

REPORT OF PROCEEDINGS BEFORE

**COMMITTEE ON THE OFFICE OF THE OMBUDSMAN
AND THE POLICE INTEGRITY COMMISSION**

**INQUIRY INTO THE STATUTORY REVIEW OF THE
COMMUNITY SERVICES (COMPLAINTS, REVIEWS AND
MONITORING) ACT 1993**

At Sydney on Tuesday 11 March 2008

The Committee met at 10.00 a.m.

PRESENT

Ms A. D'Amore (Chair)

Legislative Council

Ms S. P. Hale

The Hon. C. J. S. Lynn

The Hon. L. J. Voltz

Legislative Assembly

Mr P. R. Draper

Mr M. J. Kerr

Mr P. R. Pearce

CHAIR: I welcome everyone to today's public hearing which is being held as part of the Committee's statutory review of the Community Services (Complaints, Reviews and Monitoring) Act 1993. This Act incorporated the Community Services Commission into the New South Wales Ombudsman's Office thus creating the community services division. Section 53 of the Act requires the Committee to review the Act and determine whether its policy objectives are valid and whether the terms of the Act remain appropriate for securing those objectives. The Committee is required to report on its review by 3 July 2008.

The Committee called for submissions on 20 July 2007 and it was from the information contained in those submissions that witnesses for today's public hearing and those on Thursday 13 March 2008 were called. Over these two days of public hearing the Committee will take evidence from a range of government agencies, peak bodies and a representative of the official community visitors scheme. The Committee will take evidence from the Ombudsman on Tuesday 18 March 2008. Today the Committee will take evidence from the Department of Ageing, Disability and Home Care, the Department of Community Services and the Office of the Children's Guardian.

BRENDAN MICHAEL O'REILLY, Director General, Department of Ageing, Disability and Home Care, Level 5, 83 Clarence Street, Sydney, sworn and examined:

CHAIR: The Committee has received a submission from your organisation. Is it your desire that that submission form part of your formal evidence?

Mr O'REILLY: Yes, it is.

CHAIR: Would you like to make an opening statement?

Mr O'REILLY: No thanks.

CHAIR: Would an expansion of the jurisdiction of the Ombudsman in relation to the policy and systematic issues be beneficial to the achievement of the policy objectives of the CRAM Act?

Mr O'REILLY: I think with the first merging of Community Services and the commission into the Ombudsman's office, obviously there are difficulties with any merger but it certainly worked effectively from the disability side of their roles and responsibilities.

CHAIR: Are people with disability living in boarding houses adequately protected by the current regime of monitoring and inspection?

Mr O'REILLY: I think the Ombudsman did a review into boarding houses. That came as a result of concerns expressed as my department amalgamated with home care services—what was formerly ADD, ageing and disability—and also the DOCS side of the disability equation. Boarding houses, I would say, fell off the department's agenda. The Ombudsman did an inquiry into that and we worked with the Ombudsman to re-establish teams for the monitoring purposes of residents of licensed boarding houses. That has proven to be very effective in that now we have a program of works for every boarding house to be monitored for the service standards and quality services to be reviewed, improved on, and action plans or part of plans for those services that we believe can improve their game.

CHAIR: One submission to the Committee stated that funding bodies are overly concerned with funded services having a complaints policy and that this fails to assess the performance of services in complaint handling. How effectively does the Department of Ageing, Disability and Home Care assess the performance of the services and funds in this area?

Mr O'REILLY: We do have what we call an integrated monitoring framework where all of our services are reviewed over a three-year period. That review incorporates a whole range of what we call activities or streams of business. I have some figures with regard to how many we have monitored, what the performance has been like, whether or not we believe

the funding side of our business, the services, are up to standard, whether they need more support and in what areas they need to be improved upon. I did bring for the Committee's benefit if it was interested in this being tabled, what is the monitoring framework for the NGO sector that the department operates. Unfortunately it is a fairly detailed document but if the Chair so wishes I could table that.

Document tabled.

In there is the number of organisations we have reviewed to date and the results of those reviews. We have not mentioned the organisations by name but by region.

CHAIR: Would a greater role for the Ombudsman in the policy and systematic issues be beneficial, in your opinion?

Mr O'REILLY: I believe having an independent statutory watchdog is critically important for the disability sector. The department has just under 13,000 staff. We will not always get it right. People's needs are often individual but they vary in complexity, because sometimes we have them on top of a disability as well. Sometimes it is the ability of the parents themselves to be able to provide support and care, and other times it is what standard of service the department provides. We have a complaint handling process that we have reviewed. We think it is good but it is not foolproof. I do not think there is any complaint arrangement that is foolproof. By having the Ombudsman and the opportunity for users of the system or members of the public to raise matters with the Ombudsman is critically important. We meet with the Ombudsman. We treat the reports they provide very seriously and some of the areas where the Ombudsman has undertaken some major reviews, for instance, criminal justice clients, that is clients who are exiting the criminal justice system who have a disability, and also for clients who might not be fit to plead, there has to be a support process for them.

It is on record that three or four years ago a seniors officers group was established to progress that. Because of staff changes not only within the department but in other government departments it lost its momentum and was not achieving a great deal. The Ombudsman raised those issues, identified where the problems were. It gave the impetus for that group to be able to be formalised at a more senior level and action to be taken to address that service provision for those clients. Those clients are the more complex and difficult of our client grouping because of issues around public awareness and nervousness of having people in the community who have a criminal background, and there needs to be able to make sure the services that are provided are not only as good as we can get them but also that we identify some systemic issues. Often I think an agency, when handling day-to-day business can lose sight of a systemic issue. That is where the Ombudsman comes into play, because they can report on systemic issues to make the department aware that this is not a small problem in one region or in one particular case, it is an issue across the whole of the services system.

Mr PAUL PEARCE: I take you back to your comments in relation to boarding houses. I have a series of questions and I will ask them all because it will be a comprehensive answer. You have mentioned licensed boarding houses. Is there a number of people who reside in what in effect are unlicensed boarding houses as well? Is there a liaison with agencies as to their rights within those establishments? Quite often there will be some sort of record amongst local government or there may be some record in Fair Trading. Boarding house residents have very few rights in the legal sense, certainly they have zero rights under the Residential Tenancies Act. Have you considered the rights of those tenants because they are often vulnerable people, and have you raised with the Office of Fair Trading the necessity to incorporate any legal rights for those persons? They are the issues of those persons in boarding houses beyond just the monitoring. Does it go beyond that to look at their legal rights and what is a consequence of loss of boarding house stock, particularly in the inner city and the eastern suburbs area?

Mr O'REILLY: You are absolutely right about the relationship of other agencies with respect to boarding houses. This has been an issue for the Government to address with regard to what is the department's role, being DADHC's role, as the licensor of boarding houses, when there are also issues about tenancy protection. Where does the Office of Fair Trading fit into this? Where does the Department of Housing fit into this and where does local government fit into this? This matter has been raised with government. We are aware now that my Minister, Minister Keneally, with the support of the Treasurer is calling together those three jurisdictions to come up with a better approach to see how we can ensure with local government that each party of the boarding house regime is aware of its obligations.

When we talk about licensed boarding houses, we are virtually saying that if there are two or more people with intellectual disability within this boarding house, we have to have a licensing arrangement, but it is almost self-notification with regards to that. That is an issue. We also have the issue about the stock, the number of boarding houses. Because of their inner city locations a number of boarding houses close and you can have clients that not only do not have protection for accommodation arrangements, a whole service system then has to move into play to be able to provide appropriate accommodation for those people being displaced.

On top of that, we also have some boarding houses that do not comply and we have actually had to take legal action to be able to remove the licences, so it is a big issue; it is a complex issue. The land that the boarding houses are on is often very valuable because of its location and owners are making decisions based on financial return. We have secured funding from government for our boarding house reform project and also secured funding in those cases where boarding houses are closing that we actually have funds to be able to provide support to those residents, but it is a complex issue. We are very hopeful now that having the parties around the table where the Minister has invited each of her colleagues to actually participate in a boarding house reform project that will actually see some improvement there.

Mr PAUL PEARCE: Has there been any discussion or do you believe there should be discussion about capital funding for additional stock?

Mr O'REILLY: Part of the funding we receive from Treasury or when a boarding house closes is for accommodation options. That can include capital to be able to provide, particularly in the non-government sector, where we may tender them to be able to provide different models of accommodation for those people. Sometimes it is difficult to actually work out what will be the ramifications of the boarding house closure because some of the clients are health-related, some are disabilities-related and where does local government fit into the scheme of things there, but we are hopeful that with the collegiate approach across the agencies that that issue, where there is a shortfall in funding for capital, would be a joint submission to Treasury by the three or four agencies.

Mr PETER DRAPER: Brendan, thanks for coming in today. You mentioned earlier that following—to quote you—boarding houses falling off the agenda at one stage, a program of works has now been put in place to monitor services that can improve their game. Can you give us an indication of what services you believe can improve and what improvements they can make?

Mr O'REILLY: When the department five or six years ago actually amalgamated those various arms into the Department of Ageing, Disability and Home Care, there was a big push for regionalisation, for the powers to be out into the regions—we have six regions. I think what happened is that staff assigned to boarding house monitoring actually went into the regions and then got overtaken with other work. I think the review actually showed pretty clearly that was a problem for the department; that we were not monitoring those boarding houses. We did not actually visit the boarding houses as regularly as we should have.

We re-formed those teams and worked out whose specific job it was to actually go out to the boarding houses, speak with the proprietor and meet the clients. It could be things such as whether or not fire alarms are working in the boarding house, or how secure are the medication packs or opportunities for boarding house residents to enjoy or participate in an activity outside boarding house life. They are the sorts of things that the monitoring review teams for boarding houses do, and work with the proprietors to be able to develop those ideas.

Mr PETER DRAPER: Do you think that the Act allows the department to effectively monitor and review services?

Mr O'REILLY: That has been a fairly well debated question in the whole of the sector, whether or not we actually can enforce our obligations under the Act. We believe that the Act can be improved. We also believe that we have lifted our ability under the Act to remove licences in cases where there has not been compliance and we have removed those licences. On the

one hand, yes, we believe that we can actually, in extreme cases where boarding house operators are not complying and have no intention to comply, take the appropriate action to have the licence removed but it really should not get to that stage. Other players have to be aware of what their role and responsibilities are as well.

If we are not doing the right thing, we should also be picked up by the Department of Housing, the Ombudsman or someone else. I honestly believe now that there has been dramatic improvement in the boarding house monitoring side, since we re-formed the teams a couple of years ago, and we also have evidence to show of the action plans that have been developed for the boarding houses, so that part is working well. I think the part that still requires sorting out is definitely the role of each agency, including where local government fits into it.

Mr MALCOLM KERR: You mentioned that the Act could be improved. How can it be improved, in your view?

Mr O'REILLY: In our submission we mention just a few things, for instance, updating to reflect the changes to the department's structure and including Home Care into the Department of Ageing and Disability; the terms referring to "handicapped person" should be removed. It is "people with disabilities". They are not major changes to the Act, however we believe they should be made. We also believe that there is an opportunity where the Ombudsman does a review and they receive those findings—it could be of a non-government organisation or one of our own—that we can actually share that information a bit easier, but that is something that really can be worked through between the agency and the Ombudsman's Office itself.

Mr MALCOLM KERR: Mr Pearce mentioned the stock of boarding houses being reduced in the inner city and eastern suburbs. How significant is that reduction?

Mr O'REILLY: I am happy to provide the Committee with how many have closed over the last couple of years.

Mr MALCOLM KERR: You will take that question on notice?

Mr O'REILLY: I am pleased to do that. Obviously during the real estate boom it was a big issue where a number of boarding houses did make the decision that they would move out of that line of business so the site could be developed.

Mr MALCOLM KERR: Are any boarding houses coming into business?

Mr O'REILLY: There are not a lot.

Mr MALCOLM KERR: So once they close that is the end, in effect?

Mr O'REILLY: Yes. As part of the reforms that we have been trying to introduce over the last few years we actually did an accommodation survey and we went out to the public and said, Look, at the moment disability is predominantly group homes. Is that the right way and what are we going to do about the ageing population for people with disabilities, because we have concentrated on young people in nursing homes. We also have old people in young people's homes, so what are those models? We received 128 submissions from providers, carers and the general public and working through that we have come up with a whole range of accommodation models.

Some are not as popular with some parts of the sector as others but, nevertheless, there is now a whole range of accommodation. Part of it—and people may be aware of the mental health model, the housing and accommodation support initiative [HASI] model—is the disability model based on a similar arrangement for people with disabilities being able to move into community housing arrangements. That has been funded under the program for reforms. There is a stream of arrangements. Boarding houses do have a place in our sector because we know that a number of people, irrespective of what accommodation you may offer, would prefer to live in the inner city in that sort of environment, so there will always be a need. They will move out of what is provided; they will vote with their feet and move back to another arrangement, so boarding houses will always be part of this sector, or licensed residential centres.

Mr MALCOLM KERR: Has the survey you mentioned been made public?

Mr O'REILLY: Yes, it was in 2004-05.

Mr MALCOLM KERR: What do you see as the future of boarding houses?

Mr O'REILLY: Some in the sector actually are quite annoyed about the term "boarding house". They do not find that to be appropriate. It is residential lodgings or whatever, but my personal view is that there will always be a need for that sort of accommodation. That is what people want. But it is a matter of ensuring that the accommodation that is provided also has services attached to it; it is not just accommodation. It has to be services to the residents.

Mr MALCOLM KERR: Accepting that the need will never be fully met, are we in a situation where the supply to meet that need is decreasing while probably the demand for it is increasing, I suspect?

Mr O'REILLY: Yes. I think it is fair to say that the supply is decreasing. That is why we want to work with the Department of Housing, where it could well be a model that is run through the Department of Housing as well under this DHASI model and I think that will be the way forward if the private sector

decides not to be party to it. Also, the non-government sector could run a similar arrangement.

Mr MALCOLM KERR: Are there any areas in the State where there is an acute shortage of this sort of accommodation?

Mr O'REILLY: I could not say, to tell you the truth. We do not have figures on how many people want to move into a boarding house.

Ms SYLVIA HALE: There has been a review of the Residential Tenancies Act taking place for quite some time. I wrote to the Minister for Fair Trading asking why there was no reference to the rights for protections for boarders and lodgers included in that review and she responded that it was not the appropriate reform for those issues. Do you have any idea, because I do not, as to what would be the appropriate forum so that boarders and lodgers could be granted some protections?

Mr O'REILLY: Obviously I cannot comment on the reasons why the Minister responded that way. But I know that our Minister, Minister Keneally, has raised this matter with the Treasurer as well: that we need to address this issue in a more holistic way. We need the players around the table, including Fair Trading, Housing, Disability Services and local government, and to work through this issue comprehensively. That is what we are currently moving towards.

Ms SYLVIA HALE: You said earlier that in some extreme cases licences had been removed. How many, and over what period of time?

Mr O'REILLY: I would have to get you the exact figure, and I am happy to provide the Committee with that. I am aware of one last year, in December.

Ms SYLVIA HALE: What sorts of concerns provoke the removal of a licence?

Mr O'REILLY: When we do the monitoring—and I have tabled part of the information—the concerns were that matters of importance had been raised with the licensee about issues regarding fire safety, about medication and the handling of medication, about hygiene matters with regard to personal hygiene, bathrooms, and that sort of thing. We were satisfied that there had not been an appropriate response to that, despite a number of warnings and a number of further visits, and in the end we said, "That is it, we are taking the licence."

Ms SYLVIA HALE: When you revoke the licence you simultaneously make arrangements for accommodation?

Mr O'REILLY: That is right.

Ms SYLVIA HALE: Are those arrangements on a relatively long-term basis, or are they short term?

Mr O'REILLY: They are normally on a long-term basis. But I do not want the Committee to think that in any way that is an easy matter, because we are talking about individuals and every individual has different needs. Also, a number of the residents have formed strong friendships over the years and obviously would like to be accommodated together. So all those compatibility issues also need to be worked through. It normally takes us about four to six months to work through that. It is not only the residents; sometimes it is their family members as well, so you have to work with those who have a genuine interest in the wellbeing of the resident.

Ms SYLVIA HALE: You have mentioned a number of times the importance of involving local government in the resolution of some of these issues. Is that because of zoning or planning issues? Why do you think local government is important in this?

Mr O'REILLY: The issues are around what is fire safety. The department does not look at the fire safety arrangements as such and whether or not the type of fire alarm, or the sprinkler system, or whatever is appropriate. We have to make sure that there is one, and that it works. Often local government will need to be in touch with them and ask when was the last inspection on fire safety. One of the problems we have is that we have to clearly define who does what with regard to the boarding house sector generally: what is the department's responsibilities, what is Fair Trading's responsibilities, what is local government's responsibilities. We all have a piece of the action with regard to boarding houses. That is why the Minister wants the roundtable.

Ms SYLVIA HALE: My experience has been that on occasion local government is reluctant to act to enforce fire safety, for example, because there is a perception that if it closes down a boarding house people will have nowhere to go and it will, in the long term, simply exacerbate the problem because that boarding house will not be replaced. Is that your experience: reluctance to act on the part of local government because of compassionate reasons?

Mr O'REILLY: I would not have hard evidence of that; it would be a perception. But I think human nature being of the way it is, that could form part of the thinking.

The Hon. LYNDA VOLTZ: With regard to aged care facilities, we have spoken about the inner-city area. With the ageing population, particularly baby boomers in the inner city areas, I assume there limited aged care facilities in the inner city. Where is the expected overflow to go? Is it putting pressure on the coastal towns, such as Taree and Lake Macquarie, where I suspect there are probably more aged care facilities?

Mr O'REILLY: We will always blame the Commonwealth for the lack of aged care places, of course. One of the things we know is that it is difficult for a person with an intellectual disability who is ageing to get into a nursing home. That is reality. What we have had to do there—we have never done this before; it has been done in one other State—is that we have looked at an aged care model for people with disabilities. Fortunately, on the one side, because of improved service standards and care, medical interventions, and health plans, the clients are living longer. Fifty years ago the lifespan of a person with an intellectual disability was about 23 years. Now that is equivalent to a person with no disability, though their health care needs come in earlier. Last Friday week the Minister announced the purchase of six hectares of land at Wyong, near the hospital, where we will be building a model for people with disabilities to be able to have aged care-type services. It will not be dormitory living or anything like that; it will be 10 bedrooms to a home, with ensuites, dining rooms and kitchens.

The Hon. LYNDA VOLTZ: It is a supported accommodation model?

Mr O'REILLY: That is right. It is a 100-bed facility that we are creating on that site, so that we can provide that service to the ageing and disability population. That is our first one. I think, just knowing where the ageing population is heading, there will need to be models, but not as big, in rural communities as well. That will be part of the forward capital estimates in years to come.

The Hon. LYNDA VOLTZ: The people in that supported accommodation may have intellectual disabilities and physical handicaps. Do you have any role with regard to people with personality disorders? I know it is difficult, and that there is a fine line between what is a medical disability and whether a personality disorder fits within a disability.

Mr O'REILLY: There is always debate between Health and us about whether it is a mental health problem or a personality disorder. Nevertheless, personality disorders do exist, and they fall under our umbrella of services, not under Health. We have a number of clients in our service system who require 24/7 care because they are at risk to themselves or to others in our service system. Personality disorder is DADHC's responsibility.

The Hon. LYNDA VOLTZ: With regard to the planning of new releases, under the Callan Park Act aged care was prohibited. I am conscious of the fact that a lot of the facilities are in the inner city, such as boarding houses, and that that style of accommodation is not now being built. Do you have a role in the release of new areas, particularly in country towns, which have a severe shortage? In a country town it is very difficult to deal with people when there is none of that kind of accommodation. Do you have a role in that planning level?

Mr O'REILLY: We do. But I think you are right in saying that rural areas generally have not—we never provided aged care-type arrangements, which require some nursing care, to people with disabilities. We have never

been in that business, until we were able to show the age projections, the number of clients in our service system, and the fact that this is what is needed. If we wait until there are far more aged care places in the service system, these clients will never be able to move into age-appropriate arrangements. So this was the first step, and it is a very big step. This is a major project that the department has embarked upon, with regard to the Wyong one.

There are some clients in our large residential set, which we still have operating, who, because they have been there so long, are institutionalised. Parents are very concerned about their sons, daughters, brothers or sisters living in the community, and there is always that debate with the parents. We know that community living is by far a better lifestyle and provides better supports for people with disabilities, but we cannot ignore the fact that some parents genuinely believe that they are very satisfied with the congruent care model that is operating. It takes a lot of education and lot of transition planning for people to move into the community. I think that in coming years, as we continue closing our large residential centres, which were formerly known as institutions, the aged care model will be a major arrangement for our sector, just as group homes are.

The Hon. CHARLIE LYNN: What proportion of boarding houses are owned by government, private and the non-government sector?

Mr O'REILLY: We do not own boarding houses. They are all owned by private operators.

The Hon. CHARLIE LYNN: What is the general proportion between private and non-government organisation ownership?

Mr O'REILLY: I can get you those figures.

Mr PAUL PEARCE: The Hon. Charlie Lynn raised the issue I intended to raise, that is, that the Department of Housing does not own boarding house stock. I have always felt that that was a gap in the role of the Department of Housing in providing housing. Earlier you referred to the fact that there were concerns about certain terminology in the sector being used. Could I suggest that there is a concern that the terminology becomes confused. Trying to find a definition of a boarding house is not an easy exercise. There is a workable definition which was recognised about 20 years ago in a legal case based around the Federal Social Security Act. There is a definition there of facilities being provided, a manager on site, et cetera. Once that becomes further confused, unfortunately, the way the courts, particularly the Land and Environment Court, considers these matters, boarding house will simply be flung out, whatever the council regulations or the LEP provisions may be to protect those boarding houses. When that debate comes up I will flag that an extra level of confusion will not assist the preservation of the stock.

With regard to the removal of licences, Ms Sylvia Hale raised some of those issues. I think there is an issue there that the local government inspector, particularly fire inspectors, do not want to see people put out of boarding house stock. That is the reality. With regard to privately owned boarding houses, is there any evidence of what is effectively a demolition by neglect taking place by some of the owners—basically to circumvent the social responsibilities they have taken on? Boarding house owners receive a range of support from your department; quite often local government gives them advantages in terms of rates, they get land tax benefits, et cetera.

Mr O'REILLY: I think it is important that I say that not all boarding houses are terrible. There are some great operators, and people genuinely—

Mr PAUL PEARCE: May I say, they tend to focus around an individual who is very committed, and when that individual goes—

Mr O'REILLY: That is right. And that is the risk. The transfer of the licence is something we have to look at very carefully because, as you said, often it is the ability of the manager or the person running the boarding house who is doing it—not for profit but out of a social justice responsibility. I do not have evidence of operators deliberately winding down their capital or their stock. Our biggest problem is when we go in and the operator cannot see a problem. We say, "Wait a moment, here it is", and we lay it out to them. But most of the people we sit down with, and explain our concerns and problems to, willingly sign up to a targeted improvement timeframe. Then when they come back and sit down with us we can say, "Great, that has been done and that has been done." In some instances it does not work and we have to take that final step.

Mr PAUL PEARCE: Quite often where you identify those problems there is a significant cost impost on the owner whatever may be their willingness to do it. Do you have any suggestions as to the assistance that might be provided to the boarding houses?

Mr O'REILLY: In the past we virtually said, "It is up to you. It is your responsibility. You are running this operation." Our argument is that we also do the same for non-government organisations where we recognise there is a cost of capital associated with the provision of support services. We built that into the funding model and that is what we have to move towards for some boarding houses, definitely.

Ms SYLVIA HALE: When I was in Bathurst about three or four weeks ago, I was taken on a tour of the old hospital site, particularly a rehabilitation centre that had been closed down. It was the Combined Pensioners and Superannuants Association members who took me there. They were particularly concerned that this site was to be sold off for private redevelopment when they believed that it was an appropriate site for use for aged care or other appropriate activities. Would you approach your associates in the Department of Health with a view to redeveloping such a

site, if it were available, or would the budgetary expenditure be too great for you to contemplate?

Mr O'REILLY: It could be. I am not aware of that particular example. Our capital plans are normally three years out but every now and again something will come up that we think if we do not act now we will lose the opportunity. So we have some flexibility with Treasury approval to redirect funds. Obviously we have to have a business case that actually shows that there is a demand for this sort of model: that we have the clients in need that can use that site. If that is the issue there, if I could get the details, we will look at it.

Ms SYLVIA HALE: Thank you.

CHAIR: There are some further questions we have regarding your submission. Would you object to taking those questions on notice?

Mr O'REILLY: No, not at all.

CHAIR: The Committee secretariat will be in touch with you regarding those questions. Thank you for appearing before us today. Your evidence has been most helpful and of great assistance to the Committee.

(The witness withdrew)

DONNA THERESE RYGATE, Deputy Director General, Strategy, Communication and Governance, New South Wales Department of Community Services, 4-6 Cavill Avenue, Ashfield, sworn and examined:

CHAIR: Ms Rygate, I understand that Dr Neil Shepherd retired last Thursday?

Ms RYGATE: Wednesday, yes.

CHAIR: And that the new Director General, Ms Jenny Mason, takes over the position today. Your appearance before the Committee is to provide information regarding the Committee's statutory review of the Community Services (Complaints, Reviews and Monitoring) Act 1993.

Ms RYGATE: Yes.

CHAIR: Would you like to make an opening statement?

Ms RYGATE: Yes. Thank you for the opportunity to be here this morning. I know that the aim of the statutory review of the Community Services (Complaints, Reviews and Monitoring) Act is about determining if the policy objectives of the Act remain valid and whether the terms of the Act are appropriate for securing those objectives. In terms of the policy objectives, you will not hear any argument from the Department of Community Services [DOCS] about the value of feedback, including complaints, and the value of independent monitoring in enhancing service delivery. We also support the efficient resolution of complaints, particularly at a local level, and alternative dispute resolution.

DOCS is just coming to the end of a five full year \$1.2 billion reform program. We have been keen to receive all the feedback that we can on the services we provide and the way we do business, so we can incorporate that into the reforms. That is not going to change.

DOCS is one of the most publicly accountable government agencies in New South Wales, with its actions overseen by numerous watchdogs. In a general sense, DOCS is overseen by the New South Wales Parliament, the New South Wales Department of Premier and Cabinet, the Treasury, the Auditor General, the Administrative Decisions Tribunal, the Independent Commission Against Corruption [ICAC], the Privacy Commissioner, and the Public Guardian.

In addition, there are oversight functions performed by the Children's Court, the Office of the Children's Guardian, the Ombudsman, the Commissioner for Children and Young People and the Coroner. Most of the oversight work in DOCS is managed by our Complaints Assessment and Review Branch. That branch was established in 2004 as a central point following significant changes to legislation that led to increased external oversight and demanded new reporting and information exchange capabilities of DOCS. The purpose of establishing the branch was to provide

relief to the field by a meeting of the department's legislative requirements generated by the oversight regime.

As you know, the department undertakes its own complaints-handling function in accordance with the requirements of the Act. Where a complainant is not satisfied with our actions, the Ombudsman takes complaints about DOCS and, of course, there is no strict requirement that the complainant approached the agency first—they can go straight to the Ombudsman. There are a number of ways in which we work with the Ombudsman on complaints about DOCS. The Ombudsman can respond to a complaint about us by declining the complaint at the outset, requesting information either informally or formally to assist in making a decision about further action; he can formally refer the complaint to DOCS to resolve and to report the outcome back to the Ombudsman—that is the local-resolution process; he can refer the complaints to be investigated or the Ombudsman can investigate them directly; and the Ombudsman can also review the complaints-handling procedures of services and report the outcomes of that to the Minister.

In most instances with DOCS the Ombudsman contacts the local Community Services Centre directly—DOCS Community Services Centres are in most towns and suburbs, or a good few of them—in order to facilitate the local resolution of simple matters. They are called informal requests, although the Ombudsman is required to cite the power under which he is seeking information when doing that. Where a matter is complex, or is escalated, the Ombudsman will direct a formal request to the head office. The Ombudsman might make a decision to investigate a matter arising out of a complaint or on its own volition. Where that happens we are given notice of the decision to investigate and we can provide a statement of information or documents. Preliminary findings and recommendations are provided for comment. The draft report is also provided.

Where the Ombudsman finds that the conduct subject to the investigation is contrary to law, unreasonable, unjust or oppressive, the Ombudsman makes a report, which could include recommendations. In order to determine whether or not the Ombudsman is going to investigate a matter with us, preliminary inquiries are usually made under section 13AA of the Ombudsman Act. In 2006-07 we got 99 formal written preliminary inquiries under section 13AA from the Ombudsman and 9 notices under section 18 requiring us to provide information about surviving siblings of a deceased child known to DOCS. Of those 108 matters I think we probably were successful in providing good information back to the Ombudsman and resolving the issues, because only two resulted in an investigation.

The Ombudsman can also review the situation of a child or group of children in care or a person or group of persons with disability in care and advise on changes to promote their welfare or interests. The Ombudsman has to give a copy of the report of that sort of review to the relevant Minister and the service provider. The decision to undertake that sort of review often results from trends in complaints or the observations of people like the official

community visitors. The process typically entails an individual review of each person in the group and that is conducted through a file review, interviews of caseworkers, casework managers, carers and key workers and, where appropriate, the child or young person. If the Ombudsman makes adverse comment, there is an opportunity to respond to a draft report prior to completion of the individual review. The Ombudsman then invites submissions on the draft overall observations and proposed recommendations prior to releasing a final report of the outcome of the group review. The Ombudsman then usually monitors the progress of implementation of any recommendations about individual or systemic matters.

There was one group review in 2006-07 that concerned the circumstances of 49 children under 5 in out-of-home care. Although the Ombudsman made no recommendations about individual children, he did identify certain areas of practice that require some improvement. We have a number of initiatives underway to address those concerns. The Ombudsman has asked us to report on the initiatives developed prior to the review to address the practice issues.

Moving to the awful issue of child deaths, there is a very sophisticated framework for oversight of child deaths in New South Wales. All deaths of children and young people are the subject of some level of review. Prior to the introduction in 2002 of the changes to the Community Services (Complaints, Reviews and Monitoring) Act, all deaths—not just those of children known to DOCS—where reviewed by the New South Wales Child Death Review Team, under the auspices of the New South Wales Commission for Children and Young People. The Child Death Review Team continues to have a broad research function aimed at the prevention or reduction of the number of deaths in New South Wales of children from birth to 17 years.

If the death is of a child or young person known to DOCS, the death may be reviewable—you would be very familiar with the definition of that. The definition of "reviewable" in New South Wales is a lot broader than that used in other jurisdictions. For example, in Victoria a child death is only reviewable if the child who dies is a child protection client within three months of their death. Closed cases are not deemed reviewable. If you take into account the high rate of child protection reporting in New South Wales, which is about two and a half times that in Victoria, the pool of children whose deaths would be reviewable present as extremely large.

The Ombudsman has powers and functions to monitor and review the reviewable deaths to formulate recommendations as to policies and practices to be implemented by government and service providers for the prevention or reduction of deaths of certain children and to maintain a register of review all deaths occurring in New South Wales, classifying the death according to cause. DOCS works with the Ombudsman under a memorandum of understanding. That work includes the provision of files responding to requests for information, providing the Ombudsman with copies of our own

death review reports, monitoring and implementation of the Ombudsman's recommendations and providing responses to issues raised by the Ombudsman. I understand that since being given responsibility for this particular function, the Ombudsman has looked at the deaths of about 496 children and young people in New South Wales, around 90 per cent of whom were reviewable because the child or the sibling had been reported to DOCS within three years preceding their death. It is not really surprising that 90 per cent of the reviewable deaths would be known to DOCS, given that the definition of reviewable deaths in the legislation was framed to give statutory expression to the term "known to DOCS".

Following the Ombudsman's review of a child's death, the Ombudsman can take several courses of action. The Ombudsman can refer concerns to DOCS for attention and action, or initiate preliminary inquiries or investigations under the Act. There were 31 investigations arising from the Ombudsman's review of the deaths of individual children between June 2004 and December 2007 and, as you all would know, there have been four annual reports on the work of the reviewable child deaths function.

In preparing for today we were asked to think about what might need to change in the legislation and in terms of what needs to change you would be aware that there is a Special Commission of Inquiry currently underway into all aspects of the child protection system. It is not an inquiry just into DOCS, it is a very wide-ranging inquiry into the whole child protection system that encompasses the relevant activities of many other agencies, including oversight agencies such as the Ombudsman. It is looking at oversight that happens under a wide range of legislation and it also covers the activities of all sorts of agencies like the Department of Education and Training, Housing, Health, Police, the Children's Court and many others.

The commission has been set up under the Special Commission of Inquiry Act 1983 and it is operating independently of DOCS or any other agency. There are going to be a total of nine public forums in Sydney and at least a dozen planned for different locations throughout the State. There have already been a couple of the Sydney ones held, and they are in Wagga today, I believe, and did Bourke and other places like that last week. Commissioner Wood is really interested in hearing what everyone has got to say about the child protection services in this State and about all of the systems that surround that, including the system of oversight. So, in addition to the public forums, there have been and will continue to be meetings with representatives from relevant agencies and people have been invited to make submissions to the commission. We look forward to participating in those forums, including the one on oversight, and to benefiting from the views of all of the interested parties on that.

A specific area of possible change in relation to the Complaints, Reviews and Monitoring [CRAM] Act is in relation to the provisions that relate to the Administrative Decisions Tribunal. As you know, there are decisions reviewable by the Administrative Decisions Tribunal that are referred to in a number of different pieces of legislation and also in regulations. Our legal

people tell me this can be very confusing for people who are not familiar with the legislation. So, any simplification of the legislative framework would be helpful but we would not be keen to actually alter the current arrangements as to how things are actually done on the ground, because they work really well. That is the feedback on that.

The other aspect of the Act is about the definition of "service", because the Supreme Court is looking at what is a service in a very broad sense. We are finding that the selection of foster carers is described as a service to the carer, and that can create a whole range of complications. So, as part of your review one of the things we would suggest is looking at providing some greater clarity on the appropriate divide between regulatory activity and service activity, with only the latter being caught by the Act, and we think that that might assist.

CHAIR: Thank you for that comprehensive opening statement.

Ms RYGATE: Well, we did not put in a submission.

CHAIR: I think that has helped in giving an understanding to our Committee members. How do reports and findings that the Ombudsman makes currently feed into the monitoring and funding of services?

Ms RYGATE: Are you talking about reports and findings of a systemic nature or individual ones?

CHAIR: Systemic.

Ms RYGATE: We obviously have a very strong interest in all of the reports and findings made by the Ombudsman. Most of the Ombudsman's reports will come centrally to the Complaints Assessment and Review Branch that is part of my division. Where it is in relation to a specific other part of the business—say, for example, in relation to a funded service—we will also make sure that those reports are drawn to the attention of the line part of the organisation that is responsible for that. We take very seriously the need to both respond to findings and recommendations and to follow-up on those things to make sure that we are doing whatever it is that we have been advised we need to do.

If the Ombudsman makes recommendations about a particular service, typically our Service Funding Strategy Branch, that is part of one of our other divisions, will have a very close look at that; we will have a look at what our monitoring is telling us is happening with that service, and address any specific issues with that service, either as part of their funding agreement or informally, depending on what the issue might be. There is a really comprehensive process of reporting back to the Ombudsman as well to make sure that those things do not fall between the cracks. We do quite regular reports on all sorts of things back to the Ombudsman, about things they have raised with us previously, just to make sure that nothing slips through.

CHAIR: Do you think there is any way the process could be improved, in your opinion?

Ms RYGATE: I think that at the moment the process is fairly comprehensive. I think that the powers are extensive and I certainly put the view that the Ombudsman is very active in this role. I do not know that there are any particular enhancements that we would like to invite. We are very supportive of the work that is done and particularly supportive of the sort of work that the Ombudsman can do about another agency's issues. So, for issues that affect clients that are beyond the remit of any one of us, the Ombudsman has a really great capacity to look across the system and to make some suggestions that make that work better.

CHAIR: How would concerns raised by the Ombudsman regarding funded services be handled by DOCS?

Ms RYGATE: That kind of goes back to the answer before last. We would get the Ombudsman's report; we would get that straight to the Service Funding Strategy people. Depending on what the concerns were, they would work out an appropriate way to deal with that. We might also engage a region if it is a service that is providing particular services on the ground in a particular area. Certainly we would not ignore them. We take them up with service providers. We have got a very rigorous system of monitoring service providers, and part of that is about making sure that they have in place appropriate complaints mechanisms of their own as well. There are all kinds of guidelines, and there are thousands of them on the Internet site that you can have a look at, about that requirement to have all this stuff in place, and we make sure that they do and we make sure that where issues are raised they are addressed.

CHAIR: Can you describe the extent to which the internal complaints handling of DOCS complies with the policy objectives of the CRAMA?

Ms RYGATE: That is a very interesting question and I am glad you asked it. One of the things we have been looking at fairly recently is about how we handle complaints within DOCS. We have done some independent review work that has examined our systems, processes, functions and also the workload and roles, both at our central Complaints Unit and also at our Helpline, around the question of whether the sort of call centre function of complaints would be better co-located with another call centre type function.

We have done process mapping to document the functions that are related to complaints intake procedures and we have liaised with the Ombudsman about how we can improve our complaints handling. We did have some discussion with the Ombudsman about whether it would be possible for the Ombudsman's office to come in and have a look at our complaints system and also look at the ideas we have for changing this to see whether they comply with best practice. While the Ombudsman's office was unable to do that in the timeframe we were proposing, they actually provided us with some advice about appropriate external parties that could

do that work for us. We are committed to trying to provide much better service delivery in our complaints system and, as a matter of fact, yesterday I sent our new Director General a bundle of papers about how complaints works and what some ideas might be for changing that to get much better service for our clients.

Mr PAUL PEARCE: Thank you for that fairly extensive response. When you ran through at the commencement of your address the relative oversight functions, what agencies were involved and the complaints procedure, what rang alarm bells with me is how out of all of that would you be able to identify systemic matters as opposed to individual problems. Also, that fairly complex structure—and I am talking about the general ones not the specific child death ones, where clearly there are higher-level requirements—how would that relate to the frustrations that we as members of Parliament experience when people come in the door with complaints or issues relating to DOCS: the timetabling of an answer; the fact that we just have to say it has gone here, it has gone here, it has gone here and it is over there, that does not satisfy the user one iota? A lot of what you said struck me, and feel free to answer this otherwise, that there was a lot of emphasis being placed on process here. I cannot actually see how there is a clear outcome structure coming out of this from the user's perspective or from any other party who is seeking to resolve problems within the DOCS structure.

Ms RYGATE: You are absolutely right that it is incredibly complex and that there is an enormous amount of oversight, and I am sure there are very good historical reasons why we find ourselves with so many people looking over our shoulder.

Mr PAUL PEARCE: You also seem to have significant internal processes as well as the external processes.

Ms RYGATE: The reason we have the internal system we do is because there are so many different angles and different bodies coming at us in this particular direction. It is important to us to try and coordinate that and get it sort of centralised—have it all come to the one place—for a lot of different reasons; most importantly so that we can pick up both on the individual issues that really need attention and make sure that they get the attention they deserve and problems are solved for people, but also so that we can have a look at what all of these different sources of feedback are telling us about our system and make sure that that advice is fed into policy and program development.

The other important part of that is about trying to make our process internally as rational as we can so that people in the field have the capacity to get on and deliver services to clients rather than become experts in responding to complaints. What we need them to do is to tell us what is going on out there, what is happening, and we talk about what we need to do about it. But the process of writing back to the Ombudsman and how you do it and how you respond to this notice and that notice and all of that, is much better handled and much more efficiently handled by a central and smaller group.

It is a fairly complex structure and I can understand how you and your constituents could be frustrated when they have got an issue with us, but from my point of view the structure as we currently have, which is a fairly centralised intake for these kinds of complaints issues and then getting those particular balls out to the appropriate point in the back line to be dealt with, is more efficient than the alternative. But, you are absolutely right, the thing that we all want out of this is not a whole bunch of process—we would like to have a lot less process really—but you need the processes where people are raising issues to actually address them.

We need to focus on outcomes and I think that part of our role centrally is about making sure that the bits of the organisation who are actually delivering the service or developing the policy or monitoring the funded service or whatever, actually know what those issues are in some kind of distilled way so that they can get on and do something useful about those. The other part of the outcomes is that there is a fairly extensive reporting process within the organisation and to oversight bodies like the Ombudsman about what actually happens at the end and what difference is made. You would know from the annual deaths reports, for instance, there is a big chunk of that that is all about what has happened with previous recommendations. We are very keen to be on record about all of the different things that we do to respond to the concerns that are raised with us.

Mr MALCOLM KERR: In the New South Wales Ombudsman's Report on Reviewable Deaths in 2006, Volume 2, in recommendation 3, in relation to the cooperation with police, it is mentioned that DOCS anticipates that recommendations for improvements to reporting will be made in late 2007. Did the department meet the late 2007 deadline in relation to that provision?

Ms RYGATE: Did you say that was recommendation 3?

Mr MALCOLM KERR: Recommendation 3 at page 78. What I was quoting from appears on page 79.

Ms RYGATE: We have a number of different projects underway with the police to address that issue. Since the Ombudsman's recommendations were developed we have had the announcement of the Special Commission of Inquiry, which has meant that us, the police and all the other relevant agencies are providing advice through that process about what needs to happen and what should change. We have not liked to put in place major changes pending the outcome of the inquiry, because there is little point in putting in a new system and changing it six months down the track, depending on what the Commission has to say. But, we have provided a report to the Ombudsman at the end of last month about the work we are doing on those issues so that he knows where we are up to with those recommendations.

Mr MALCOLM KERR: That report relates to recommendation 3, does it?

Ms RYGATE: It relates to all of them. In relation to the recommendation you are talking about, police have done some work on the characteristics of events involving child at risk incidents. We have had ongoing discussions with them about police standard operating procedures, particularly around domestic violence, and further work is happening right now about the child protection SOPs. The quality of information issue is currently being finalised and we expect that a final report on that should be available within the next couple of weeks. A number of things have been put in place prior to that but, as I say, given that we have the Special Commission of Inquiry and that that interface issue is one of the major things it is looking at—it was a big focus of its first public forum held a couple weeks ago—we are all anxious to see what it comes up with and recommends. It is a really good opportunity.

Mr MALCOLM KERR: Going to recommendation 4 of that report, on page 79, I think the Department of Community Services was going to have completed and initiated five quality reviews in two areas listed in recommendation 4. It says by the end of 2007 DOCS advise it will have completed and initiated quality reviews, and it mentions the completion of the hotline, data entries, et cetera. Do you have that there?

Ms RYGATE: Yes, about the help line quality reviews, yes.

Mr MALCOLM KERR: What is the status of that?

Ms RYGATE: The quality reviews of the help line, we have done rolling reviews over 2007, and my understanding is that those reviews are under control, happening, happened. We are completing the program we advised the Ombudsman we were going to complete.

Mr MALCOLM KERR: You might want to take this on notice?

Ms RYGATE: Yes, I can get you the specifics about each little bit of it.

Mr MALCOLM KERR: Just what is referred to there, I am wondering if you could take on notice and give us what the current status of that is. I think DOCS is committed to conducting five quality reviews each calendar year, is that correct?

Ms RYGATE: Yes, that is right.

Mr MALCOLM KERR: What are the steps that have been taken to ensure that is done in a thorough and timely fashion?

Ms RYGATE: I am not entirely familiar with the specifics of those quality reviews that are undertaken.

CHAIR: You can take that on notice.

Ms RYGATE: Thanks.

Mr MALCOLM KERR: You might answer whether the department at the start of 2000 was ahead or behind in relation to its commitments to these recommendations?

Ms RYGATE: I suspect you will get an interesting answer when you ask the Ombudsman that next week as well. Our report to the Ombudsman about the implementation of recommendations in the 2006 report and recommendations in previous reports is very comprehensive and certainly my view would be we are well on track. I do not think I would ever claim to be ahead, because that is dangerous, but certainly I believe we are well on track and we are meeting our commitments.

Mr MALCOLM KERR: You mentioned that you think the Ombudsman might give an interesting answer?

Ms RYGATE: I would be interested to know what they have to say. I think I might come along and sit in the gallery next week. I hope they give us a big tick.

Mr MALCOLM KERR: What would be the basis of them giving you a big tick?

Ms RYGATE: The basis of them giving us a big tick would be that they are confident we have acknowledged the issues they have raised, that we are taking appropriate action and action is happening in a timely way.

Mr MALCOLM KERR: I think your department is committed to developing robust indicators to assist in tracking assessments and providing a guide as to the capacity of the system. Would that be true?

Ms RYGATE: Yes. We have done an awful lot of work over the past five years as part of the reform program. We have introduced a new client information system that gives us much better data capacity and we have done a lot of work with our field force mostly about making sure the data is entered in a comprehensive and sensible way so we can get much better information and, if you are a regular viewer of the DOCS website, you will notice there is vastly more data available publicly than there ever was before and we are keen to put all of that out there and more if we can.

Mr MALCOLM KERR: Has there been any discussion with the Ombudsman's office about whether that meets their requirements, those indicators?

Ms RYGATE: There are discussions with the Ombudsman's office about that sort of issue very frequently, yes, and as you know, they make various recommendations from time to time about us trying to develop a data capacity to report on particular aspects of the system.

Mr MALCOLM KERR: Have they made suggestions as to how they could be improved?

Ms RYGATE: Not in a technical sense, but in the sense of saying it would be good if we could find out about X, Y and Z, yes.

Mr MALCOLM KERR: Can you tell us what X, Y and Z are?

Ms RYGATE: There is a recommendation in the 2006 report about child protection cases where assessments are not able to be completed due to resource constraints, for instance. That is a really complex thing to do in a data sense with our system. There is ongoing interaction with the Ombudsman's office about how we address that particular issue. That is a good example.

Mr MALCOLM KERR: Are there any other examples?

Ms RYGATE: There are probably numerous examples but none of them springs to mind just at the moment.

Mr MALCOLM KERR: Perhaps on notice some might spring to mind?

Ms RYGATE: Yes, no worries, there are many, many.

Mr PETER DRAPER: You mentioned previously the Administrative Decisions Tribunal and how you would like to see a simplification of the framework. Can you expand on that for me please, what it means?

Ms RYGATE: Now you are asking me to remember what the lawyers told me. There is stuff in all sorts of different Acts and regulations about decisions that are reviewable by the Administrative Decisions Tribunal, including key parts of the CRAM Act about what the Administrative Decisions Tribunal can be looking at. Any simplification of the legislative framework, that is sort of rationalising it, having it in one place or making sure it is consistently expressed and simple, would be a good thing but, as I said, we were not keen to alter how the Administrative Decisions Tribunal works because we find that that process is a very good one. We are particularly pleased about the way the Administrative Decisions Tribunal uses mediation. That is a much more constructive process for us and for our clients, so we are keen to maintain it. Rather than have it spread all over the place, anything that can be done to consolidate the bits about what can go to the Administrative Decisions Tribunal and how it works.

Mr PETER DRAPER: You mentioned earlier about your internal complaints handling.

Ms RYGATE: Yes.

Mr PETER DRAPER: Are they culturally appropriate, in your opinion?

Ms RYGATE: I think there is more to do there. I think there is definitely more to do. We have an Aboriginal strategic commitment 2006-2011 that outlines how DOCS is going to work as an organisation to provide better services to Aboriginal people. It sets some clear areas for action and is closely linked to both business planning and resource allocation, so relevant directorates, regions and divisions are expected to include Aboriginal components. This links with the answer I gave before about our review of our own complaints handling processes. We have been working on that for a while now and one of the key things we would like to do as part of providing a better complaints service is specifically to address the needs of Aboriginal complainants.

In my view, the system now is not particularly culturally friendly and I think it needs to be better, given that almost 30 per cent of the kids in out of home care are Aboriginal and most of our complaints are about out of home care issues. There are all sorts of reasons why we need to make that work better. Questions around that are whether we need to have designated Aboriginal complaints handling officers. In one sense that is a very sensible thing to do but in another sense, given the fairly small complaints operation how you would work that is something we are still trying to work out. We also need to address the different forms in which we can take complaints. Aboriginal people are not always comfortable ringing up and talking to the anonymous person on the phone, kind of approach.

The Hon. CHARLIE LYNN: Do you have Aboriginal field staff?

Ms RYGATE: Yes. We have a large number of Aboriginal staff. The target for the State Government is to have 2 per cent of your workforce Aboriginal, and we are upwards of 7 per cent now and we are trying to do better. We have a huge program in place to try to increase the number of Aboriginal staff to support those staff and skill them up where that needs to happen.

Mr PETER DRAPER: Can I just go back to reporting? As a local member of Parliament one of the biggest frustrations that comes to me, particularly with schools when they identify a child that they believe is at risk and ring to report and then an assessment is made over the telephone as to the seriousness of the risk to that child. There is a strongly held perception that the criteria need to change. Can you give me your opinion on that?

Ms RYGATE: Yes. Again, that is one of the issues that is being looked at very carefully by the Wood Commission. Assessment is not just what happens at the Helpline. That is the first line of assessment where cases are looked at based on what history is available in the computerised system to try to get some sense of both risk and urgency. The next stage of assessment happens when the case is referred to a Community Services Centre where those people who are there on the ground will have access—

Mr PETER DRAPER: If it is referred, that is the issue, I think.

Ms RYGATE: Yes. Where it is referred the people on the ground have access both to paper files and also to local knowledge of families. Many of our customers are repeat customers, so that is a key part of the assessment process.

Mr PETER DRAPER: Has an investigation ever been done into how many of the calls that come in are referred and how many are not?

Ms RYGATE: Yes. I do not remember the number. My understanding is that is publicly available on our website. Part of us looking at the whole reporting system and the whole intake and assessment system in conjunction with the Special Commission is about whether there are better models to do precisely what you are talking about, making a decision about which case needs attention or would be recommended for attention subject to resource availability and which one would not.

Mr PETER DRAPER: Is that the issue, resource availability?

Ms RYGATE: No, not at the Helpline. That decision is not about resource availability. The decision as to whether it is referred for a field response by the CSC is a function of urgency, seriousness and resource availability. Unfortunately, that has always been the case and is the case in every child protection system in the world.

The Hon. CHARLIE LYNN: Just following up on that, the ability of your resources to react to everything you get, it seems from what I have read in reports and so forth that you are quite overwhelmed and not able to respond adequately to everything. What is the situation with resources?

Ms RYGATE: I do not think you would find any child protection agency who said it had enough resources. That is one of the key questions, again, that Wood is looking at. There is a specific term of reference about the resourcing in the system and whether it is appropriate. We are hoping that the Commission will come up with some sort of sensible response on that. Certainly we are better resourced than we have been. The five-year reform program has provided us with almost a doubling of caseworker positions, which makes things a little better but in the same time frame we have gone up to 286,000 reports last year, so it is really great that we have got an independent, completely rigorous process, having a look at that and what that means, and what on earth we can do about it.

The Hon. CHARLIE LYNN: What sort of linkage do you have in relation to non-government organisations, such as Father Chris Riley's Youth Off the Streets program and those sorts of organisations?

Ms RYGATE: The Department of Community Services funds an enormous number of non-government organisations to deliver services. In this current financial year more than \$700 million in our budget goes out the door to non-government organisations and funded services. They include groups like Father Riley's Youth Off the Streets, although I am not intimately

familiar with which bits of the services we fund but my understanding is that we fund particular services to deliver services to some of the really most challenging kids, so we have a close funding relationship, quite appropriately, with all of those bodies.

The Hon. LYNDA VOLTZ: Returning to Aboriginal communities, part of the problem with reporting for Aboriginal communities is that it actually falls under DOCS itself and that complaints may actually come back through non-service providers such as the Department of Aboriginal Affairs and the Office for Women as opposed to the Department of Community Services and Police because structurally the relationship of Aboriginal communities is poor and there is a reluctance, particularly on the part of women, to report through those agencies. Have you structurally looked at a way in which DOCS could step aside while technically it is still a DOCS function? Has that been looked at as part of the complaints system?

Ms RYGATE: I think probably the most recent exercise that has been looking at those kinds of issues is the work that the Ombudsman's Office currently has underway with Aboriginal carers. We have not seen the outcome of that, but that will provide us with some really important pointers about how comfortable those people are in raising issues and concerns with us, and similarly about how they think the system works in terms of them engaging with the Ombudsman's Office. I am optimistic that there might be some pointers added that work and help us to refine our processes a bit. You are right that we are always going to carry the legacy of being some of the people who stole the stolen generations and no matter how much we regret that and are sorry for those past actions, that will influence our relationships with people today.

The Hon. LYNDA VOLTZ: Also, there is the issue about indigenous workers who live in those communities?

Ms RYGATE: Yes.

The Hon. LYNDA VOLTZ: And their ability to function when the complaints are made?

Ms RYGATE: Absolutely. That is one of the big issues we are trying to address in our retention strategy for Aboriginal staff. In some small rural communities being a white DOCS workers is a little bit similarly challenging because your kids go to school with the kids who are clients and you see the mum and dad whose children you have removed at the supermarket, but it is much more confronting and much more difficult for Aboriginal workers because of the weight of Aboriginal community expectation on them. We are trying to find some ways to provide them with better levels of support to deal with that. There is the issue about whether it is better for them to work in their own community or to work in another Aboriginal community that is not part of their group. It is very complicated.

The Hon. LYNDA VOLTZ: Just on the resourcing issue, the five-year-plan provides for an additional 850 caseworkers and 150 home care workers, so it is about 1,000 people you have to recruit over a five-year period. There are certain limitations on that. Are you reaching your limitations and targets, given your case management limitations?

Ms RYGATE: Well, that is right. It reminds me of last time we were here for estimates. The package originally had 875 caseworkers. We have added in another 150 for out-of-home care, which I think takes the total ask for particularly out-of-home care caseworkers to 300. I do not think that that would mean we would have caseloads comparable to the non-government organisation sector, which only has a specific number of cases and does not have to take whatever comes through the door. We have really comprehensive programs underway about recruitment but we are finding it hard in some locations to get people, no matter how hard we try, and as a couple of you will remember from estimates, we talked about the sorts of things that we are trying to negotiate with government overall about trying to provide some incentive packages, for instance, to encourage people to work in the Far West of New South Wales. We desperately need people out there and we need to give them a reason to want to go there to do what, in reality, is incredibly difficult work.

Mr MALCOLM KERR: Has Neil Shepherd relinquished his role as director general?

Ms RYGATE: He retired after 42 years in the public service.

Mr MALCOLM KERR: What day did he retire?

Ms RYGATE: Wednesday.

Mr MALCOLM KERR: It would be fair to say that your department's relationship with the Ombudsman is quite extensive?

Ms RYGATE: Yes, that is absolutely true.

Mr MALCOLM KERR: I take it that the role of the director general involves quite a deal of liaison with the Ombudsman's Office?

Ms RYGATE: Yes.

Mr MALCOLM KERR: Has a successor been appointed to Dr Shepherd?

Ms RYGATE: Yes, a woman by the name of Jennifer Mason. She has most recently been running the Department of Juvenile Justice but she has now commenced with us as the director general.

Mr MALCOLM KERR: Do you know her background?

Ms RYGATE: I know what I have read in the paper, probably not a great deal more than you have.

Mr MALCOLM KERR: What did you read in the paper?

Ms RYGATE: That she was running the Department of Juvenile Justice, that she previously had worked with the Attorney General and I think also the Ombudsman's Office; not a great deal more than that. Certainly, if you get into any issues around her appointment, I do not think I am the appropriate person to ask. I work for her.

Mr MALCOLM KERR: So you were not on the selection committee at all?

Ms RYGATE: God, no.

The Hon. LYNDA VOLTZ: Point of order: I hardly think this is appropriate for this Committee that is looking into complaints reporting.

CHAIR: That question is not appropriate to our terms of reference. I ask the member to ask appropriate questions.

Mr MALCOLM KERR: Did Dr Gül Izmir retire this year?

Ms RYGATE: No, she has not actually left the department yet. As I understand it, she is taking up a position in some sort of international consultancy. I think it is around economics-type issues.

Mr MALCOLM KERR: Has she been replaced as yet?

Ms RYGATE: No, she has not actually left yet.

Mr MALCOLM KERR: Are there many positions in the department that are vacant at the moment?

Ms RYGATE: Yes, there are always a number of positions vacant because people move on, get promoted, change roles or whatever, but I do not have the specifics of how many vacancies there are. Certainly, we explored some of these issues at estimates and there was a question on notice on this, so I believe that information would be available to the Committee.

Mr MALCOLM KERR: There was the death of a Tyra Kuehne, a four year old who died following a dog attack. Are you familiar with that case?

Ms RYGATE: We had a question about that at estimates and the Minister for Community Services went on record about these sorts of forums not being appropriate for the discussion of individual cases. Minister Greene indicated that matters involving confidential details regarding children and families should not be subject of public discussion. He also noted that where

matters are the subject of criminal prosecution, they are sub judice, so in responding to any question that you might have today, I am bound by the Minister's stated position.

CHAIR: Mr Kerr, I ask you to rephrase your question because that is not within the terms of what we are looking at today.

Mr MALCOLM KERR: I will ask not about an individual case but generally where parents believe they do not have any blame for the death of a child and that a member of your department has contributed to the death, what avenues of complaint are available to those parents?

Ms RYGATE: There are all the normal avenues of specific complaint available to the parents: to the Ombudsman, to ourselves. If they believe that there is any level of criminality or whatever, I am sure they are free to make a complaint to the police, and there is an extensive system of review of child deaths; obviously police investigations, Coroner's investigations, the work of the Ombudsman in reviewable child deaths where the death of a child is within those criteria, internal review of those things; the work of the child death review team looking at all child deaths in New South Wales over a year. There is an extensive system, both in the investigation of the specific death and also of deaths in general, which provide ample opportunity for any particular errors, omissions, offences or, in fact, bits of good work to be identified and acknowledged.

Mr MALCOLM KERR: Have any of those investigations resulted in finding against members of DOCS or disciplinary action being taken?

Ms RYGATE: I think you are talking about Ombudsman's investigations. My recollection is that there have not been specific findings recommending disciplinary action against any individual staff member. One of the things that we do, though, in relation to child deaths is, with the benefit of the Ombudsman's investigations and our own work, have a very good hard look at what has happened and whether there is the need to address issues with particular staff or groups of staff, and we have a fairly extensive program under way around child deaths to make sure that the lessons that should be learned from those things are learned and that we do whatever we can, without in any way suggesting that you can design a system that can prevent child death because much as we would love to, it is not reality, but to learn whatever lessons we can so that we can at least reduce the chances of those sorts of things happening again.

CHAIR: There are some further questions we have regarding your submission. Would you object to these questions being taken on notice?

Ms RYGATE: No, I would not but we did not make a submission.

CHAIR: The Committee secretariat will be in touch with you regarding these. Thank you for appearing before us today. Your evidence has been

most helpful in terms of assessing the policy objectives of the Community Services (Complaints, Review and Monitoring) Act.

(The witness withdrew)

(Short adjournment)

KERRYNN ANN BOLAND, Children's Guardian, New South Wales Office for Children, Level 2, 407 Elizabeth Street, Surry Hills, sworn and examined:

CHAIR: Ms Boland, thank you for appearing before the Committee on the Office of the Ombudsman and Police Integrity Commission this morning. Your appearance before the Committee is to provide information regarding the Committee's statutory review of the Community Services Complaints Review and Monitoring Act 1993. The Committee has received a submission from your organisation. Is it your desire that that submission form part of your formal evidence?

Ms BOLAND: Yes.

CHAIR: Would you like to make an opening statement?

Ms BOLAND: Yes. Firstly, I appreciate being given the opportunity to appear before the Committee. I would like to provide a short opening statement that covers the main aspects of our submission. I will not repeat what is in the submission; however, I will draw your attention to some important matters. In addition, since giving our written submission to the Committee we have had further discussions with the Ombudsman's Office and, if I may, I would like to clarify a couple of issues for the public record.

It may be useful to the Committee if I briefly outline the role and function of the Children's Guardian and the relationship it has with functions under the Community Services Complaints Review and Monitoring Act. My principal role relates to children and young people in out-of-home care and the designated agencies that make arrangements for the provision of their care. I am also responsible for the accreditation of non-government agencies who provide adoption services.

The Children's Guardian is a statutory office established under section 178 of the Children and Young Persons (Care and Protection) Act 1998. Section 181 of that Act states that the Children's Guardian has a number of functions. They are to promote the best interests of children and young people in out-of-home care; ensure their rights are safeguarded and protected; and, importantly, to accredit government and non-government agencies that arrange the provision of out-of-home care and monitor their responsibilities under the Act and Regulation.

The Children's Guardian executes these statutory responsibilities in a number of ways. The primary means are by accrediting agencies against a set of standards known as the New South Wales out-of-home care standards. Accreditation is a structured means of providing recognition of an organisation's performance against standards and other criteria as required by legislation and regulation. The Children's Guardian runs an accreditation and quality improvement program. In order to provide services an agency must participate in one or other streams of this program. It is, if you like, a

licensing regime with a quality improvement focus. New out-of-home care service providers must go directly into the accreditation stream. The Children's Guardian also conducts annual case file audits which monitor the performance of agencies in case planning and management-review.

My written submission to the Committee focused on the relationship between the Children's Guardian and the Ombudsman and official community visitors. Some important principles provided the structure for my submission. They are: that oversight bodies must avoid any overlap in responsibilities and ensure they are complementary in the way they operate; that information sharing by oversight agencies maximises their effectiveness and eliminates duplicative requests on service providers or clients; and that while each jurisdiction has distinct functions, both have a common purpose in supporting the continuous quality improvement in out-of-home care for children and young people.

In our written submission we canvass five key areas: the complaint function, the review function, the child deaths in care function, standards for the delivery of community services, and the functions of official community visitors. In each of these areas I outline the respective jurisdictions of the Ombudsman and the Children's Guardian, and the protocols and working arrangements that are in place to eliminate overlap where it may occur. I then discuss the information-sharing issues.

With regard to protocols and working arrangements, my office and the Community Services Division of the Ombudsman's Office regularly discuss out-of-home care projects of common interest. The Ombudsman consults my office in developing particular projects, a recent example being the pilot out-of-home care data classification and reporting system for official community visitors. Ombudsman reports, in turn, can inform areas on which my office may choose to focus in its audit activities, and also decisions I make concerning the accreditation of out-of-home care agencies—for example, imposing conditions on an agency's accreditation. I regard the consultative process, and the memorandum of understanding between the Ombudsman and the Children's Guardian, as an effective way of avoiding duplication in work programs and allowing appropriate matters to be referred between us.

As I indicated earlier, I would like to clarify a couple of issues in our written submission concerning information exchange issues. On page 6 of my submission, which deals with complaints, I refer to discussions between the Ombudsman and the Children's Guardian concerning the appropriateness of recognising the Children's Guardian as a relevant agency under schedule 1A of the Ombudsman's Act to enter into complaint referral and information exchange arrangements under part 6 of the Act. Since the submission to the Committee, further discussions have occurred. I am now satisfied that our broad function of promoting the best interests of children in out-of-home care allows relevant information to be disclosed to the Ombudsman under section 254 of the Children and Young Persons (Care and Protection) Act 1998. I understand that the Ombudsman is satisfied that relevant information can be disclosed to the Children Guardian under section

34 of the Ombudsman Act and section 24 of the Community Services (Complaints, Review and Monitoring) Act.

At page 10 of our submission we have asked the Committee to consider whether the Community Services (Complaints, Review and Monitoring) Act supports the provision of review information to the Children's Guardian before a review report is finalised. Section 13 (5) (b) of the Community Services (Complaints, Review and Monitoring) Act allows for a report to be provided to the Children's Guardian and we think that section 34 of the Ombudsman Act is not over-ridden by that section. But if there is uncertainty then I would like the Committee to consider that the Community Services (Complaints, Review and Monitoring) Act should allow for pre-report information to be disclosed to us for the reasons outlined in my written submission.

The major issue raised in my submission is the potential for improved co-operation between the Children's Guardian and official community visitors and the legislative barrier to effective information exchange in this area. In New South Wales the Ombudsman supports an official community visitors program, that has a strong residential disability care focus but also extends to out-of-home care in group homes and similar residential care services. The out-of-home care services visited by official community visitors provide services to less than 3 per cent of the out-of-home care services. Whilst the number of children and young people subject to the jurisdictions of both the Children's Guardian and official community visitors is small, 41 of the 57 out-of-home care agencies in New South Wales are accredited, or have interim accreditation, to provide residential care. This means that the information gathered by official community visitors is likely to be of great interest to my office.

The Association of Children's Welfare Agencies and a number of out-of-home care agencies have suggested there would be value in integrating official community visitor feedback into the accreditation process. Whilst I have power to require the out-of-home care agencies provide me with community visitor reports, I am concerned that decentralising responsibility for providing reports may result in some relevant reports not being passed on. If my office were to receive relevant visitor reports through the Ombudsman's office, and be able to discuss issues arising with relevant official community visitors, I could be assured I was receiving relevant information adequately placed in its proper context.

As with all information considered by my office, visitor information will not be taken into account before affording out-of-home care agencies full procedural fairness. My focus is to work with out-of-home care agencies in improving the quality of their services and by giving them a chance to address substantive concerns. If an agency fails to address those concerns then, and only then, would I consider other action such as imposing conditions on their accreditation. In turn, relevant material in accreditation reports, annual progress reports and case file audit reports prepared by my office could assist and inform official community visitors on particular issues

to focus on when visiting out-of-home care services. The new memorandum of understanding with the Ombudsman can address how this information could be provided to official community visitors, subject to appropriate confidentiality safeguards being put in place.

At this stage section 8 of the Community Services (Complaints, Review and Monitoring) Act and clause 4 of the regulation provides for official community visitor reports being made available to the Ombudsman and relevant Minister. There is no capacity for such reports to be provided to the Children's Guardian. I would ask the Committee to consider the merits of a legislative amendment to support information in official community visitor reports being able to be made available to my office. I could then develop protocols with official community visitors and the Ombudsman as to the precise circumstances in which this information would be provided, how it would be used, and how its confidentiality would be protected.

CHAIR: Can you expand on how the receiving of complaints information that raises serious or systemic concerns about a designated agency or non-government adoption service provider would contribute to your work and enhance the protection of children?

Ms BOLAND: Our system operates by us assessing the systems of an out-of-home care agency. We do that by a number of means. The first means is to assess their policies and procedures. The second means is by assessing the casework, where it is available to us, and making a judgement as to whether the systems that are in place meet a certain standard. It is obvious that outside that process a number of other activities can occur, including making complaints to the Ombudsman and other like bodies. It makes common sense to us that where there is a serious systemic issue in the context of a complaint that that should be taken into account in an accreditation decision. We rely on the information that the agencies give us to a large degree and if they choose not to provide the other information we ask for currently there is little we can do, although we would come across it substantially in some of their material. In other words, I am saying it is another source of information to assess systems within out-of-home care agencies—it gives us a fuller picture.

Mr PAUL PEARCE: You were talking about the barriers to effective information exchange. You believe there would be advantages in the information gathered by the community visitors coming through to you. Were you talking about issues pertaining to the agencies or the bodies who are doing it or were you talking about individual cases within that? If it relates to individual cases how would you seek to address any privacy issues that might arise from that?

Ms BOLAND: Primarily we would be looking at any substantial material that goes to assessing whether an agency meets a standard or not. So that would be systems issues or it would be individual cases that highlight a systems issue. Our main aim is to look at the systems to make sure that they are in place in order to look after individuals. It may be in the course of

that, that individual matters may come to our attention and I think I mentioned in my opening statement that we would need to attend to those by adherence to the provisions in the Ombudsman Act and also some other privacy issues would need to be sorted out. How we exchange the information and the extent to which we do that, we are suggesting would be covered in the memorandum of understanding between the two agencies.

Mr MALCOLM KERR: Have any arguments been put forward to you, not so much about the technicalities of what you are seeking but that it would be a wrong course of action to give you access to that?

Ms BOLAND: No.

Mr MALCOLM KERR: So far as you are aware?

Ms BOLAND: No, not at all. I think what has come to our attention is mainly how useful it would be. I have not received anything in the negative.

Mr MALCOLM KERR: So as far as you are aware there is no opposition to what you are proposing?

Ms BOLAND: Not as far as I am aware.

Ms SYLVIA HALE: Page 8 of your submission discusses the non-proclamation of the review functions. My reading of it is that you manage quite well without them being proclaimed but were they proclaimed then you could manage equally well. Do you have a preference for the proclamation or otherwise and do you have any explanation as to why they have not been proclaimed?

Ms BOLAND: There are a number of issues in relation to proclamation or non-proclamation. Just for the information of the Committee, we have provided a significant amount of material to the Wood Commission and our submission is on their website if you want to avail yourself of that. We talk extensively about the unproclaimed provisions. The Government has decided not to proclaim them. From the perspective of the Children's Guardian we consider some of them to be unworkable. Again that is outlined in some degree of detail in our submission to the Wood Commission. In that submission we have a look at a possible model that could be considered and that is out in the public arena at the moment to have a look at. I just draw your attention to that submission. It is extremely comprehensive.

Ms SYLVIA HALE: It really is not a good process, is it, for laws to be enacted but not proclaimed? I am not sure that that is appropriate. In terms of official community visitors, do you have any role in their appointment?

Ms BOLAND: No.

Ms SYLVIA HALE: Do you feel it would be desirable for you to have some input?

Ms BOLAND: I will just think about that for a minute. A small number of the community visitors concern our jurisdiction. We obviously would consider the ones that have been appointed to have a background in out-of-home care services and to have an understanding of that system. I think at that most basic level, that would be our requirement in any case. Whether we would need to have input into that? I think the Ombudsman's office does a good job at that. I do not see any real need or that it is imperative at this stage that we would need to have input.

Ms SYLVIA HALE: Just going back to page 8, you talk about the case file audit program that you have developed. Do you believe that works very satisfactorily?

Ms BOLAND: Yes, we are exceptionally pleased with it actually. The last case file audit that we undertook, which is covered off in our annual report, was an extensive case file audit covering some—I do not remember the exact number—I think around 2,335 cases. We think that we got a very good understanding and feel for how the out-of-home care system is operating across the board, and those findings are now in the report.

Ms SYLVIA HALE: Is that a system that is adopted by any other agency that you are aware of? How was it developed?

Ms BOLAND: In the original provisions for the Children's Guardian one of the provisions suggested that we look at every case review. When we looked at what that would entail, given the size of the out-of-home care system if you look at one of those for each child—and we need to do that at a minimum on an annual basis—we would be looking at 10,000 matters per year. The capacity for an agency to give real attention to that many matters was not practicable so we introduced instead what we think to be a comprehensive case file audit process, which picks up the issues intended by that particular section and, given the sample size and the extensiveness of that review, we think that that gives us statistically reliable information and enables us to pinpoint particular areas of concern for which we will go forward and do more work.

Ms SYLVIA HALE: So does it work by identifying a problem and then searching through cases where that problem has been evidenced or does it work by a random sample of, say, 10 percent of your cases every year?

Ms BOLAND: It is a random sample. As I said, we only look at court-ordered care, so we looked at just less than half of the matters in court-ordered care. We had PricewaterhouseCoopers consulting firm design our audit tool and do the data analysis for us. This tool was trialled in the early stages and then there was a second trial. This last case file audit was the largest sample and I think the most reliable sample and it looks at case management issues, review issues; it looks at health records; it looks at educational records and various other aspects; kids' participation in the process; foster care and participation; parent participation; and it basically

canvasses all of those issues which, as you know, are legislative requirements under the Act. So, we look at how the system is performing in relation to those areas.

CHAIR: What were the outcomes of the review of the memorandum of understanding with the New South Wales Ombudsman?

Ms BOLAND: Between us?

CHAIR: Yes.

Ms BOLAND: The memorandum of understanding that we currently have in place is the 2004 memorandum. We have now drafted an updated and new memorandum, which we are currently talking to the Ombudsman about. Obviously, some issues that come out of this will influence what else needs to go into that memorandum. That is the status of it now.

CHAIR: Would amendments to the CRAMA improve the sharing of information between the two agencies, in your opinion?

Ms BOLAND: I have itemised two areas where I think it would—that is in relation to official community visitor material, and also, if there is any doubt in the Committee's mind, in relation to review material. The issue there is we are pretty sure that we can be provided with a child review report. There is a small question—although we have reasonable consensus that we think is overcome by provisions in the Act—that we would like to get material earlier than the final report. For example, if we are in the process of accrediting an agency and getting towards the end of that accreditation process and that agency tells us they are currently being reviewed by the Ombudsman, we would like the capacity to know what the nature of that review is to see if it was a substantial issue that went to an essential of our accreditation criteria—our system, for example—and I think we would like the opportunity to either defer accreditation to make sure that the issues identified by the Ombudsman are remedied and then we can have some assurance that the accreditation systems that we accredit are in place and working appropriately. It is important to remember that our system in fact accredits systems, and if there is a fundamental to those systems that is not working I think that is what we would like to know.

Mr PAUL PEARCE: Just following on from that, the Ombudsman is doing a series of assessment criteria and you would be seeking to get access to that prior to the conclusion of it. How does that provide procedural fairness to the agency that is being assessed if you are then making judgments based upon something that is not finalised but would not necessarily have been brought to their attention?

Ms BOLAND: Sorry, I will be clearer. What I am saying is we would await the outcome. We would want to know that it was a substantial issue that would affect accreditation, but obviously we would let the Ombudsman's processes conclude and their recommendations be accepted, presumably by

the agency, and remedied. What we are looking at is deferring the decision to accredit until that process is either concluded or we could be of assistance in that we could perhaps put a condition on the agency that they must follow the recommendations of the Ombudsman. But our more likely approach would be to defer accreditation until that process is complete.

Mr PAUL PEARCE: Do you then envisage a feedback between yourself and the Ombudsman in relation to matters that are coming up through the review process so that you are looking at it with the agency when you get this draft or report?

Ms BOLAND: I think what we are really looking for is to know, not extensive detail, but to know that there is a substantive issue that might affect a decision we might make in relation to accreditation. We already have extensive referral and do often refer matters to the Ombudsman for him to have a look at under his legislation. I think that works exceptionally well.

Mr PETER DRAPER: You said before that something like 41 out of 57 agencies were accredited. Is that normal?

Ms BOLAND: Forty-one are accredited to do residential care. The system in New South Wales is most of the care is by foster care and a small percentage of the system is in relation to residential care. When you apply for accreditation—and you need to apply for accreditation in each program, a foster care program or a residential program—most agencies, even if they are not doing residential care at that moment will also apply for accreditation for residential care. To various degrees, as the system develops, they will undertake residential care.

Mr PETER DRAPER: You mentioned earlier that they all have to meet an out-of-home care standard. Is that something that is reviewed on a frequent basis?

Ms BOLAND: The standards?

Mr PETER DRAPER: Yes.

Ms BOLAND: We have just concluded a review of our regulation and as part of that review we are currently looking at the out-of-home care standards. So, yes, we are in the process of reviewing those standards to update them to current practice but also because they were developed back in 1998, and a lot has happened since then. Most of them are still relevant. There is a lot of repetition in them so we intend to streamline them and simply update them with current practice.

Mr PETER DRAPER: Is there a timeline for having that done?

Ms BOLAND: By the end of this year. We intend to have that and our new regulation in place for when agencies come up for re-accreditation, which is at the beginning of 2009.

Ms SYLVIA HALE: Have you ever revoked the accreditation of an agency?

Ms BOLAND: No.

Ms SYLVIA HALE: Have you ever been close?

Ms BOLAND: Yes. In terms of people undertaking the requirements of accreditation, most of the agencies would say that it is—I would call it a robust process—some of those would consider that it is quite a hefty task for them. In terms of compliance with those accreditation criteria, it is a pretty rigorous process. What we have tended to do is put agencies on, what we we're calling internally, a work program, which assists them identify those areas where there are shortcomings. Some agencies have the capacity to remedy those very quickly and some other agencies are slower at that. In terms of revocation though, I think the other sections of our legislation come into place, and that is what is in the best interests of children and young people. So, obviously, apart from assessing material that goes to accreditation we are very interested in how are the kids travelling in that particular service.

Ms SYLVIA HALE: Of the 41 agencies you say are accredited for residential care how many have gone on to a work program, or what percentage?

Ms BOLAND: I would have to look at that. I will take that on notice. It is not very many but I will give you a percentage.

CHAIR: Thank you for appearing before us today. Your evidence has been most helpful in terms of assessing the policy objectives of the CRAM Act. This concludes today's public hearing for the statutory review of the Community Services (Complaints, Reviews and Monitoring) Act 1993. Thank you to everyone.

(The witness withdrew)

(The Committee adjourned at 12.30 p.m.)
