

Queensland Family and Child Commission

Submission

To: Parliament of Western Australia, Joint Standing Committee on the Commissioner for Children and Young People: Inquiry into the functions exercised by the Commissioner for Children and Young People

Date: 25 February, 2015

Submission summary

This submission provides the Joint Standing Committee on the Commissioner for Children and Young People (The Committee) with information regarding the evolution of the (child focused) complaints function within Queensland, including complimentary programs and initiatives that have enhanced or supported the success of this function.

Submission recommendations

The Queensland Family and Child Commission recommends:

- The Committee consider the evolution of the complaints function within Queensland and the findings of the recent Carmody Inquiry and their relevance to the changes proposed in Western Australia.
- The inclusion of education campaigns which encourage children and young people to know and advocate for their rights and increase community understanding of child abuse and neglect matters.
- The development of an extended version of the regular visitor program outlined in recommendation two of the *St Andrew's Hostel Katanning: How the system and society failed our children report* and included in the *Review of the Commissioner for Children and Young People Act 2006*.

Queensland Family and Child Commission

PO Box 15217

Brisbane City East QLD 4002

Web: <http://www.qfcc.qld.gov.au/>

Email: info@QFCC.qld.gov.au

Phone: (07) 3900 6000

The Queensland Family and Child Commission (QFCC) is pleased to provide a submission to the Parliament of Western Australia, Joint Standing Committee on the Commissioner for Children and Young People: Inquiry into the functions exercised by the Commissioner for Children and Young People, with particular focus on the proposed complaints function.

QFCC functions

The QFCC was established on 1 July 2014 to ensure all Queensland children and young people are cared for, protected, safe and able to reach their full potential. To achieve this the QFCC functions include, though are not exclusively limited to, the following:

- The promotion and advocacy of the shared responsibility of families and communities to ensure the protection and care for children and young people.
- Educating parents, families, communities and professionals and providing information on services available that will strengthen and support the family unit.
- Collaborating with government, non-government, tertiary, vocational education and training partners to develop the capability and capacity of the child protection workforce and to improve the services provided to children and their families.
- Providing oversight of the Queensland child protection system.
- Developing and coordinating a multidisciplinary research program to inform policies and practices, in consultation with stakeholders and relevant agencies.

Background - Inquiry driven reforms

Similarly to the Blaxell Inquiry that has instigated child protection reform in Western Australia, the Queensland child protection sector has been shaped by the recommendations and outcomes of a number of formal investigative inquiries. In recent history the most notable of recent inquiries include:

- [*Commission of Inquiry into Abuse of Children in Queensland Institutions 1999 \(Forde Inquiry\)*](#)

The report to the Queensland Government included significant evidence of past abuse and neglect within Queensland institutions and identified potential future practice issues and concerns.

- [*Crime and Misconduct Commission Inquiry Into Abuse of Children in Foster Care 2004 \(CMC Inquiry\)*](#)

The CMC Inquiry was convened in response to a number of factors, namely a series of published articles, referring to possible abuse within the foster care system. The intention of the inquiry was to assess the quality of foster care in Queensland, investigate and identify

factors which contributed to abuse and offer recommendations designed to intervene and protect children who were in the care of the state.

- [Queensland Child Protection Commission of Inquiry 2013 \(Carmody Inquiry\)](#)

Unlike earlier inquiries, the Carmody Inquiry was not driven by crises where abuse of children in state care had been uncovered for example. Instead, a key catalyst for the Inquiry were unsustainable increases in child protection intakes. The Carmody Inquiry investigated and reviewed the entire child protection sector and produced a report with recommendations to the Queensland Government on how to best and most effectively reform the whole sector. The report is the basis of an extensive, 10 year child protection reform program currently taking place within both the government and non-government child protection sector in Queensland.

Child-focused complaints in Queensland

Recommendation

The Joint Standing Committee consider the evolution of the complaints function within Queensland and the findings of the recent Carmody Inquiry and their relevance to the proposed Western Australian complaints functions.

Reviews of the success and effectiveness of complaints management functions have formed part of the investigations of all Inquiries into child protection matters in Queensland. Most recently, the *Taking Responsibility: A Roadmap for child Protection in Queensland* report (Carmody Report), acknowledged the challenges of establishing a child-focused complaints mechanism which ensured children and young people were confident to make a complaint where adults have competing rights.¹ At the time of the Carmody Inquiry (2012) there were four main avenues for progressing a complaint regarding a child protection matter:

- Directly to the Department of Communities, Child Safety and Disability Services (DCCSDS).
- To the Commission for Children Young People and Child Guardian (CCYPCG) where:
 - Complaints were made by a child or any person acting on their behalf, with regard to the provision of services by a government or non-government service provider
 - Complaints were initiated by Community Visitors regarding instances of serious concern or service matters for children in state care that have not been able to be locally resolved

¹ Taking Responsibility: A Roadmap for Queensland Child Protection, Chapter 12, p418
Queensland Family and Child Commission

- To the Queensland Ombudsman, and
- To the Queensland Civil and Administrative Tribunal.

The submission feedback captured by the Carmody Inquiry regarding the existing complaints mechanisms was varied. However, it was acknowledged that the complaints and oversight mechanisms were too complicated, duplicative, confusing and sometimes ineffective.² In terms of the relevance and success of the secondary complaints function accessed through CCYPCG, Carmody noted, *while this function has provided strong individual and systemic advocacy.....and was necessary in part to fill a void in capability and systems within the department, it draws heavily on resources within agencies and does not warrant a specialist oversight body.*³ Subsequently the report recommended that the complaints regarding departmental action or inaction that had previously been managed by CCYPCG be returned to the relevant department (DCCSDS) for investigation, with oversight to be provided by the Ombudsman. Additionally, departments will continue to have a directed responsibility to undertake thorough, independent complaints processes under a defined Public Service Commission Directive.

In consideration of the feedback tabled to the Carmody Inquiry, the QFCC strongly recommends due diligence be prioritised to ensure the issues of duplication, complexity and effectiveness are addressed and minimised prior to the establishment of an independent complaints function. Additionally, the Commissioner should strongly consider the impact a complaints system may have on the resources required to successfully advocate for children and young people.

Within Queensland there are now clear avenues for children, young people, families and communities to raise complaints or concerns regarding child protection matters and easily accessible independent services who are able to advocate and assist children with the resolution of their concerns. These include:

- **Department of Communities, Child Safety and Disability Services (DCCSDS)** – is able to respond to complaints regarding all government and funded non-government services provided to the community. These include complaints associated with actions and decisions made by DCCSDS, access and standards of programs provided, appropriateness of services and their impact on the community and agency practices, policies and procedures. DCCSDS also investigates reports of suspected child abuse or neglect through concerns lodged by the community through Regional Intake Services.⁴

² Taking Responsibility: A Roadmap for Queensland Child Protection, Chapter 12, p419

³ Taking Responsibility: A Roadmap for Queensland Child Protection, Chapter 12, p423

⁴ [Department of Communities, Child Safety and Disability Services – Complaints management](#)

- **Office of the Public Guardian (OPG)** – is responsible for the management of the Community Visitor Program and advocates for the protection of the rights of children and young people in the child protection system. From a complaints perspective, OPG offers the following mechanisms:
 - A child or young person (placed within the child protection system) is able to raise their concerns with an assigned Community Visitor who is then able to refer a complaint for further investigation or assist in resolving less complex matters.
 - The OPG also provides children and young people with access to Lawyer/Advocates who are able to assist with making applications to the Queensland Civil and Administrative Tribunal (QCAT) following decisions made by DCCSDS and assist with the resolution of disputes including making an official complaint to any authority.⁵
- **Queensland Ombudsman (oversight)** – is able to review and investigate complaints made regarding the decisions of Government Departments and within their jurisdiction.
- **Queensland Civil and Administrative Tribunal (oversight)** – is able to review the decisions made by DCCSDS and within their jurisdiction.

Complimentary initiatives to support child-focused complaints

Recommendation

The QFCC recommends:

- The inclusion of education campaigns which encourage children and young people to know and advocate for their rights and increase community understanding of child abuse and neglect matters.
- The development of an extended version of the regular visitor program outlined in recommendation two of the *St Andrew's Hostel Katanning: How the system and society failed our children* report and included in the *Review of the Commissioner for Children and Young People Act 2006*.

Child protection research continues to highlight concern regarding the vulnerability of children and young people and their reliance on adults to speak and advocate on their behalf and to protect their rights. This vulnerability may then be further perpetuated by that adults societal attitudes toward child protection.⁶ To address this vulnerability and promote the benefits of raising concerns and self-advocating, the QFCC supports the Western Australian Commissioner's proposed role to

⁵ [Office of the Public Guardian, Advocacy for Children and Young People.](#)

⁶ [Australian Law Reform Commission, Responding to children – Advocacy and action](#)

educate children and young people about reporting abuse and making visible, accessible information regarding the appropriate avenues for making a complaint. Additional focus on developing the knowledge base of the greater community regarding child abuse and neglect matters would also begin to address the barriers which have historically inhibited children and young people from recognising risk behaviours and self-advocating on child protection matters.

Regular Visitor/Community Visitor Program

The QFCC has observed significant success in eliciting informal complaints for children and young people associated with their safety and wellbeing through the Community Visitor (CV) Program. It is for this reason that we strongly support the recommendation of the Blaxell Inquiry Report and *Review of the CCYP Act 2006*, to establish a regular visitor program. However, the QFCC would recommend the roll out of an expanded version of the proposed program to include visiting children and young people under orders within metro, regional and remote areas. The regular visitor program should enable the building of relationships and establish a community confidence in the child protection system.

The Queensland Community Visitor (CV) Program operated by the Office of the Public Guardian (and previously operated by the CCYPCG) has undergone significant development since its conception, however has continued to maintain an independence from government departments and community organisations. While initially the program only visited children and young people in residential facilities (as the Official Visitor Program) the CV Program expanded following the Forde Inquiry to include visiting children and young people within all out-of-home care settings (including kinship placements). The presence of a CV in the lives of children and young people (within the child protection system) provides the child with regular, or somewhat regular, access to an independent advocate whom they are able to develop trusting connections with and an additional avenue for raising and discussing complaints or concerns regarding safety and wellbeing matters.

The 2013, '[Views of Children and Young People in Foster Care Survey](#)' released by the CCYPCG provides some evidence of the positive impact of the CV role, through data collected from almost 2000 children (781) and young people (1197) :

- When *young people* were asked about the extent to which they can talk to their CV about things that are important to them, almost all (95.8%) reported that they can talk to their CV all (74.2%), or most (21.6%), of the time.
- When *children* were asked to respond 'yes' or 'no' to the question, '*Can you talk to your CV about things that are important to you?*' 98.6% responded 'yes'.
- The survey allowed children and young people to provide comment on how their CV has helped them. Thematic analysis of 278 comments revealed the most commonly noted (by

far) type of assistance provided by the CV was 'listening, friendship, support, understanding and doing things together'. The next most common themes mentioned types of assistance which involved 'following up on departmental issues' and 'helping with family contact or reunification'.⁷

Conclusion

The QFCC is committed to ensuring that all children and young people, particularly those who are most vulnerable, are provided with the support, guidance and tools to ensure their safety and wellbeing. It is to this end that the QFCC offers the advice and recommendations contained within this submission to support the role of the Commissioner for Children and Young People in Western Australia.

⁷ CCYPCG, Views of Children and Young People in Foster Care Survey, 2013
Queensland Family and Child Commission