Agreement in Principle

Ms PRU GOWARD (Goulburn) [10.15 a.m.]: This bill is about transparency; this bill is about accountability; this bill is about a better way for both families and the Department of Community Services when children are at risk of harm or abuse. The cases of Ebony and of Dean Shillingsworth, children both known to the Department of Community Services and both tragically and fatally abused in their homes by people who were supposed to love and care for them, flagged a desperate need for reform. Their lives were picked over by the media and many reports were written to explain the horror they endured until they finally died.

We stand here in the security of this place producing bills and legislation intended to protect children like Ebony and Dean from lives that, through no fault of their own, spiral out of control and become lost in an agony of cruelty, starvation and, in the case of Dean Shillingsworth, beatings. The final days and hours of the lives of Ebony and Dean have been comprehensively and clinically documented, mostly by scientific speculation, but what really led to their eventual deaths is well understood by members on all sides of this House to be part of a family life that started months and years before.

The Wood special commission of inquiry was commissioned as a result of the deaths of Ebony and Dean and although it came too late for them, it certainly placed the Department of Community Services, its protocols and procedures, government services and community responses more generally under the microscope. After months of inquiry a report was released and flaws were found. Although the judge was always too polite to sheet home blame, it was clear that the entire child protection system was to blame in many ways and desperately needed to be changed. It must be stressed that the parents were, and parents are, ultimately responsible for their children's wellbeing.

The judge stopped short in his report from making a bold cri de coeur for revolution and some would say more is the pity. However, in all, 111 recommendations were made and the Government has pledged to their implementation. The Opposition has supported the implementation of those reforms. It is prepared to consider and continue the evaluation and monitoring of those reforms. That does not mean that the Wood inquiry was the last word in reform. After a year of consultation and soul-searching the Liberal-Nationals can still see holes in the system through which the fragile lives of children can slip away.

The Children and Young Persons (Care and Protection) Amendment (Parental Responsibility) Bill will make it mandatory for Community Services and parents to develop either care plans or parental responsibility contracts when a child or young person is determined to be in need of care and protection. Section 34 in schedule 1 to the Act presently uses the term "may" to identify actions the director general could take once a child has been assessed as being at risk of harm. The existing section states:

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(1) If the Director-General forms the opinion, on reasonable grounds, that a child or young person is in need of care and protection, the Director-General is to take whatever action is necessary to safeguard or promote the safety, welfare and well-being of the child or young person.

(2) Without limiting subsection (1), the action that the Director-General might take in response to a report includes the following:

(a) providing, or arranging for the provision of, support services for the child or young person and his or her family,

(b1) development, in consultation with the parents (jointly or separately), of a care plan to meet the needs of the child or young person and his or her family that:

(i) does not involve taking the matter before the Children's Court, or

(ii) may be registered with the Children's Court, or

(iii) is the basis for consent orders made by the Children's Court,

(b) development, in consultation with one or more primary care-givers for a child or young person, of a parent responsibility contract instead of taking a matter concerning the child's or young person's need for care and protection before the Children's Court (except in the event of a breach of the contract),

(c) ensuring the protection of the child or young person by exercising the Director-General's emergency protection powers as referred to in Part 1 of Chapter 5,

(d) seeking appropriate orders from the Children's Court.

The purpose of this amendment bill is to amend sections 34 (2), (3) and (4) to essentially make care plans and parental responsibility contracts standard and understood components of the response required from families and from the State.

In the *Southern Highland News* of 15 March 2010 the Minister demonstrated her lack of understanding of this bill by an attempt to trivialise its importance. She said, "If Ms Goward believes that families who feed their children Coco Pops for breakfast should somehow require Community Services involvement " then I am apparently out of touch with the serious cases of abuse dealt with by caseworkers. That is true: It is not abuse, it is neglect. If the Minister thinks—and I ask other members to consider this—the bill is about Coco Pops and believes we are limiting ourselves merely to breakfast cereal and people's choice of it, then it is about time the Minister found another job.

The failure of families to feed children, including feeding them breakfast, is well recognised as a sign of parental neglect. So is leaving children, including toddlers, to forage in the house for breakfast cereals such as Coco Pops—but more often cheaper varieties of cereal—packets of dried noodles, or, even worse, raw sausage meat, as I was advised recently by a woman who retired as a community services worker because she could no longer bear going to homes where toddlers squeezed raw sausage meat from sausages going off in the fridge because there was no adult prepared to feed them. That is why, despite the Minister's ignorance, we need to talk about households where children live on Coco Pops, Weet-Bix, dried noodles, and whatever else they can find. Families allowing this to happen amounts to neglect, and under this bill it is grounds for removal of the children.

In drafting this bill I consulted with public servants and retired public servants, and with non-government organisations and foster carers—people who are at the deep end of child protection. I have talked at length about Ebony and Dean and what could have been done to save them from the horror they endured. The Minister and the Government should welcome an additional safety mechanism in the legislation to protect children at risk. Sadly, however, entirely in keeping with her Government's position on a variety of matters, the Minister believes she knows best. Although predictable, such a state of affairs is nevertheless still disappointing: one would have hoped children were more important than that.

As the Children and Young Persons (Care and Protection) Act 1998 currently stands, Community Services may require parents to sign up to parental responsibility contracts. I emphasise the word "may". It is not mandatory and often the department does not pursue parents to sign up. But in failing to do so, the department is not demanding that parents who have come within the department's ambit because of their treatment of their children contribute to making their children's lives better. The department is essentially saying, "We have no expectations of you and basically we don't believe you can become better parents anyway." A mandatory requirement that parents sign up to parental responsibility contracts changes that emphasis and approach. It is also true that parents need to be given a final chance, and that a "maybe" is not enough. The Minister is extremely self-congratulatory when it comes to the number of children in out-of-home care. It is certainly true that removing children at risk of harm or abuse may save lives. However, more than 16,000 children are currently in care in this State. It is a tragedy that the Government would prefer to remove those children, rather than work with their families.

The bill retains the important protections and has not altered the department's mandate to remove immediately a child who is at risk of serious harm. What the bill does, however, from the very first occasion on which a family comes into view of Community Services and the first assessment is made, is remove the guesswork about the department's next move and show a little bit of faith in the family by expecting that they will want to sign a care agreement and do whatever it takes to keep their children. It also means that no family can say before the court that they were not given a last chance. This ensures transparency and everyone knows that they will be given a last chance. It does not mean that parents who refuse to sign a care agreement go to prison, but it does mean that attendance at the first session is mandatory and failure to attend will lead to the department immediately referring the matter to the Children's Court.

It is true that we cannot make parents care for their children. But we can, within an alternative dispute resolution framework, devise plans that parents understand, are part of developing, and comprehend the reasons for. It is important to ensure that parents understand why the questions are being asked and why change is required of them. None of that is guaranteed to happen under the present arrangements because not all families get this opportunity. In my experience, families often believe things are being imposed upon them without sufficient support and advice. It is very difficult for parents to change their ways, and many will not succeed in doing so, but they need to be given adequate support. This is not, as has been suggested, a punishment for parents. It is a last chance, a precious opportunity to acknowledge some of the difficulties in families' lives and, with the support of the department, relevant community organisations and extended family, and whatever other government services are available, to get a plan together—a plan in which the parents will be supported.

Nobody should underestimate the difficulty a drug-addicted mother faces in breaking her habit and giving more to her children at the same time. It is a big ask for these people. It is unfortunate that so many times drug treatment becomes a significant part of a parent's life only when they are about to lose their children, whereas intervention should have occurred years earlier when the danger to the child would not have been so extensive.

We do not underestimate the difficulty of engaging these families in care plans, as we do not underestimate the difficulty of doing so under the current regime. However, this bill makes a start on change.

These reforms would have helped Ebony and Dean. There is no way that Ebony could have been hidden from the Department of Community Services because the family would have been called up for their failure to attend the first mandatory meeting to develop a care plan. I remind members that Ebony and her family were assessed by the department. Had Ebony failed to be in attendance at meetings with her family, the family would have been in breach of the mandatory care contract and the department would have been entitled to pursue the child's immediate removal.

The Minister appears to believe that a public servant is able to act without the checks and balances of a Children's Court magistrate. As I have already pointed out, the ability to provide a parental responsibility contract is already part of existing legislation. The discrepancy between the existing legislation and this bill is that a parental responsibility contract is no longer a choice; it is mandatory. What the Minister clearly has a problem with is requiring that the contract be negotiated. I wonder why that is the case. I am told by many people from within the child protection sector that the department is struggling with many of these reforms. The Keep Them Safe initiative is confusing—police are overwhelmed, non-government organisations and community organisations are pulling their hair out, and nearly everyone is asking why they are now being given the responsibility of diagnosing harm as opposed to significant harm. What if they misdiagnose? Are they responsible? A child could die, and they could be blamed. That is why—so the Minister would have us believe—Community Services caseworkers are specialists in the field.

I understand that there is already sufficient pressure on the department at the moment. But I do not believe that changing from a "maybe" to a "must do" will add to that pressure and confusion—indeed, I believe it will clarify the strategies and procedures to be followed by all parties. The Minister should not be proud of having 16,000 children in out-of-home care; rather, she should feel neglectful for having presided over a department that has missed 16,000 opportunities to work with families to keep them together. There is no doubt there are some families where children should be removed; their family circumstances are so dangerous and dreadful that nothing is to be gained by risking those children. There is no doubt there are other families where, with some early intervention and support, children can stay and families can prosper. There is a huge group in the middle that could go either way—and this is the group we are most concerned with in the child protection system and where I believe this bill can be of assistance.

This is an important time to remind the House about the consequences of removing children. Once children have one placement, they are more likely to have up to five placements. They are more likely to end up in the juvenile justice system, to be homeless or unemployed, and to themselves have children too young. The removal of children is a huge part of the intergenerational transfer of disadvantage. It is also true that children who stay in some of these homes also remain in the cycle of disadvantage. But that is where better investment by the State in social development can make a real difference. For many, foster care simply cannot.

The New South Wales Coalition understands that asking parents to sign a piece of paper will not automatically make them better parents, but it will put them on notice that their parenting behaviour has flagged concern. We are not saying that parents who abuse their children will change because they have signed a contract. The Minister upholds the idea of harm and significant harm, and clearly children in danger of significant harm are more likely to be removed from their parents as soon as possible if that is what it takes. But the Minister's simplistic opposition to this bill is naïve at best. It is refusing to allow parents to be party to the improvement of their parenting skills.

Asking parents to sign a mandatory care order acts in three ways: first, it gives them the opportunity to take responsibility; secondly, it enables child protection services entrée into the family to offer help; and, thirdly, it ensures that the family understands what is going on and why they have been reported in the first place. Parental responsibility contracts and care plans outline to parents the necessary steps, actions, goals and outcomes that will be required of them to maintain primary care of their children. Under this proposed amendment, parents must attend at least the first negotiation session. The bill will introduce much-needed transparency into the system so that parents know what is expected of them, as will the department and government agencies.

These reforms will ensure that parents have no excuse when it comes to what is expected of them in taking care of their child and that Community Services, the Government and the State generally will have no excuse when a child is not removed from an unsuitable or unworkable situation. The tragic cases of Ebony and Dean, both of whom died after being known to Community Services, demonstrate the urgent need for this reform. The Minister's cheap shots in my local paper do little for her credibility as the Minister for Community Services. She would be aware that I have organised roundtable discussions and seminars that have been well attended by people in child protection.

I am more than happy to present this bill as one that I have discussed across the sector with people who have had much more to do with child protection than the Minister or I ever have. Indeed, credibility for the Government is fairly thin on the ground. The only reason the Government will oppose this bill is that it has come from the

Opposition benches. This bill is the Government's opportunity to show that it has taken notice of the Wood report's recommendations and criticisms of the way child protection services have been run by this Government. I thank those who have advised me in the development of this bill, in particular the Association of Childrens Welfare Agencies, the child welfare agencies' peak body, whose advice was invaluable. I commend the bill to the House.