

Queensland Government Submission

On 1 July, 2012, the Government established the Queensland Child Protection Commission of Inquiry (QCPCOI) and tasked the Honourable Tim Carmody QC with examining the current response to children and families in the child protection system, and to provide the Government with a roadmap for change for the next decade and beyond. The QCPCOI's Final Report – *Taking Responsibility: A Roadmap for Queensland Child Protection* handed down by Commissioner Carmody on 1 July 2013, made 121 recommendations for reform to Queensland's child protection system.

The Queensland Government is taking the time to review the full merits and impacts of each recommendation, which will duly inform its response to the report. Some of these recommendations relate directly or indirectly to the issues raised in the Royal Commission's Issues Paper No. 3: *Child Safe Institutions*. As such, while the following responses reflect the current strategies applied in Queensland Government agencies, it is anticipated that some of the approaches to creating child safe organisations may evolve in line with implementation of the impending reforms to the overall child protection system in Queensland.

1. The essential elements of establishing a ‘child safe organisation’ that protects children from sexual abuse in an institutional context. In particular, are there core strategies that should be present and others that are less critical?

Strategies that effectively address the past, present and future risks of harm for children are considered critical to maintaining a child safe organisation. A child safe and child friendly environment can only be achieved through a cohesive approach that is supported, endorsed and implemented at all levels. This means establishing a culture and service framework that recognises the rights of children (under the *United Nations Convention on the Rights of the Child* and the *Universal Declaration of Human Rights*), adhering to national standards and frameworks (e.g. *National Framework for Protecting Australia’s Children 2009-2020*), and implementing state-based legislation (e.g. child protection and mandatory reporting).

The core strategies include:

- 1) Legislation and policies
- 2) Education and training
- 3) Complaints management processes
- 4) Specific requirements for funded service providers

Legislation and policies

Code of Conduct

Within the public service, the Queensland Public Sector Code of Conduct reflects the principles of integrity, accountability and transparency, and sets boundaries concerning employees’ behaviour in an institutional context. The Queensland Government undertakes rigorous pre-employment recruitment and selection processes, supports clearly defined risk management systems, and is committed to ongoing staff education and training, and service improvement processes that contribute to child safe environments. Participation of children and their families in decision-making processes is encouraged, and cultural inclusion strategies are maintained to create an environment in which children and families feel safe and secure.

For example, within the Department of Communities, Child Safety and Disability Services (DCCSDS), essential elements in establishing a child safe organisation include checks, policies and procedures, and ongoing monitoring and risk management strategies to ensure the safety and wellbeing of children. These measures apply to employees, carers and funded service providers.

Working with Children Check and employment screening

Legislation aims to ensure organisations are child safe, and include mandatory pre-employment screening for employees providing services to children, and mandatory reporting of harm by employees. When providing services to children, all government and non-government employees are required to hold a valid blue card or exemption notice (under the *Commission for Children and Young People and Child Guardian Act 2000* (Qld) (CCYPCG Act). The blue card system or *Working with Children Check* involves screening of a person’s national criminal history (including all spent convictions, pending and non-conviction charges), and other disciplinary and police information. The check considers all relevant offences across a person’s lifetime. The Commission for Children and Young People and Child Guardian (CCYPCG) monitors the police information of all card holders

and applicants on a daily basis. If the information changes, CCYPCG can take steps to immediately notify the employer, and suspend or cancel the blue card.

Operators and drivers of public passenger transport services in Queensland are required under the *Transport Operations (Passenger Transport) Act 1994* (Qld), to undergo operator accreditation and driver authorisation checks, involving criminal history screening. The legislation further obliges accredited operators and authorised drivers to report to the Department of Transport and Main Roads (DTMR) if they have been charged or convicted of a disqualifying offence (comprehensively defined under the legislation and based on the CCYPCG Act). The most serious disqualifying offences include offences against children and offences of a violent or sexual nature, and disentitle operators and drivers from applying for or holding accreditation and/or authorisation. Offences, other than disqualifying offences, can result in approval being amended, suspended or cancelled, with or without (in limited circumstances) a show cause process. Failure to report a change in criminal history is also an offence.

Under the school crossing supervisor scheme administered by DTMR, school crossing supervisors undergo criminal history screening and are required, by virtue of the *Transport Operations (Road Use Management) Act 1995, Part 7A*, to report any criminal offence of which they have been charged or convicted. Such a charge or conviction can result in immediate suspension, suspension with show cause or cancellation, depending on the particular circumstances. The safety of a child or children is an express criterion for considering what action should be taken.

Department specific legislation and policies

In Queensland, the legislation expressly governing the protection of children is the *Child Protection Act 1999* (Qld) (the CPA). The main principle for administering the CPA is that the safety, wellbeing and best interests of a child are paramount. Specifically, section 148 of the CPA places obligations (with penalties for non-compliance) on an authorised officer (under the CPA) and an officer or employee of DCCSDS involved in administering the CPA, to immediately report harm, or suspected harm of a child placed in a departmental care service or licensee to the chief executive.

Departments also have specific policies and procedures for establishing child safe organisations. These support their legislated obligations and apply to the environments they work in and the services they deliver. For example, guidelines that have been, or are considered when Queensland Health (QH) is developing policies, guidelines and procedures include the Australasian College of Paediatrics and Australasian College for Emergency Medicine *Policy on Hospital Emergency Department Services for Children*, and the Royal Australasian College of Physicians, the Association for the Wellbeing of Children in Healthcare and Children's Hospitals Australasia *Standards for the Care of Children and Adolescents in Health Services*.

The Department of Justice and Attorney-General (DJAG) has a Charter of Juvenile Justice Principles in the governing *Youth Justice Act 1992* (Qld), along with procedures for watch houses and for providing young offenders with information of their rights upon admission (including their right to make a complaint and the department's responsibility to report any harm). DJAG also maintains a safe ratio of staff to young people and allocates single bedroom accommodation in detention centres wherever possible. DJAG considers vigilant supervision as critical in a youth detention context to ensure the safety of young people.

The Department of Employment, Training and Education (DETE) has a *Student Protection Procedure; Allegations Against Employees in the Area of Student Protection Procedure*; mandatory Student Protection training; *Risk Management Strategy for Student Protection*; the *Monitoring Plan 2010-13* between DETE and CCYPCG; and systems for reporting and responding to harm or suspected harm. Additional strategies include: student protection training resources for staff and the *Daniel Morecombe Child Safety Curriculum* for schools.

Sections 365 and 365A of the *Education (General Provisions) Act 2006* (Qld) place a legislative obligation on state school staff, if they reasonably suspect that a student has been or is likely to be sexually abused, to report their concerns to the principal or principal's supervisor, who must immediately forward the report to the Queensland Police Service. If the report is about abuse by an employee, a copy of the report must also be provided to DETE's Ethical Standards Unit.

Education and training

Ongoing in-service education and training on child safety for all employees, volunteers, children and their families promotes awareness and understanding of child abuse risks and organisational responsibilities, thus cultivating a sense of shared mutual responsibility for the wellbeing of children. For example, within DCCSDS, professional development, training and practice advice for child safety officers encourage best practices and prioritisation of the wellbeing and best interests of children. This includes *Child Safety Officer Training*, the *Child Safety Practice Manual*, and *Child Safety Practice Framework*.

At QH, all relevant health professionals at the time of induction with the organisation are provided with information regarding child safety, including responsibilities and reporting obligations. Health professionals who work with children, or with adults with responsibility for children, are required to undergo an annual capability assessment on child abuse and neglect.

Complaints management processes

Complaints management processes enable agencies to identify the needs of clients and stakeholders, understand business shortcomings, increase client satisfaction and improve overall performance. Queensland Government agencies have established clear, transparent and accessible internal and external complaints mechanisms. This includes availability of a range of culturally secure mechanisms for Aboriginal and/or Torres Strait Islander children and young people, or their care-givers, to make complaints e.g. written or verbal complaints to an Aboriginal health worker in hospital or in their community.

Requirements for Service Providers

Under the *Community Services Act 2007* (Qld) all non-government service providers seeking eligibility to receive funding from DCCSDS must be Approved Service Providers. For funded service providers, the DCCSDS selection process aims to only select providers with a proven history of being child safe including evidence of sound recruitment, training and development practices, and experienced service delivery. Employees of organisations engaged by DCCSDS to provide services to children are also subject to the same blue card checks discussed above.

Care services which provide out-of-home care for children are required to be licensed by DCCSDS. In 2013, DCCSDS began introducing organisation level licensing which requires organisations to be certified under the Human Services Quality Framework (HSQF) prior to applying for an organisation level licence which covers all their care services in Queensland. The HSQF certification process requires organisations to be independently audited against six standards, including provision of evidence to describe how harm to children and young people is prevented and managed while they are in the care of the service.

For organisations engaged by DCCSDS to deliver services to children, the *Commission for Children and Young People and Child Guardian Act 2000* (Qld) requires that they have a child and youth risk management strategy in place. This strategy must address eight minimum requirements, including a requirement to develop, maintain and promote policies and procedures for handling disclosures or suspicions of harm, and for occasions where there might be a breach of the organisation's child and youth risk management strategy.

External oversight of compliance of these risk management policies and procedures occurs through CCYPCG.

DETE is a regulator, responsible for licensing/approving, monitoring and assessing early childhood education and care services, which are delivered by private businesses, community organisations, local governments and parents and citizens associations. Services providing education and care are required to have policies and procedures addressing the health, safety and wellbeing of children to whom they are providing regulated education and care. The regulation of early childhood education and care services under the National Quality Framework and Queensland child care legislation enables DETE to monitor and investigate education and care services to ensure their compliance with relevant legislation. DETE's regulatory role in approving, monitoring and assessing education and care services represents a core strategy critical to delivery of child safe organisations. Regulation may result in the pursuit of compliance action or reports of harm to other agencies, including the Queensland Police Service or DCCSDS.

The Department of Transport and Main Roads (DTMR) administers the operator accreditation and driver authorisation systems for public passenger transport services (which include school services) in Queensland. The applicable legislation, the *Transport Operations (Passenger Transport) Act 1994* (Qld), prescribes accreditation and authorisation schemes that are governed by the principle that the protection of children and vulnerable members of the community is paramount. DTMR also administers the school crossing supervisor scheme and through that process, which includes criminal history screening, seeks to ensure that supervisors are appropriate people to undertake these activities in and around children.

In summary, the Queensland Government considers prevention and risk management strategies to be critical in protecting children from sexual abuse in an institutional context. Of equal importance are mandatory reporting obligations and the creation of environments in which children are valued, able to safely voice their concerns, and supported to act on their rights.

2. The evidence base for the range of strategies associated with making an organisation ‘child safe’. Does this evidence base extend to the physical environment?

The Queensland Government acknowledges the importance of drawing upon a comprehensive evidence base in developing child safe strategies. Departments and agencies use a range of evidence to develop child safe strategies.

For example, the Department of Justice and Attorney-General (DJAG) considers findings from the Royal Commission into Aboriginal Deaths in Custody and inquiries in to child protection and safety, along with recommendations identified by internal and external oversight agencies, as part of its evidence base. DJAG also notes that routine monitoring of performance identifies priorities for practice and/or policy improvement, while partnerships with leading researchers and practice experts inform evidence-based policy and program decisions.

For its evidence base, Queensland Health (QH) refers to legislation, Australian standards and guidelines, child protection reviews including international, national and state based reviews, professional evidence-based best practice, and coronial findings.

The Department of Education, Training and Employment (DETE) relies on the latest available research evidence, as well as internal and external consultation and stakeholder engagement to inform its policy development, e.g. *Teachers reporting child sexual abuse: Towards evidence-based reform of law, policy and practice* (April 2010). Conducted by Queensland University of Technology law and education faculty academics, this major three year research project analysed law, educational policy and teachers' reporting practices nationally and internationally. Following the findings of this report, DETE made changes to the *Education (General Provisions) Act 2006* (Qld) to require all Queensland teachers to report cases of suspected child sexual abuse to their principals, who in turn are required to report these cases to the Queensland Police Service.

The Department of Communities, Child Safety and Disability Services (DCCSDS) develops child safe strategies that are based on research evidence and practice expectations outlined in the *Child Safety Practice Framework 2008* (the framework) and the *Child Safety Practice Manual* (the manual). The framework was developed following extensive research and consultation across the department and with stakeholders. The cornerstone of the framework is the focus on outcomes, which is central to effective statutory child protection practice. The framework identifies four interrelated categories of evidence or knowledge, which are considered essential for the development of policies, practice guidelines and tools. These are:

- ***Research or empirical knowledge***: drawn from the current and emerging research base for practice, e.g. the DCCSDS *Structured Decision Making* (SDM) tools are based on 20 years of research by the Children's Research Centre.
- ***Theoretical knowledge***: uses established and emerging theories to seek to understand or make sense of what practitioners experience or observe. Theories can assist practitioners to make predictions, develop hypotheses, explain what is being observed and identify new ways to intervene in a complex situation.
- ***Practice experience or wisdom***: knowledge gained through the experience of child protection in practice. The framework includes user knowledge in recognition of the importance of listening to children, families and carers. As service recipients, they are the

experts in how the service is experienced and how the effectiveness of practice may be strengthened.

- *Organisational knowledge*: includes departmental policy documents, the manual and SDM tools that identify how to embed legislation in service delivery, establish standards, promote consistency of practice, and mitigate the potential risks faced by inexperienced child protection staff responding to highly sensitive case matters.

The physical environment

Aligning with relevant research, the Queensland Government supports (where practicable) a physical environment with clear lines of sight as this makes the practice of abuse more difficult to perpetrate and therefore less likely to occur.¹

Children are also likely to be more forthcoming about incidents of abuse and/or harm in environments where they feel at ease. For example, in the case of children from Aboriginal and Torres Strait Islander or culturally and linguistically diverse backgrounds, this may mean being in surroundings where the design and aesthetic is culturally appropriate and recognisable, which could empower children and make them more confident about disclosing concerns or abuse if it occurs. Supportive environments may be further encouraged through the employment of Aboriginal and Torres Strait Islander people and people from culturally and linguistically diverse backgrounds across the service system more broadly.

Evidence in relation to overcrowding has been identified as a considerable risk for the health and safety of children, particularly of Aboriginal and Torres Strait Islander backgrounds. The anticipated continued growth in the numbers and increasing length of stay of children in out-of-home care may increase overcrowding and the associated risks.

Part of the licensing and ongoing monitoring process requires a physical inspection of residential care premises. Standard 1 of the Queensland Human Services Quality Framework (HSQF) requires agencies to provide evidence that they have considered the physical layout of the service is appropriate to the needs of the target group. Mandatory requirements for licensing include the availability of sufficient private interview rooms and space in the living environment for the child to meet with DCCSDS, family and significant others in privacy. Organisations must also demonstrate that the child has adequate physical space within the living environment to ensure privacy is maintained and the child is protected, e.g. a lockable bathroom, their own bedroom space, and a secure place for personal possessions (*Licensing Companion Guide*).

QH considers the physical environment and the skills of staff working as critical to achieving a child safe service. QH implements protocols across treatment settings to maximise the safety of children, such as access to consultation rooms with viewing windows, monitoring points of entry to children's services with all visitors to seek permission to enter, and provision of a child specific area where a young person shares services/environments with adults, e.g. emergency departments. Other examples include relocating play equipment and safety reviews to support access.

DETE uses the National Quality Framework as the basis for developing early childhood child safe strategies. The *Education and Care Services National Law (Queensland) and Regulation*, set physical environment requirements with which approved providers must comply. These include requirements relating to fencing, safety glass, water hazards, cleanliness, furniture and equipment, hygiene, ventilation and shade. In addition, education and care services must comply with the Building Code of Australia.

¹ For example, Beyer, L. R., Higgins, D. J., & Bromfield, L. M. (2005). Understanding organisational risk factors for child maltreatment: A review of literature. Melbourne: National Child Protection Clearinghouse, Australian Institute of Family Studies, pp.51-52 and 56.

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In exercising its functions as the Queensland Regulatory Authority under the National Quality Framework, prior to issuing a service approval, DETE must be satisfied that premises proposed to be used for education and care are safe. This is determined by considering the evidence provided by a qualified building practitioner of their assessment of the premises against relevant building standards, in conjunction with DETE's own assessment vis-à-vis physical environment requirements. The premises of education and care services must also be designed to facilitate supervision of children.

3. How should the effectiveness of ‘child safe’ strategies be tested?

Testing the effectiveness of strategies is challenging. Queensland Government agencies have tended to test the effectiveness of child safe strategies through monitoring of compliance and measuring countable processes. One of the findings of the Queensland Child Protection Commission of Inquiry (QCPCOI) was that public confidence in the system would be improved if greater attention was invested in measuring results for children. The QCPCOI recommended a new structure for oversight that places more responsibility for performance with each lead agency. Improving outcomes is a key area that the Queensland Government is considering as part of its overall response to the QCPCOI’s final report.

At present, Queensland Government agencies test the effectiveness of ‘child safe’ strategies in a number of ways. Within the Department of Communities, Child Safety and Disability Services, mechanisms include:

- Monitoring out-of-home care placements and the level of care provided, and taking preventative action to resolve identified concerns before they escalate into a standard of care review or a harm report.
- Investigating concerns or report of harm or risk of harm to a child in care as outlined in *Policy 627 – Response to children and young people sexually abused whilst in out of home care*.
- Promoting and ensuring participation by children, respecting their rights, considering their views, and involving them in the planning and decision-making processes affecting their lives.
- Maintaining contact with children and young people in care and providing support to address their needs.
- Supervising family contact and monitoring progress.
- Regularly reviewing case plans for effectiveness in meeting the child’s needs and keeping them safe.
- Investigating and assessing compliance with legislative and regulatory requirements for selection, training and management of staff, including checks for suitability checks e.g. *Working with Children Check* (blue card) or Criminal History Screening.
- Investigating any concerns in relation to the quality of care provided to a child or young person in an out-of-home care placement and if a breach of the standards has occurred, taking immediate actions to ensure the safety and wellbeing of the child.

For service providers, effectiveness of child safe strategies is tested through renewal of care service approval where issues relating to any previous breach of child safety requirements are considered. The Human Services Quality Framework requires independent assessment against six standards for the department’s funded services, including safety, wellbeing and rights, while testing of compliance with the child and youth risk management strategies is undertaken through independent assessments conducted by the Commission for Children and Young People and Child Guardian.

Department of Education, Training and Employment (DETE) assesses the effectiveness of child safe strategies of early childhood education and care service providers against the following key identified areas: educational program and practice; children’s health and safety; physical environment; staffing arrangements; relationships with children; collaborative partnerships with families and communities; and leadership and service management. If an

education and care service does not meet the standards required, as the regulator, DETE can commence compliance action.

Notification requirements under the *Education and Care Services National Law (Queensland)* are also used by DETE to test the effectiveness of child safe strategies. Approved providers are required to report to DETE any serious incidents, complaints and circumstances that arise at an education and care service, which pose a risk to the health, safety or wellbeing of children.

Other Queensland Government agencies do not specifically test or measure the effectiveness of child safe strategies. However, they may apply many components that contribute to, and are consistent with, child safe strategies. For example, Queensland Health has clinical incident reporting, client satisfaction surveys, and audits – including mandatory training compliance audits.

Within the Department of Justice and Attorney-General (DJAG), recommendations identified by internal and external oversight agencies also assist in evaluating the success of child safe strategies. DJAG uses complaints procedures, audits, monitoring and compliance results, CCTV monitoring in detention centres, and incidents of harm statistics to monitor the effectiveness of child safe strategies.

Under DETE's Standard School Audit programme, regular monitoring occurs to ensure that state schools have in place processes to identify that staff have completed key corporate training/professional development activities, including student protection training. This programme also seeks confirmation of state school procedures to ensure that non-staff (including short-term contractors and visitors/volunteers who have regular contact with students) have undergone appropriate student protection training.

4. How do 'child safe' policies and procedures work in practice?

Child safe policies and procedures work differently in practice across Queensland departments depending largely on the type of services they are providing.

In the Department of Justice and Attorney-General, key messages about promoting and protecting the safety and wellbeing of young people in youth detention underpin all policy statements relevant to youth detention and youth justice services. This has created an organisational culture which prioritises safety and wellbeing outcomes for young offenders.

The Department of Aboriginal and Torres Strait Islander and Multicultural Affairs emphasises the importance of policies and procedures which are, in practice, culturally sensitive to the needs of Aboriginal and Torres Strait Islander children and families, and that provide staff in child safe agencies with the skills to engage with client families in culturally appropriate ways.

The Department of Education, Training and Employment (DETE) requires all state school employees, and non-departmental employees including short-term contractors working on a school site, volunteers and ongoing visitors that have regular contact with students, to be inducted into the student protection procedures. For employees, this induction includes either completion of an online student protection course or site-based student protection training when newly employed with DETE. Non-departmental employees receive some form of student protection training as determined by the principal, including the provision of a *Student Protection Fact Sheet* within a reasonable period of first attending the school. In addition, all state school employees participate in an annual refresher training of student protection responsibilities.

DETE's student protection procedures require the reporting to the principal of any harm or suspected harm to a student that is caused by an employee, another student, another person, or the student self-harming. The procedures apply across all relevant contexts including escorting students on camps, excursions, educational programs external to a school, and tours within or outside Australia.

Queensland Health (QH) requires registration of relevant employees with the Australian Health Practitioner Regulation Agency, and holds mandatory staff training in profession-specific codes of conduct, including recognition of child abuse and neglect, legal obligations and duty of care responsibilities. QH also provides practical support and monitoring of staff through operational line managers, clinical and practice supervision, and child protection advisors or child protection liaison officers. Child protection liaison officers/advisors are a single point of contact in hospital and health services for health staff and other stakeholders across a geographical location, where child protection concerns are identified.

QH also implements models of service, procedures, protocols and guidelines across treatment settings to maximise the safety of children. For example:

- Provision of a safe and comfortable environment for children including those visiting parents admitted to a mental health facility, such as a family room to provide families with a space for communication and family interaction.
- Access to consultation rooms with viewing windows.
- Points of entry to children's services are monitored and all visitors are to seek permission to enter.

- In child and adolescent mental health inpatient units, the development of an approved visitors list in collaboration with the child and parents.
- Where a search of a young person and/or their possessions is required, articulating under what circumstances this is permissible, the qualifications and training of persons conducting the search, searcher-searchee gender matching, ensuring more than one staff member is present at all times (including a parent if appropriate), and location to maximise privacy and dignity of the young person.
- Where a young person requires admission to an adult service, a comprehensive and ongoing assessment of risk, consideration of level of observation (especially in first 24 hours of admission); placement within the facility (e.g. private room and bathing facilities); provision of developmentally appropriate treatment/care; and ensuring the young person has access to carers/ guardians/advocates.
- Where a young person shares services/environments with adults, e.g. emergency departments, incorporating a child specific area.
- Multidisciplinary teams supporting the case management of children.

For the Department of Communities, Child Safety and Disability Services (DCCSDS), section 82 (1) of the *Child Protection Act 1999* (Qld) (the CPA) outlines DCCSDS's legislative responsibility to children who are under the custody or guardianship of the chief executive and are placed in out-of-home care. There is a legislative responsibility to report any alleged harm to a child or young person involving the commission of a criminal offence to the Queensland Police Commissioner. *DCCSDS Policy 627 – Response to children and young people sexually abused whilst in out-of-home care*, outlines the practical process for staff to respond and monitor the safety of children in out-of-home care. One of the key principles of this policy is that children and young people who are sexually abused in out-of-home care have a right to access support or assistance associated with the prosecution of a criminal offence.

Non-government agencies funded by DCCSDS to provide care for children are also required to be licensed and are regulated by the CPA. The quality assurance framework for non-government child protection services licensing is implemented through the licensing process for services funded by DCCSDS.

An approved provider of an education and care service must provide copies of a range of policies and procedures to DETE at the time of seeking service approval. DETE assesses the adequacy of these policies and procedures against the *Education and Care Services National Law (Queensland)*. Services captured under state based legislation must also adhere to the same processes under the relevant law. The adequacy of these policies and procedures is again assessed in the course of monitoring activities and during the assessment and rating process. Required policies and procedures cover a range of issues, including providing a child safe environment.

5. Should there be a universal framework for a ‘child safe organisation’ or should strategies be specifically tailored to particular types of institutional settings?

At a minimum, a universal framework is required but the Queensland Government preference is to tailor strategies to particular types of settings, especially where unique risks to children have been identified. There is a broad landscape of legislation, policy, protocols, strategic plans and directives that establish a universal framework with underpinning principles for child safe organisations in Queensland. However, a number of departments have also developed strategies tailored to particular types of institutional settings.

In particular, there is strong support for using approaches to better target the needs of people from Aboriginal and Torres Strait Islander and culturally and linguistically diverse backgrounds. For example, this could involve culturally tailored communication strategies to deliver information on child safety to parents/families and volunteers; and the establishment of culturally tailored parenting support groups and mentoring arrangements in organisations located within communities with high need. In situations where large numbers of Aboriginal and Torres Strait Islander children are present, a customised approach caters more effectively to the needs of this cohort of children, and may add value for Indigenous families where preservation of Aboriginal and/or Torres Strait Islander heritage enables families to retain vital and pertinent links to their identity and value systems.

The Department of Justice and Attorney-General notes that youth detention environments face unique risks, and therefore require specific strategies to ensure child safety and wellbeing is promoted. Youth detention environments align with fundamental agency principles, but require a focused approach to address the risks and challenges faced exclusively in custodial settings, namely self harm and suicide, the mix e.g. ethnicity of young people in custody at any given time, over-population and staff shortages.

The Department of Education, Training and Employment (DETE) has separate frameworks for child safety, divided between early childhood and schooling. For schools, DETE delivers the service and for early childhood, DETE regulates the service. Given these differing roles, a universal approach is not considered appropriate.

For schools, the DETE *Risk Management Strategy for Student Protection* provides a universal framework outlining the policies and procedures in place across the agency, which aims to protect children and young people and keep them safe from harm. It also identifies strategies for communication and support about matters relating to student protection and processes for managing breaches. This agency-wide approach aligns with, and implements the DETE strategic plan and its focus on providing safe and inclusive learning and working environments.

For the Department of Communities, Child Safety and Disability Services (DCCSDS), tailored strategies are developed to appropriately respond to the specific range of service settings and statutory requirements in each area. For example, DCCSDS is responsible for the administration of the *Child Protection Act 1999* (Qld) (the CPA) and Queensland’s child protection system. Given the significance of the intervention authorised by the CPA (e.g. removal of children from their families and their placement in out-of-home care) many risk management strategies have been incorporated as statutory requirements under the CPA.

Consistent with the CPA, DCCSDS employees are required to undertake specific actions and follow set processes to protect children from harm. Strategies tailored towards carers include legislated frameworks for the way care is to be provided, and foster carer recruitment and training provided by DCCSDS that recognise the need for carers to acquire knowledge and skills specific to the complexity of the role. Strategies for service providers relate to risk

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management, licensing of care services, and obligations on employees to immediately report the harm, or suspected harm, of a child placed in a departmental care service or licensee.

6. The role of staff performance management systems and disciplinary processes in a 'child safe organisation'

Staff performance management systems and disciplinary processes play a significant role in creating and maintaining a child safe organisation. However, greater importance is placed on selecting the right staff initially through rigorous recruitment processes and providing ongoing training and education to employees on child safety. In this way, greater emphasis is placed on promotion and prevention than on performance management and disciplinary processes.

At the highest level, the Code of Conduct for the Queensland Public Service sets the standard for staff performance. It is based on the ethics, principles and associated set of values, prescribed in the *Public Sector Ethics Act 1994* (Qld). The whole-of-government Code of Conduct replaced all previous codes issued by public service agencies in Queensland, to ensure that the fundamental principles of ethical behaviour essential to robust public sector integrity and accountability are clear and consistent for all public servants.

Within Queensland Government departments, performance management systems comprise:

- *Supervision* – an important tool for supporting staff to integrate the principles, professional knowledge, values/ethics and skills into a sound and coherent approach to inform practice. Supervision can be formal, scheduled, unscheduled, direct, group and/or external supervision.
- *Performance management plans* – managing and reviewing performance on a day-to-day basis is achieved through departmental performance management plans.
- *Complaints management policies* – outline the process for responding to complaints where a member of the community, stakeholder or a departmental employee expresses dissatisfaction about a service or actions of a department or funded non-government service provider.
- *Disciplinary processes* – departments have internal systems and processes to identify alleged staff misconduct. For example, within the Department of Justice and Attorney-General, this includes alleged staff assault on a young person. These types of allegations are referred immediately to the department's Ethical Standards Unit for investigation, with oversight by the Crime and Misconduct Commission (CMC). Another example is the Department of Education, Training and Employment (DETE) Ethical Standards Unit, which promotes ethical culture, practice and decision making across the organisation. The unit also manages the investigation of all allegations of suspected official misconduct and breaches of DETE student protection procedures.
- *Official misconduct* – recognises the importance of reporting and managing instances of alleged or suspected official misconduct in accordance with the *Crime and Misconduct Act 2001* (Qld) and related guidelines issued by the CMC.

Staff performance management systems and disciplinary processes are also addressed under the *Education and Care Services National Law (Queensland)*. Approved providers must ensure the suitability of educators and have appropriate policies and procedures in place to address issues of performance and disciplinary matters.

7. The role and characteristics of governance and management leadership in creating and maintaining a ‘child safe’ organisational culture

Collectively, the governance framework across the Queensland Public Service (the public service), particularly the regulatory environment, provides all staff with clear guidance and expectations about administrative requirements necessary to achieve the best possible outcomes for children. The public service is governed by the Public Service Commission (the PSC), legislation, policy and practice. The PSC provides information for public service employees and executives in relation to performance development, workplace behaviour, guidelines and directives, and in this way outlines the characteristics of governance and management leadership.

The Department of Communities, Child Safety and Disability Services (DCCSDS) also has a governance framework that clearly articulates the principles and delivery mechanisms for managing the performance of the department’s functions and operations, and to drive and support decision-making, performance and accountability in practice within DCCSDS. Key defining characteristics of the framework, which is governed by legislation, policy, procedures, practice and organisational culture, include shared understanding of roles and responsibilities, performance improvement and transparency.

Broader oversight of the child protection system is the responsibility of the Minister for Communities, Child Safety and Disability Services, the Director-General of DCCSDS, and the Commission for Children and Young People and Child Guardian. Oversight is conducted through regular monitoring and reporting, including formally via Parliamentary Committees, State Budget Papers, Estimates processes, and various reporting requirements.

The DCCSDS performance framework outlines the performance elements, focus and monitoring at the agency level, function level, business level and team/individual level. The department’s risk management strategy forms part of the overall governance framework and is closely aligned with planning and performance monitoring. Risk management occurs through the systematic application of DCCSDS legislation i.e. the *Child Protection Act 1999* (Qld), policy, procedure and practices to identify, assess and respond to risks and communicate the outcomes of these processes.

To comply with the legislative framework of the *Commission for Children and Young People and Child Guardian Act 2000* (Qld), an organisation’s child and youth risk management strategy must include the organisation’s commitment to creating a safe and supportive service environment and include activities that strengthen an organisation’s capability to provide such an environment.

The Department of Education, Training and Employment (DETE) undertakes a fitness and propriety assessment of all approved provider and certified supervisor applicants. Certified supervisors may then go on to be nominated supervisors placed in day-to-day charge of an education and care service. In addition, the *Education and Care Services National Law (Queensland)* requires approved providers to ensure that adults working with children and those engaged in management of a service or residing at a service premise (adult occupants of family day care homes) are fit and proper.

The child safety director within DETE supports the agency’s involvement at the strategic whole-of-government level in networks aimed at improving the operation, coordination, planning and delivery of the child protection system in Queensland. DETE regional leaders and principals ensure that staff are aware of DETE’s commitment to the protection of children and young people from harm; understand their roles and responsibilities in enacting relevant policies and procedures; and receive relevant training and support.

8. Should there be any additional enforceable requirements for institutions or particular institutions to maintain a 'child safe' environment?

Queensland Government agencies currently have a range of enforceable requirements in place to establish and maintain child safe environments.

The focus at this point in time is not on adding further layers of reporting requirements, but on strengthening prevention and intervention strategies to effectively maintain child safe environments. This view accords with the recommendations of the Queensland Child Protection Commission of Inquiry Final Report – *Taking Responsibility: A Roadmap for Queensland Child Protection*, which promotes child safety as everyone's responsibility.

There are enforceable requirements in the Performance Management Framework outlined in the Public Service Code of Conduct. As the primary agency responsible for child safety, the Department of Communities, Child Safety and Disability Services (DCCSDS) has additional enforceable requirements under the *Child Protection Act 1999* (Qld) (the CPA) and its regulations. For departmental employees such as child safety officers, these requirements extend to the physical, mental and emotional wellbeing of a child, as well as protection of the child's rights to information privacy and confidentiality. A compliance breach is enforceable through a range of legislative penalties, performance management, demotion, suspension or termination of employment.

In relation to funded service providers, licensing and risk management requirements are enforceable. For example, service providers funded by DCCSDS are required to comply with the department's licensing requirements e.g. maintaining a child safe environment.

Where any breach by a service provider or carer occurs, enforceability of policies and procedures may involve DCCSDS recording follow up actions in an action plan within the standard of care review report, and/or loss of funding. There are also penalties for organisational non-compliance e.g. where required staff do not hold valid blue cards (or exemption notices), or where risk management strategies have not been developed.

The Department of Education, Training and Employment (DETE) also has a range of legislation to ensure the safety, health and wellbeing of children attending education and care services, which are supported by the primary objectives of the *Education and Care Services National Law (Queensland)*.

In the event that DETE detects non-compliance and a failure to protect children from harm, a range of disciplinary processes may be employed, including suspending or cancelling approvals or certificates, issuing compliance notices or directions, directing an approved provider to exclude an inappropriate person from an education and care service, and prosecution.

The Department of Transport and Main Roads (DTMR) has power under the *Transport Operations (Passenger Transport) Act 1994* (Qld) to amend, suspend or cancel (depending on the nature of the offence and circumstances) the accreditation and/or authorisation of operators and drivers of public passenger transport services, who are charged or convicted of an offence. Additionally, DTMR can prosecute operators and drivers who fail to report the charge or conviction. Similar enforcement powers are available to DTMR under the *Transport Operations (Road Use Management) Act 1995* (Qld) in relation to school crossing supervisors, where there are changes to their criminal histories.