to the development of the National Framework for Protecting Australia's Children. This national framework notes that—

The Queensland child protection system is more accountable, overseen by the Commission for Children and Young People and Child Guardian and the external Child Death Case Review Committee.

Labor recognises that we must continually improve our child safety system, but we cannot support the legislation put forward by this government. This arrogant government is once again removing accountability and cutting funding to important organisations that are in place to protect

those who are most vulnerable in our community—children. Short-sighted reduction to the scope of current services and the removal of independent monitoring functions will mean that in another 10 years time we will be spending money on another commission of inquiry into the failure of underfunded agencies to adequately protect children from harm and neglect.

The Public Guardian Bill is intended to implement recommendations of the commission of inquiry to refocus the role of advocacy for children. The stated objectives of the bill are to establish the Public Guardian as a statutory body; transfer refocussed child guardian functions including child advocacy and visit functions from the Commission for Children, Young People and Child Guardian to the Public Guardian; transfer the functions and powers of the Adult Guardian, including for the community visitor program, to the Public Guardian and consequently abolish the position of Adult Guardian.

The Labor opposition argues that this bill is essentially a cost-cutting exercise that removes the external oversight by the independent Commissioner for Children and Young People and Child Guardian of the child safety programs administered by the Department of Communities, Child Safety and Disability Services. It is doubtful that sufficient staff will be retained within the consolidated Office of the Public Guardian to ensure that the current level of service available for both adults and for children is maintained. It is also unlikely that the specialist knowledge, skills and experience in child safety systems and services will be retained in the Office of the Public Guardian after the closure of the Commission for Children and Young People and Child Guardian.

The independent and rigorous research and dissemination functions provided by the current commission that are crucial to holding the government to account will also be lost. In its submission to the Health and Community Services Committee in its review of this bill, the community organisation Youth Advocacy Centre expressed the view—

YAC does not agree with the view expressed in the Report that the CCYPCG is no longer needed. YAC advocated for the establishment of the Commission and was involved in the Briton review. While issues around child protection were important at the time the Commission was established, the Commission developed a role for **all** Queensland children and young people.

The Youth Advocacy Centre further added—

It is not correct that the Commission duplicates the role of other agencies such as the Ombudsman. These agencies do not have a history of working with young people and do not have youth-friendly information or systems. Unless they are mandated to ensure that children and young people are aware of them and how they will assist young people and they have processes which are readily usable by young people, these will not be accessible to young people. In YAC's view, even if young people have the support of a child advocate, the processes will remain difficult for young people to understand and access and so they are not likely to want to engage with them.

In a similar vein, the Queensland Law Society stated in its submission to the Health and Community Services Committee—

The Society is concerned with the removal of the systemic role of the Commission for Children and Young People and Child Guardian ... and the combination with the existing Adult Guardian. We consider that, if the role is to be refocused on providing individual advocacy, the new Public Guardian should still retain the ability to investigate and report on the systemic issues that they come across through their individual advocacy.

Similar concerns were also expressed by the Australian Association of Social Workers and the Public Advocate.

The Public Guardian Bill attempts to curtail the Community Visitor Program by limiting this function to visit children perceived to be at risk rather than to visit all children in care, as is now the case. A submission to the Health and Community Services Committee on its review of this bill expressed serious concerns about this proposal. In its submission, CREATE Foundation, the national peak consumer body for children and young people in out-of-home care, states—

CREATE remains concerned that the direction in the *Public Guardian Bill 2014* ... relating to which children should be visited does not give full consideration to either the child's views and wishes nor the status of their ongoing emotional health as a result of their experience in care and prior to entering care.

CREATE solicited comments from young people on the proposed changes to the Community Visitor Program. These comments included—

Young people should have input into assessing their need. This should be done in consultation with their carers, CSOs and any other support people that are involved in the young person's life.

The young people and those most involved in their lives must be consulted before Community Visitor support is withdrawn. It should be ensured that young people have adequate support in place for this to happen. Communication between these parties is vital.

Whether or not a young person wants a Community Visitor should be taken into account when determining whether support will continue under the new program.

A member of CREATE's Youth Advisory Group suggested the following—

Monitoring must be done if a young person has their contact with their Community Visitor ceased [i.e. if a young person no longer receives support upon implementation of changes recommended by the Inquiry]. They should be visited at least once a year … You cannot expect all young people to be proactive in seeking out support. An annual check-in would provide young people with an opportunity for support and review that they might otherwise not initiate (despite possibly needing help).

Both Youth Advocacy Centre and PeakCare also raised a number of concerns about the proposed changes to the Community Visitor Program. PeakCare states in its submission on this bill—

In respect to the functions of a community visitor (clause 56), noting that the scale of the program has been publically estimated as reducing to 35% of children in out-of-home care and less routine visiting, PeakCare continues to be puzzled by the lack of clarity and apparent overlap in respect to the various government, non-government and private professional practitioners in contact with a child in out-of-home care, for example, Child Safety Officer, non-government caseworker, foster and kinship carer support worker, legal representative, separate representative, and therapists. In particular, the functions of inspecting and reporting on the appropriateness of accommodation at a visitable home and the accommodation, delivery of services, and meeting of a child's needs at a visitable site indicate the imperative for objective, transparent and culturally respectful criteria at the same time as further over-regulation of licensed care services.

The Public Advocate also raised concerns about the Public Guardian responding to issues in the youth criminal justice system as both functions are within the Department of Justice and Attorney-General. Similarly, there is the potential for conflict when both an adult and that adult's child are in the care of the Public Guardian.

On the issue of Aboriginal and Torres Strait Islander staff, given the substantial overrepresentation of ATSI children in the child protection system, it would be preferable that at least some of the community visitors are designated ATSI staff. There is no provision for this in the bill. Of course, many of these issues flow on to the other two bills that form part of this cognate debate and this brings me to the Family and Child Commission Bill. The government states that the objective of the Family and Child Commission Bill is to establish the Queensland Family and Child Commission, which will provide systemic oversight for the child protection system delivered by public sector and publicly funded NGOs providing child safety and support services to families to improve the safety and wellbeing of children and young people, including those in need of protection; drive best practice in the provision of services to this cohort, including by developing a workforce development strategy, coordinating a research program and by evaluating the performance at a systemic level; and promote and advocate to families and communities their responsibility for protecting and caring for their children, including through education, and providing information to enhance community awareness.

The opposition will be opposing the Family and Child Commission Bill. The opposition accepts the government's reasoning for creating a Family and Child Commission rather than a family and child council but cannot support the commission's lack of independence. The bill provides that the commissioner is subject to the direction of the minister in performing the commissioner's statutory functions. This raises serious doubts about the independence of the commission and, once again, points to the government's desire to remove all external accountability for their decisions. The Australian Association of Social Workers brought this to the attention of the committee in its submission, stating—

The AASW is concerned about potential conflicts of interests and lack of independence should the Commissioners be required to report to the Minister of any Departments for which the Commissioners hold monitoring responsibilities. Given the Commissioners have a clear mandate to engage in systemic analysis and monitoring, it is vital that they have reporting lines that enable them to exercise these functions independently.

The CREATE Foundation suggested that the Family and Child Commission should be an independent statutory body as well. The Department of the Premier and Cabinet advised that the Family and Child Commission would report to, and be subject to, the direction of the Premier but the opposition does not believe this is good enough. As Professor Healy from the AASW said at the public hearing—

We are concerned that the current proposed governance arrangements will not entirely allow for the level of independence and fearlessness that we think is necessary for this council to function as a body that effectively monitors the child protection system.

The bill requires that one of the roles of the commissioners is to inform and educate the community about services available to strengthen and support families and the way in which the child protection system operates. While it is important to incorporate an upstream approach to child protection and help families before they enter the system, this cannot be done at the expense of primary services. No matter how good the government's approach to prevention is, there will always be families that slip through the gaps and will need interventions further downstream.

In relation to Aboriginal and Torres Strait Islander representation, the opposition applauds the government for making it a requirement that one of the commissioners be of Aboriginal or Torres Strait Islander descent, but we believe the government needs to take it a step further and introduce a requirement that a certain percentage of Family and Child Commission staff be of ATSI descent as well. Having an ATSI commissioner is a great opportunity for them to advocate for the needs of

families with an ATSI background, but there is also a need for staff on the ground who are interacting with families and focus groups to have the same cultural background and understanding.

The opposition also supports the submission from the Aboriginal and Torres Strait Islander Legal Service, which advocates for regular reviews of the child placement project and promotion of cultural continuity in care placements. Once again, the opposition strongly opposes this bill. This is just another example of this government using its massive majority to rush through legislation that reduces accountability and cuts costs without adequate consultation and it is not good enough.

I now move to the Child Protection Reform Amendment Bill 2014. The opposition has a number of major concerns in relation to the Child Protection Reform Amendment Bill. Again, these include the removal of the complaints and oversight functions performed by the Commission for Children and Young People and Child Guardian, changes to mandatory reporting procedures and the introduction of a dual reporting pathway to family support services, the streamlining of the child deaths register and the extremely short consultation period provided for this important legislation. The commission of inquiry recommended that complaints about departmental actions or inactions currently directed to the CCYPCG be investigated by the relevant department through its accredited complaints management process.

Sitting suspended from 1.00 pm to 2.30 pm.

Ms D'ATH: As I was stating before the adjournment, the commission of inquiry recommended that complaints about departmental actions or inactions currently directed to the CCYPCG be investigated by the relevant department through its accredited complaints management process with oversight by the Ombudsman. This is yet another example of the Newman government using their significant majority to rid themselves of any accountability that may get in the way of their cost-cutting agenda without considering who is going to suffer as a result of these reforms.

When the Child Protection Bill 1998 was introduced in the parliament, Mr Denver Beanland, the then Liberal Party member for Indooroopilly, stated—

> The departmental officers are accountable to the chief executive, and the chief executive is accountable to the Minister. However, there is no outside, independent arbiter looking at these decisions that are made.

How is it that in 1998 the Liberal Party acknowledged the need for departmental accountability, but in 2014 this LNP government completely disregards this necessity? The opposition cannot support an amendment that puts the children of Queensland at further risk of harm, and that is exactly what the removal of the CCYPCG will lead to. The CCYPCG is currently responsible for annual reporting on matters relating to the register, which will now be a function of the new Family and Child Commission. Essentially, this means that what was once an independent review will now be completed by the FCC, which reports directly to the minister. The bill also shortens the time that a child must be known to the department from three years to one year, relinquishing its responsibilities further.

I refer to the Queensland Child Death Case Review Committee's annual report of 2012-13. On page 45 of that annual report it provides a history of Queensland's child death jurisdiction. It refers to the 2004 Crime and Misconduct Commission report *Protecting children: an inquiry into abuse of children in foster care,* which reinforced the findings of the Queensland Ombudsman. It specifically states—

> Departmental decisions and actions relating to such children need to be independently examined to promote internal accountability and enhance future decision making, so that the lives of other children may in future be improved or even saved.

This finding and comments by the CMC in 2004 are just as relevant today as they were then. This bill also makes changes to the mandatory reporting legislation currently in place. The opposition supports a move to consolidate all reporting requirements into a single piece of legislation for ease of access and clear guidance, but we require further clarification before we can support the proposed changes to mandatory reporting requirements. Both the Queensland Catholic Education Commission and Independent Schools Queensland seek further clarification concerning the proposed new reporting pathways and protections in place for teaching staff, who report to family support services rather than the department.

A government member: The Attorney answered that question already.

Ms D'ATH: Both raise the concern that reporting will now in fact be more complicated, as there is insufficient guidance as to when it is appropriate to report and to whom. The QCEC predicts that reporting to Child Safety may actually increase as a result of the changes to this legislation.

Madam Deputy Speaker, I heard the interjection that the minister has already addressed this; however, as I understand it the minister has stated there will be further legislative changes before this

becomes operable that will remove some of that duplication, but for the non-government education sector there is no certainty that that will actually occur. If that was to occur, the question is why those changes were not being proposed at the same time so that it could be clear to all stakeholders exactly what the new processes will be and what laws will apply. Currently if this law goes through it will mean that there are a number of different reporting requirements under different pieces of legislation that will exist, and that is a fact. Irrespective of what the minister or the department state they might do in the future, the fact is that right now these stakeholders have genuine concerns that are not being addressed through these particular changes.

The legislation also aims to create a dual reporting pathway to support at-risk families to prevent them from requiring intervention by Child Safety. While this is a promising idea, the reporting pathways are convoluted. There needs to be clarification on the sharing of private information between the department and family support services and what protections are in place for teachers, who report directly to family support services instead of via their principal. The minister needs to address these concerns before he allows this legislation to be passed.

The opposition's final concern relates to the time allowed for consultation on this bill. It took 12 months for the Carmody inquiry to be completed and for the release of *Taking responsibility: a roadmap for Queensland child protection*. The government then took nine months to consider these recommendations and provide a response, yet they only allowed nine weeks for the committee to consider the legislation, complete consultation and provide their report. In fact, the report came down one week ago and here we are today debating the bills. This is not sufficient time to comprehensively consult with stakeholders across Queensland, analyse the bill and address the concerns of stakeholders. This is yet another piece of important legislation which is being rushed through this parliament without adequate consultation.

While the opposition acknowledges the difficult task undertaken by Justice Carmody in his review of the child safety system in Queensland, we do not believe that all of his recommendations build on the good work done over the past decade. The motive of the government appears to be driven more by a desire to reduce expenditure in this area of social policy rather than accepting that more work needs to be done to support families and protect children. It is particularly disappointing that the value of an independent statutory agency to monitor the effectiveness of policies and service has not been recognised and retained. All children in Queensland deserve to be supported by government agencies and community organisations that monitor potential risks and harm and assist families and communities to ensure the safety of our children. It is not good enough to wait until there are substantiated cases of actual physical abuse or neglect. We welcome those positive aspects of the Carmody recommendations, but we share the concerns of front-line community agencies about how this government has chosen to respond to these recommendations. A rushed, ill-considered response can be more disruptive than taking the time to listen to child safety experts and relevant community organisations to ensure that reforms produce better outcomes for children and their families rather than seek to reduce the scope of services and cut expenditure in such an important area of government responsibility as child safety.

In conclusion, it is disappointing that the government has not taken the time to consult the key stakeholders, who raised genuine concerns in their submissions to the parliamentary committee. These laws should not be rushed. We must make sure that the laws this parliament puts in place to protect children and adults with impaired capacity are considered, are workable and are providing the safety that those most vulnerable in our community deserve. These stakeholders raised genuine issues to the parliamentary committee, and those issues should be taken up by this government. These bills leave many questions unanswered. It is not sufficient for the government to merely give undertakings when speaking to the bill. When it comes to protecting our children, we need to ensure our laws are clear and that appropriate independent oversight is prescribed in law. The Attorney-General's amendments tabled today do nothing to address the issues raised by stakeholders and the opposition. In fact, the amendments go to many minor and technical amendments which should have, and would have, been identified prior to tabling the original bills if the Attorney-General had spent more time properly working through these bills at the draft stage to make sure that they got it right.

Mr Bleijie: It was with the committee for ten weeks!

Ms D'ATH: The Attorney-General is interjecting, but if it is—

Madam DEPUTY SPEAKER (Mrs Cunningham): Order!

Mr Bleijie: Your government never had a committee system to put bills through!

Madam DEPUTY SPEAKER: Order! I call the member for Redcliffe.

Ms D'ATH: The Attorney-General himself has put up a range of amendments that are technical amendments, so the question is: why are there so many technical amendments and why have so many errors been made in the drafting of this bill?

Mr Bleijie: That's what the committee process is about. Now you're whinging about the committee—

Ms D'ATH: For the reasons I have stated, the opposition will be opposing these bills.