

Submission
No 78

INQUIRY INTO OVERCOMING INDIGENOUS DISADVANTAGE

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30 June 2008

The Hon. Ian West MLC
Chair
Legislative Council Standing Committee on Social Issues
Parliament House
Macquarie St
Sydney NSW 2000

Dear Mr West

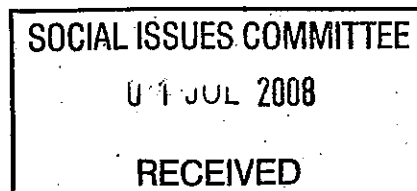
Overcoming Indigenous disadvantage in NSW

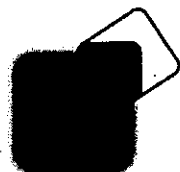
As you would know, a Special Commission of Inquiry is currently looking into child protection services in NSW. We made a submission to the Commission of Inquiry on the topic of *Responding to issues of serious child protection and neglect in Aboriginal communities*, which raises some issues that may be of interest to the Committee.

I enclose a copy of our submission to the Commission of Inquiry for your information.

Yours sincerely

Bruce Barbour
NSW Ombudsman





NSW Ombudsman

Special Commission of Inquiry
into Child Protection Services in NSW

Submission of NSW Ombudsman

**Part 9: RESPONDING TO ISSUES OF SERIOUS
CHILD PROTECTION AND NEGLECT IN
ABORIGINAL COMMUNITIES**

June 2008

1. INTRODUCTION

This submission addresses issues raised by the Special Commission of Inquiry in its *Aboriginal Communities Facts Sheet* and the questions posed in the agenda for its public forum of 24 April 2008 regarding:

- Aboriginal workforce development in government and non-government child protection
- enhancing the capacity of Aboriginal organisations
- the practical application of Aboriginal Child Placement Principles
- Aboriginal children and young people in out-of home care and attracting and retaining carers to provide that care, and
- the adequacy of current and planned strategies to address the child protection needs of Aboriginal people and communities.

The views expressed in the submission are based on our work with Aboriginal communities across NSW, our Aboriginal Unit's efforts to help police address a legacy of distrust and develop genuine partnerships with Aboriginal communities, and in monitoring services for vulnerable children and young people. Given the breadth of our powers and jurisdiction, we are in a unique position to make observations about the practices of individual agencies and interagency practice in providing services to Aboriginal communities.

We have also been mindful of a range of recent Federal and State initiatives that are particularly relevant to Aboriginal disadvantage and child protection issues.¹

The extent of Aboriginal disadvantage and over-representation in the child protection system were underlined by the Commissioner's opening remarks to the Special Commission's public forum on Aboriginal community issues on 24 April 2008. The data the Commissioner cited on significantly lower Aboriginal life expectancy, poorer health, disproportionate representation in reviewable death inquiries, poor school retention, significantly higher rates of incarceration, unemployment and homelessness, and the relatively high incidence of reported domestic violence incidents, highlight the entrenched nature of the problems affecting Aboriginal communities.

These challenges are particularly evident in a number of communities across NSW which have large Aboriginal populations and limited access to services, resources and opportunities. They are also becoming apparent in regional centres with better access to services, but which are experiencing rapid demographic change. A recent Centre for Aboriginal Economic Policy Research study noted that while the overall population growth between 1996 and 2001 in six regional centres, including Broken Hill, Dubbo, Orange and Tamworth,² was just 2%, the Aboriginal population in those centres grew by 28%. As the prominence of Aboriginal residents in these larger regional centres grows, this will have major implications for the role they play in the governance and economy of those centres, and for service delivery across the region generally.³ The challenge for government is to address the complex social problems

¹ We have had regard to the Federal Government's child protection discussion paper, *Australia's children: safe and well*, which is being used to inform the development of a national child protection framework. We have also reviewed submissions made to the NSW Parliament's Standing Committee on Social Issues in connection with its 'Inquiry into closing the gap – overcoming Indigenous disadvantage', the Productivity Commission's National Framework of Principles for Delivering Services to Indigenous Australians and its three *Overcoming Indigenous Disadvantage* reports and the NSW Interagency plan to tackle child sexual assault in Aboriginal communities (2006-2011).

² The other two centres were Port Augusta and Kalgoorlie.

³ *Population and Diversity: Policy Implications of Emerging Indigenous Demographic Trends*, CAEPR 2006.

that go along with this demographic shift, coupled with difficulties in attracting and retaining suitably qualified staff.

In many ways, the measures needed to address child protection issues are the same for both Aboriginal and non-Aboriginal communities. In the short term, Aboriginal and non-Aboriginal communities both need ready-access to quality services with the capacity to support families and respond to those children and young people who are most at risk. At the same time, the potential to foster longer term positive change and develop preventive solutions will depend on the availability of regular employment, quality education, cohesive families and other protective factors. The needs of Aboriginal people are no different from other Australians in this respect.

Yet there are also crucial differences. In addition to significant cultural and historical factors that distinguish Aboriginal people, it is important for child protection services to have regard to issues that are specific to Aboriginal communities when working in this area, including the following:

- as significant numbers of Aboriginal families are affected by child protection issues, there is a need to prioritise Aboriginal access to existing services and for services to be responsive to their needs
- Aboriginal people are more likely than non-Aboriginal people to reside in high-need rural locations, where general service-provision is often stretched, skill shortages are common and small numbers of staff must cover vast distances, making systems more susceptible to failure
- the differing availability of protective factors that lead to positive child protection outcomes in each community – stable family environment, a safe home environment, good parenting, a steady income, employment, aspirations, self-esteem and the like, and
- current service deficiencies, Aboriginal over-representation in the child protection system and high rates of Aboriginal incarceration can reinforce and perpetuate low Aboriginal expectations of or even antipathy towards frontline service-providers.

In addressing Aboriginal child protection issues, an obvious starting point is to undertake a frank assessment of the needs of Aboriginal communities, whether those needs are being adequately addressed through either mainstream or Aboriginal specific services or programs, and to look for opportunities to build on positive initiatives already in place. Conducting such an assessment requires accurately determining the nature and extent of the need and evaluating which programs actually work.

An important step in assessing the adequacy of our child protection responses is to consider whether essential services are available where and when they are needed. Through our auditing and other review work, we have found that the delivery of policing, health, welfare, housing and other essential services in high-need areas can be hampered by skill shortages and high staff turnover. In many cases, these can be successfully addressed by providing better incentives to attract and retain suitably qualified and experienced staff, especially in remote locations where vacancies can take time to fill. This is critical if agencies are to prioritise Aboriginal access to mainstream services.

What has been consistently recognised in reports, is the challenge in making services more responsive to and accessible by local Aboriginal people. Meeting this challenge does not involve a 'one size fits all' approach in the design and delivery of services. Instead, service delivery needs to be tailored to suit the needs of particular communities. Enhancing services

to Aboriginal communities should also involve establishing or extending the capacity of Aboriginal-specific or community-controlled organisations, and for those bodies to collaborate with other agencies to deliver a coordinated suite of services.

Clearly, a key challenge for agencies is to build genuine partnerships with Aboriginal communities and develop community-specific solutions.

2. ADAPTING MAINSTREAM SYSTEMS TO ABORIGINAL PEOPLE

In this section we discuss the following issues, a number of which were specifically canvassed by the Commission in its *Aboriginal Communities* facts sheet:

- 2.1 Aboriginal children and young people in out-of-home care
- 2.2 The practical application of the Aboriginal Child Placement Principles
- 2.3 Cultural support case planning
- 2.4 Enhancing the capacity of Aboriginal organisations
- 2.5 Attracting and retaining suitable carers of Aboriginal children, and
- 2.6 Aboriginal participation in care and protection decisions.

Many of these issues have been addressed in our earlier submissions and reports. This section highlights a number of the key issues that should be considered in delivering improved child protection services to Aboriginal children and families. Section 3 of this submission considers some of the building blocks which we believe need to be in place for responding to child protection issues within Aboriginal communities.

2.1 Aboriginal children and young people in out-of-home care

In 2007, we undertook a detailed review of issues affecting carers of Aboriginal children and the adequacy of services and supports in place to help them to provide quality care. Our report entitled *Supporting the carers of Aboriginal children*,⁴ noted issues based on interviews with carers and service-providers, and feedback from face-to-face surveys of 100 Aboriginal and non-Aboriginal carers of Aboriginal children in care.

As more than 30% of all children and young people living in out-of-home care in NSW are Aboriginal, many of the issues and observations regarding Aboriginal children and young people in care will apply to out-of-home care generally.

The following observations were among the key issues highlighted in our report:

- Carers emphasised the value of regular, quality contact with caseworkers. We found that carers generally had realistic expectations of DoCS' ability to assist in providing quality care. For the most part, their principal need was for regular contact with the child's caseworker and for caseworkers to acknowledge and respect carers' efforts to provide a safe and nurturing home environment.
- Providing good support to carers not only encourages their retention, but well-supported carers are an effective, if not *the* most effective, recruitment tool through their word-of-mouth advice and encouragement to potential new carers.

⁴ Drafts of this report were provided to DoCS for comment, and to the Special Commission of Inquiry.

- Providing good support to carers from the outset enables the early identification of problems and of any specific supports required for the child or carer, reducing the risk of placements breaking down. A closer and more supportive relationship between carers and case workers also enables the early identification of placements that are either inappropriate or have the potential to cause harm.
- Good health screening and coordinated follow-up is critically important as poor health and well-being, undiagnosed sight, hearing and other impairments and other health issues disproportionately affect children in out-of-home care. As Aboriginal children in care are particularly susceptible to certain health problems, we found significant benefits in the Department of Community Services (DoCS) establishing formal agreements with services such as the Aboriginal out-of-home care service provider, KARI Resources Inc, in conjunction with public health services, to coordinate comprehensive health assessments of all Aboriginal children entering out-of-home care placements with KARI carers in South-West Sydney.
- Few of the carers that we interviewed considered that caseworkers have an active interest in meeting the educational needs of children in care, except to assist in responding to particular incidents or crisis that threaten the viability of a school placement. Early educational supports are essential, as children in out-of-home care are disproportionately affected by health problems, behavioural issues, lack of resources, frequent absences from school and other issues with the potential to undermine learning outcomes. The traumatic circumstances associated with many children coming into care and, in some cases, the ongoing impacts of placement instability while in care, can also compromise their studies. Unless these problems are addressed early, the problems accumulate and put these students at a distinct disadvantage. We suggested that urgent consideration be given to:
 - individual education case planning
 - strategies to bring carers, caseworkers and schools together to address any learning impediments or schooling problems, and plan for the broader educational needs of their children
 - collecting, analysing and reporting on the education participation and performance of *all* children in out-of-home care, and
 - tracking performance over time to determine the effectiveness of strategies to enhance learning outcomes, including ongoing evaluation of the recently developed memoranda of understanding and other systemic supports.
- DoCS needs to address critical deficiencies in its data on carers of Aboriginal children. For example, although DoCS can provide figures on the number of Aboriginal children in out-of-home care, it could provide no reliable data to this Office on the ratio of non-Aboriginal and Aboriginal carers of Aboriginal children.

The Federal Government's discussion paper, *Australia's children: Safe and well*,⁵ outlines a range of options for developing national standards and monitoring of the out-of-home care system, including the development of a strategy to 'build the capacity, status and performance of foster care nationally'. Due to the 'emerging evidence' about the particularly poor results for Aboriginal children in out-of-home care, the paper also proposes the development of specific national standards for Aboriginal children with a focus on securing safety and wellbeing, health and educational development, and connection to culture and community. We believe there is merit in the development of national standards and monitoring in this area to help ensure greater consistency across jurisdictions in providing for the safety and wellbeing of children in out-of-home care.

⁵ *Australia's children: safe and well – A national framework for protecting Australia's children. A discussion paper for consultation.* Australian Government, May 2008.

2.2 The practical application of the Aboriginal Child Placement Principles

Although DoCS claims that 85 per cent of all Aboriginal and Torres Strait Islander children in out-of-home care are placed 'in accordance with [the Aboriginal placement] principle', our review of the adequacy of supports provided to carers of Aboriginal children revealed that guidance to DoCS' staff and related work with communities is needed around what constitutes 'proper consultation' in relation to placement decisions concerning Aboriginal children.

There are real challenges for DoCS and for communities in determining what constitutes proper consultation in making placement decisions. It is clear from DoCS' responses to our requests for information about current policy and procedures regarding 'consultation' that little guidance is provided to staff about what consultation should look like in practice.

Emergency placements must continue to be made without any or significant consultation. This is recognised in section 13(8) of *Children and Young Persons (Care and Protection) Act*. Yet consultation should still take place as soon as practicable, and the references in section 12 to involving families, kinship groups, representative organisations and communities through 'means approved by the Minister', makes it clear that the legislators intend meaningful consultation to take place.

It is important for DoCS to address the issue of what constitutes proper consultation from both a policy and practice perspective. While a 'one size fits all' approach will not work, a solid policy platform would guide CSCs in developing local consultation strategies in partnership with their communities. Getting this process right would go some way to building bridges between DoCS and local Aboriginal communities. It is also inextricably linked to the development of cultural support plans for Aboriginal children in out-of-home care.

The Federal government's discussion paper, *Australia's children: safe and well*, outlines an option for including 'compliance with the Aboriginal Child Placement Principle' in a national framework for protecting children, with a focus on why jurisdictions have varying experiences of implementing the principle. This approach has the potential to identify innovative models of care for Aboriginal children and successful practices around consultation. However, we firmly believe that more effective consultation practices need to be adopted by DoCS as a priority, and that this should not be difficult to achieve.

2.3 Cultural support case planning (CSCP)

The proper application of the Aboriginal Child Placement Principles, including a serious and sustained effort to place children with extended family or kin, is related to helping Aboriginal children in out-of-home care retain their cultural connections and establish a confident understanding of their place in the world. If children must be placed with carers with no kin connection, then care planning, especially cultural care planning, is crucially important for carers expected to help the children in their care connect with their family, community and culture to the maximum extent possible.

DoCS says it expects all care plans to address factors such as identity, culture and religious awareness. For Aboriginal children and young people, care plans should also include information on family and social networks and placement arrangements.⁶ Yet based on our consultations with carers, there appears to be very little evidence of cultural support planning

⁶ Response by DoCS (provided on 16 November 2007) to our request for information dated 19 October 2007.

for Aboriginal children and young people in out-of-home care. Rather, the onus seems to be on carers to identify and access relevant supports. This is consistent with the advice provided in the *Foster Carer Resource Guide*. This lack of cultural support planning is a significant concern for children who are placed with non-Aboriginal carers. Having said this, Aboriginal carers may also require appropriate supports in this area, especially if they have no direct connection with the kin or country of the children in their care.

In our surveys of carers, we took any involvement by DoCS in arranging regular cultural activities to indicate evidence of current cultural support planning, irrespective of whether a formal plan was in place. Even so, against this benchmark carers indicated that just 8% of children had been provided with some type of 'cultural support'. Also, although most carers appeared to appreciate the importance of cultural support planning for children, they clearly needed DoCS guidance about what this type of planning should involve and the respective responsibilities of carers and caseworkers.

We have examined cultural care planning in Victoria and noted a number of positive features about that process. DoCS has since announced it plans to pilot cultural support plans in a number of areas and that the plans will be 'loosely based' on the Victorian system. This is a welcome development as it has the potential to provide a catalyst for bringing DoCS closer to Aboriginal communities.

In developing and implementing a CSCP tool and guidance, in our report on *Supporting the carers of Aboriginal children*, we suggested DoCS consider the following issues:

- There would be value in involving the peak body, AbSec, as this may go some way towards helping to raise and address community concerns. AbSec could also help evaluate outcomes and develop a template for applying CSCPs more broadly.
- The proposal to involve a 'major non-government out-of-home care service' in the trial has merit, especially a service with experience in supporting Aboriginal programs. This might also provide an important practice benchmark.
- As the Western region no longer has an Aboriginal out-of-home care service yet still has large numbers of Aboriginal children in care, there would be value in DoCS extending the trial to involve a non-Aboriginal service in the Western region, notably a service with a demonstrated commitment to cultural support such as Uniting Care Burnside.
- Given advice from Victoria about the difficulties in integrating CSCPs into case practice, DoCS' proposal to build the plans into the existing case management system is worth trialling.
- Any evaluation should include an assessment of compliance with the Aboriginal Child Placement Principles and compare consultation regarding placement decisions in the trial sites with the consultation processes used elsewhere.
- In addition to training case workers in the trial sites, there is also a need to train carers about their responsibilities to implement these plans.
- Consideration needs to be given to the ongoing role that AbSec and Aboriginal out-of-home care services should play in relation to providing input into the ongoing development of cultural support plans.

2.4 Enhancing the capacity of Aboriginal out-of-home care organisations

While DoCS, the non-government sector and the Children's Guardian have achieved improvements in out-of-home care practices in recent years, including practices relating to Aboriginal children in care, the *capacity* of the Aboriginal out-of-home care sector remains very limited. Aboriginal services can currently place around 200 (5%) of the 3,812 Aboriginal children in care.

Our report on *Supporting the carers of Aboriginal children*, noted that there is a critical need to expand both the number of Aboriginal out-of-home care services and the number of placements available for Aboriginal children with Aboriginal carers to address current constraints and continuing growth in demand. In response to these challenges, DoCS has outlined its plans in its submission to the Commission. DoCS' goal is to increase the proportion of Aboriginal children placed with Aboriginal out-of-home care agencies from 5% to 10%. Even if it succeeds, at best this will only restore the proportion to around the level that existed prior to the demise of the Aboriginal Children's Service.

Yet there are significant challenges for DoCS in meeting even its 10% target. Firstly, although 52% of all Western Region children in care are Aboriginal, there is currently no Aboriginal out-of-home care service in that region. Nor are there Aboriginal out-of-home care services in the New England and Metro Central regions. DoCS initiated an expression of interest process in March 2007 as part of a major ongoing program to enhance out-of-home care services. However, no Aboriginal agencies from the Western region were selected, nor did the process identify any new agencies.

The shortage of Aboriginal NGOs applying for funding enhancements to provide additional out-of-home care services, and the apparent failure of those that did apply to meet the standards required, indicates that current capacity constraints are likely to continue into the future unless action is taken now. DoCS acknowledges this is a concern, and has indicated it will try alternative approaches:

The [EOI] process has identified some gaps in the OOHC service system which will be filled by direct negotiation with Aboriginal and other specialised OOHC service providers.⁷

As part of this process, our report on *Supporting the carers of Aboriginal children*, suggested that there would be merit in considering ways for successful non-Aboriginal services to mentor staff from Aboriginal services, both to build the capacity of existing Aboriginal services and support the establishment of new services. These kinds of cooperative partnerships would help build the capacity of the Aboriginal out-of-home care sector into the future. In this regard, we are aware of Burnside's success in recruiting significant numbers of Aboriginal staff and carers, and in providing care to many Aboriginal children in the Western Region. In speaking with a number of Burnside's Aboriginal carers we were encouraged to hear very positive feedback about the support Burnside provides to both them and the Aboriginal children in their care. Barnados also has plans to build service capacity in this critical area. Harnessing the support of experienced services is critical if Aboriginal NGOs are to play a more active role.

Following recent discussions with AbSec and service providers, we have no doubt about the willingness of key players to explore this issue of cooperative partnerships. In this constructive environment we see no reason why successful initiatives along these lines cannot

⁷ 'Out-of-home care funding rollout', http://www.community.nsw.gov.au/DOCS/STANDARD/PC_100986.html - accessed 30 May 2008.

be rolled out over the next few years. Furthermore, we believe that there is scope for these partnerships to develop Aboriginal agencies that can provide a suite of services.

In evidence to the Special Commission's public forum on Aboriginal Communities on 24 April 2008, Mr Julian Pocock, executive director of the Secretariat of National Aboriginal and Islander Child Care (SNAICC), outlined his reasons for supporting cooperative partnerships:

....if we want to see smaller Aboriginal organisations increase their capacity to deliver a broad range of holistic services, of which out-of-home care is a part, and, secondly, if we want to see new agencies emerging where we don't have agencies, which is in most of the state, is that government actually needs to make the formal decision that it wants it to happen.

.....it will always be the case that very small agencies, whether they are Indigenous or not, will struggle to compete against larger, more well-resourced organisations that already have a strong foothold in the sector. I think recent experiences in New South Wales largely bear that out.

So the most fundamental thing that has to change is that government and the department have to actually make the decision that they want to develop the capacity of existing agencies to provide a whole range of programs, not just out-of-home care.

The reason that we argue so strongly that out-of-home care should be situated within a broader suite of services for an agency is because if we continue in New South Wales to segment these things off, rather than having integrated funding agreements and agencies having one funding agreement to do a whole range of things, at a point in time when we need critical information about a child's circumstances, when there are care and protection issues to deal with, an agency that has a broad suite of programs will have had a history of engagement with families and will have the knowledge you need about who is important in that child's life, what their family and kinship network systems are and who can actually step up to the plate to protect kids. The more you fragment the service system, the more difficult it is, in our view, to get that critical information when you need it.

So that's why we argue that all State and Territory governments – but particularly this one, because they are probably a bit further behind than other States, need to actually make a formal policy decision that we want to develop Aboriginal agencies to provide that continuity of service of which out-of-home care is a part. Until you make that mind shift, little will change.⁸

We also support the Commission's consideration of flexible accommodation models for Aboriginal children. In particular, we believe that, at the very least, short-term residential accommodation for Aboriginal children and young people needs to be considered, particularly if it provides a means of keeping these children close to their families and communities, and is part of a broader suite of services. What also needs to be understood is that placing an Aboriginal child within a family environment close to the child's own family can potentially raise major problems if the placement is not with the child's kin. For this reason, we understand AbSec's general support for trialling short-term residential care as a means of keeping at-risk Aboriginal children within their communities. We also acknowledge recent attempts within the Bourke community to explore the possibility of providing a 'safe house' environment. In this regard, we also note that the Federal Government's discussion paper, *Australia's children: Safe and well*, canvasses potential innovative models that combine elements of family-based care with residential care. For example, proposals which combine a boarding school approach with more intensive support and permanently assigned respite parents. The paper also notes the growing interest in international developments in this area.

A related challenge is ensuring that any increase in the number of Aboriginal placements in out-of-home care is coupled with high quality service delivery. Past attempts to rapidly

⁸ Transcript, Aboriginal Communities forum 24 April 2008, p27-28

expand non-government services have not always guaranteed the delivery of quality services. For this reason, we believe that any accelerated expansion of individual services, particularly those without a proven track record in this field, must be carefully managed and closely monitored. Also, in order for AbSec to effectively perform its role in monitoring the quality of care, it needs easier access to critical information about Aboriginal children in care and the carers of these children. For this reason, improved systems for sharing the information and data are essential if DoCS is serious about building a more meaningful partnership with AbSec and helping it to strengthen its strategic focus.

2.5 Attracting and retaining suitable carers of Aboriginal children

As noted earlier, well-supported carers are an effective – arguably *the* most effective – recruitment tool through their word-of-mouth advice and encouragement to potential new carers. Aboriginal out-of-home care services affiliated with AbSec also confirmed that this strategy generally works best, and is much more effective than large campaigns. However, for word-of-mouth to be an effective recruitment strategy, it requires carers to strongly endorse the merits of fostering to those within their communities. For this to happen, it requires carers to feel that they are being well-supported.

In the Special Commission's recent Aboriginal Communities forum, Burnside UnitingCare manager, Mr Reg Humphreys, commented on the value of 'word of mouth' in attracting interest from new carers:

Over the last 10 years we [Burnside] have been involved in a journey by developing relationships of mutual respect and trust with significant groups of individuals in our immediate vicinity, to the extent that, today, out of 44 permanent staff, 22 are Aboriginal people, and out of 49 carers, 29 are Aboriginal people, and a couple of things have become obvious along the way. One is the business of 'vouching' ... they don't want to come and work for us unless they have had people recommend us.⁹

Through our work with carers, we were advised that recruitment strategies that tap into the fabric of Aboriginal community life, including key cultural events such as NAIDOC, 'community and family gatherings' and sporting events, are also potential opportunities to spread the word about fostering.¹⁰

DoCS also plans to examine ways of reducing the period of time it takes to assess its foster carers. Ongoing foster carer recruitment will need to be dovetailed with efficient follow-up and carer assessments. Both DoCS and out-of-home care agencies will need to attract greater numbers of Aboriginal carers to meet the increased demand for suitable placements. DoCS and out-of-home care agencies will each be targeting the same potential pool of people in each region. For this reason, recruitment strategies need to be complementary and reflect a genuine partnership between DoCS, AbSec and out-of-home care service providers.

In this regard, it is pleasing to note that AbSec recently announced the launch of an Aboriginal foster care recruitment and training film, *Have a Heart – become a Carer*. The film will be formally launched by the Minister for Community Services at NSW Parliament House on 3 July 2008.

⁹ Transcript, Aboriginal Communities forum 24 April 2008, p17-18.

¹⁰ We note that a recruitment campaign launched by DoCS in August 2006 attracted interest from 2000 potential foster carers. It is unclear how many of these people were Aboriginal or whether Aboriginality was identified. This campaign was linked to the launch of the centralised Foster Carer Recruitment Line in August 2006. After the initial inquiry is made, a caseworker makes contact with the potential carer and provides more detailed advice about authorisation, training and assessment processes. The second phase of the program involves a long-term approach targeting potential Aboriginal and multicultural carers.

Our review of issues affecting carers of Aboriginal children noted that most jurisdictions tend to collect little data about foster carers in general, particularly in relation to why carers commence or leave fostering. Our report suggested that there would be merit in systematically collecting this type of information, including issues specific to Aboriginal carers.¹¹

2.6 Aboriginal participation in care and protection decisions

Our 2006 Children's Court Discussion Paper noted the need for greater innovation in finding ways to facilitate more meaningful Aboriginal participation in child care and protection decisions. This includes developing more effective ways to genuinely engage Aboriginal families, kinship groups, representative organisations and communities in child care and protection decisions, as envisaged by the *Children and Young Persons (Care and Protection) Act*. NSW has started to explore options for putting this principle into practice, but this work is very much in its initial stages. On this issue, it is important to recognise that although the Act refers to 'consultation', it understandably does not elaborate on the complexities associated with this process. At least in theory, consultation should be addressed in policy. However, there are some very difficult challenges in applying this concept in practice. It also needs to be recognised that some community 'leaders' may not be appropriate to consult in relation to child protection issues.

The issue of identifying appropriate and respected community members is currently being considered in the context of the 'Care Circle' trial about to be piloted in Nowra. This trial has the potential to provide DoCS with guidance on this consultation issue. It may also highlight some challenges, including managing community expectations and difficulties that might arise from involving Aboriginal community leaders in a process that may result in decisions to remove children from their parents. For example, this trial should determine whether suitable members from within Aboriginal communities in the Shoalhaven area are prepared to participate in making decisions of this type and, if so, the level of acceptance by affected families and the local Aboriginal communities. It is also important to recognise that there will need to be different approaches used in different communities to resolve the 'consultation issue' and for each child involved there will need to be specific consideration given to the particular family and community members who should be consulted. However, irrespective of whether the trial leads to the permanent establishment of Care Circles, a well-supported trial could provide valuable insights into the mechanisms needed to support better community input into decision-making about child protection issues.

Another approach is the ongoing Family Group Conferencing work being done by UnitingCare Burnside in relation to matters at the pre and post court stages. This model is based on the conferencing approach used for child protection matters across New Zealand, and has a strong emphasis on the concept of 'extended family'.¹² This emphasis makes this model a potentially useful and culturally appropriate tool to apply in resolving certain child protection issues affecting Aboriginal 'families'.

Consistent with the Act, these kinds of initiatives need to be promoted and, if their evaluation demonstrates that they are successful in addressing key issues, rolled out more broadly. In

¹¹ The kind of data that might be useful to collect in relation to Aboriginal carers includes: Indigenous status; age; carer type – foster, authorised kinship; date of commencement/exit; the reasons why person became a carer; the reasons why person ceased care-giving role (exit interviews); the number of potential carer inquiries (the carer hotline records this to a limited extent); the number of people assessed as unsuitable; the number of people who withdrew from initial training, and the method by which carer was introduced to fostering/kinship care.

¹² Burnside Uniting Care introduced Family Group Conferencing as a pilot program for care and protection matters in NSW from 1996 to 2000. When the project ended, facilitators continued to facilitate cases that were referred to them. Burnside Uniting Care continues to operate a conferencing program and some small-scale pilot projects that use, or draw on principles of, conferencing are planned in regional areas. Burnside has also developed an accredited training course for facilitators. See Harris N, 'Family group conferencing in Australia 15 years on', *Child Abuse Prevention Issues* No.27, Australian Institute of Family Studies, 2008.

this context, while noting the relative lack of use of alternative dispute resolution to date, we are encouraged by the commitment to alternative dispute resolution expressed by the major parties at the Commission's recent public forum on the Role of the Courts.

In supporting alternative dispute resolution, we acknowledge that it will not be appropriate for certain matters. However, given that the need for 'care and protection' is often not disputed in care proceedings, there would appear to be considerable scope for alternative dispute resolution techniques to be used to canvass what might be in the best interest of a child relating to decisions such as the allocation of parental responsibility, placement, specific care arrangements and contact. If these issues can be explored through a resolution process which focuses on a child's best interests, this would appear to be more consistent with the legislature's intentions and appropriate within an Aboriginal context.

3. DELIVERING COORDINATED SERVICES

Since the creation of our specialist Aboriginal Unit in 1996,¹³ Aboriginal communities have been a specific focus of our work. In recent years, this has also included our role in reviewing child deaths. Through our child death review work we have identified a range of issues and subsequent challenges for agencies working with Aboriginal children who may be at risk, including:

- Limited capacity to respond to issues of neglect, parental substance abuse and domestic violence in particular Aboriginal communities. We have had concerns about child protection and related problems in Western NSW and other remote and/or 'isolated' communities.
- Ineffective interagency coordination and collaboration and the need to improve interagency approaches.

This part of our submission considers the following building blocks that we believe need to be in place in order for progress to be made in responding to child abuse and neglect within Aboriginal communities:

- 3.1 building partnerships with community to address child protection issues
- 3.2 frameworks to guide planning and service delivery
- 3.3 building an evidence base, and
- 3.4 workforce development measures needed to enhance frontline capacity.

3.1 Building partnerships with community to address child protection issues

In 2006, the Productivity Commission's Steering Committee for the Review of Government Service Provision (SCRGSP) carried out an extensive community consultation process with Aboriginal communities across the country to seek feedback about its report, *Overcoming Indigenous Disadvantage: Key Indicators 2005*. As part of this process, the steering committee identified a range of 'success factors' behind the 'things that work' when government agencies interact with Aboriginal communities and organisations. In this regard, there was strong endorsement for cooperative approaches between government and community, as well as community involvement in program design and decision-making.

¹³ Although this Office had Aboriginal liaison officers before 1996, the Royal Commission into the NSW Police Service's first *Interim Report* (Feb 1996) recommended the establishment of a unit to provide a specialist focus on Aboriginal issues.

On this issue of consultation, it is worthwhile noting the Productivity Commission's views on the factors that contribute to successful program implementation in Aboriginal communities consisted of the following four key components:

- cooperative approaches between Indigenous people and government (and the private sector)
- community involvement in program design and decision-making – a 'bottom-up' rather than 'top-down' approach
- good governance
- on-going government support (including human, financial and physical resources).

In relation to these factors, it is worthwhile noting the importance placed on quality consultation.

While current attempts to increase Aboriginal participation in care and protection decisions have tended to focus on Children's Court care proceedings and other acute interventions, it is important to consider the opportunities for involving communities in dealing more broadly with problems relating to child abuse and neglect within their own communities.

A significant development in relation to Aboriginal community consultation mechanisms occurred with the introduction of community working parties in NSW. In 2002, the Council of Australian Governments (COAG) selected eight sites across the country to examine the delivery of a 'whole of government approach in partnership' with Aboriginal communities. The Far Western NSW region known as Murdi Paaki was one of the eight sites chosen. One of the key elements of the COAG trial was the establishment of community working parties as a primary mechanism for consultation and representation at the community level.

In 2006, the Australian Government commissioned an independent evaluation of the eight COAG trial sites. The evaluation found that the Murdi Paaki trial 'has been highly successful to date, largely because of the Aboriginal community's commitment to improving governance and establishing community decision-making forums across the region, and Government support for these structures'.¹⁴ The evaluation of the Murdi Paaki trial also noted the following positive outcomes:

- Murdi Paaki is regarded as one of the more advanced COAG trial sites in Australia in relation to its community capacity and governance;
- Representatives from the two lead government agencies selected to participate in the trial have developed strong relationships with communities and have a 'visible presence in the region'.
- Consultations in the Murdi Paaki region revealed strong support for the 'refreshed' community working party model and community action plans;¹⁵
- The governance capacity of communities has improved and many communities appear better able to articulate their priorities to government in a constructive fashion; and
- 18 shared responsibility agreements were signed during the trial.

The NSW Government submission to the Inquiry into Overcoming Indigenous Disadvantage outlines data in relation to indicators in the areas of housing, health, educational attainment,

¹⁴ NSW Government submission to the Inquiry on Overcoming Indigenous Disadvantage, p82.

¹⁵ Although it has taken a long time to complete, the community action plan process was regarded in a positive light by the majority of stakeholders.

and law and justice for the Murdi Paaki region during the trial period. The submission notes that there has been 'substantial improvements' across these indicators, and while also noting that it is not possible to draw direct causal links between the trial initiatives and these improved outcomes, the submission does attribute the improvements to the success of the partnership approach in the region.¹⁶

From our work, we have been impressed by Aboriginal community working parties across the state. However, it is also important to note that we have been told on a number of occasions about significant concerns held by respected members of communities about particular working party members or others in key positions of responsibility. In circumstances where there are broadly held negative perceptions about individuals performing these roles, this can fundamentally undermine the effectiveness of the working parties and/or the agencies they represent. For this reason, there may be merit in considering the current processes around the selection and membership requirements relating to these types of committees and agencies. In this regard, the selection processes for community justice groups in Queensland may provide useful guidance on this issue.

While it is important to acknowledge the critical role of Aboriginal community working parties in the local consultation process, it is also worth noting the presence of Aboriginal women's groups in particular communities and, more recently, the emergence of men's groups. These groups often focus on dealing with social problems within communities. In particular, groups tend to have a strong focus on domestic violence, substance abuse and parenting. Over the past few years, community leaders have increasingly raised concerns about at-risk children and young people within their communities. Against this background, we believe the time is ripe for agencies to begin to explore ways of strengthening the focus on child protection issues within community forums. In this regard, we note that the *Interagency plan to tackle child sexual assault in Aboriginal communities* has a strong consultation focus. We will be keen to see whether meaningful consultation resulting in real outcomes can be generated through this process.

Our four-year program of 36 detailed local area command audits to assess police work with local Aboriginal communities has provided us with a solid platform for commenting on Aboriginal community and agency partnerships. Our work has included consulting more than 3500 Aboriginal people from about 90 communities and representatives from over 400 agencies and services – as well as local police commanders, other senior police and specialist liaison officers from the commands we audited. Our reports to Parliament in 2005, *Working with local Aboriginal communities*, and 2006, *Domestic violence: Improving police practice*, highlighted a number of local strategies and initiatives across NSW involving police, other government agencies and NGOs working with local Aboriginal communities to develop practical ways to address local community concerns. We formed the view that the most impressive of these schemes included small but effective youth diversion, school retention and youth mentoring programs, holistic models of coordinated domestic and family violence investigation and prevention initiatives, and linking Aboriginal employment and training programs with targeted crime prevention strategies and other police priorities. Since the release of our reports, we have continued our work in examining community and agency partnerships.

Although most of the schemes that appeared to have some evidence of success were limited in scale, unfunded or only modestly funded, they demonstrate the potential for government agencies, NGOs and communities to create genuine partnerships that improve practical outcomes. In most cases, the strength of these initiatives is that each involves agency partners successfully finding ways to:

¹⁶ NSW Government submission to the Inquiry on Overcoming Indigenous Disadvantage, p83

- engage with Aboriginal communities, even where that might involve having to negotiate community divisions or entrenched attitudes
- clarify priority concerns and get consensus on a course of action
- deliver on agency promises to implement practical measures that respond to priority community concerns
- use the outcomes from these schemes to inform and improve agency practice, and adapt programs to better-meet the needs of Aboriginal families, and
- use the subsequent growth in community confidence to tackle more complex issues.

In building strong partnerships with community to address child protection issues, it is important to take into account the developments unfolding at a State and Federal level in relation to attempts to address Aboriginal disadvantage and related child protection issues. In our view, overarching State and Federal objectives need to be taken into account when developing programs aimed at responding to the needs of individual communities. The need to align community level planning with State and Federal policies and approaches is discussed in detail in the next section.

3.2 Frameworks to guide planning and service delivery

In terms of constructing a response to Aboriginal child protection issues within this State, it is critical that we build on and effectively utilise related work which has been undertaken over recent years around Aboriginal disadvantage.

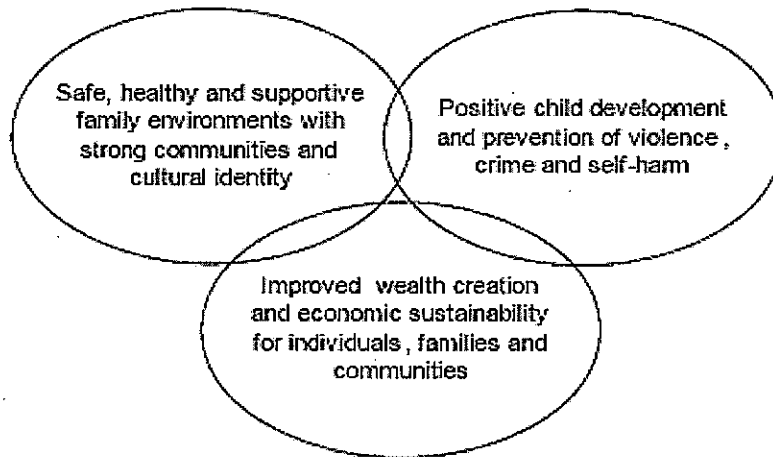
Overcoming Indigenous Disadvantage

In 2002 the Council of Australian Governments (COAG) commissioned the Productivity Commission's Steering Committee for the Review of Government Service Provision (SCRGSP) to produce a series of regular reports on the effectiveness of government spending on programs to address issues of Aboriginal disadvantage. The *Overcoming Indigenous Disadvantage: Key Indicators* reports – published in 2003, 2005 and 2007 – not only provide information about outcomes, but are also intended to act as strategic documents 'to assist governments to identify the focus for policy attention, and to measure whether these policies are working' (SCRGSP 2007: at 1.1). It is critical that this work is taken into account in considering child protection challenges as they relate to Aboriginal communities.

The steering committee established a framework for its assessments, identifying three priority outcomes for all sectors and jurisdictions working towards improving outcomes for Aboriginal and Torres Strait Islander people (see Figure 1):¹⁷

¹⁷ *Framework for reporting on Indigenous disadvantage*, Steering Committee for the Review of Government Service Provision, at 2.1

Figure 1: Priority outcomes



These three priorities are expected to guide all Federal and State/Territory initiatives to engage with and respond to the needs of Aboriginal communities. The framework also identifies seven *Strategic areas for action*, and points to so-called *Headline indicators* that provide measures of major social and economic factors that need to improve if we are to effectively tackle Aboriginal disadvantage over time. The headline indicators include reporting on life expectancy at birth, rates of disability, school retention and attainment, post-secondary education, employment, income, home ownership, suicide and self harm, substantiated child abuse and neglect, victim rates for crime, and imprisonment rates. As we noted earlier in this submission, we see significant child protection problems as symptomatic of these broader issues of disadvantage.

The logic behind the framework of priorities, indicators and actions is that measurable short and medium-term actions will contribute to longer-term improvements. That is, implementing strategic areas for action (measured by the strategic change indicators) will, over time, lead to improvements in the headline indicators. Improvements in the headline indicators will, in turn, indicate progress towards the three priority outcomes.

The strategic areas for action draw on research indicating the kinds of short-term steps that, over time, can make a difference to longer term outcomes. Each is linked to a set of *strategic change indicators* designed to show whether actions are making a difference, and to identify areas where more attention may be needed. The seven strategic areas for action and the associated change indicators are:¹⁸

STRATEGIC AREAS FOR ACTION	STRATEGIC CHANGE INDICATORS
Early child development and growth (prenatal to age 3)	<ul style="list-style-type: none"> • Injury and preventable diseases • Infant mortality • Birth weight • Hearing impediments • Children with tooth decay
Early school engagement and performance (preschool to Year 3)	<ul style="list-style-type: none"> • Preschool and early learning • School attendance • Year 3 literacy and numeracy
Positive childhood and transition to adulthood	<ul style="list-style-type: none"> • Years 5 and 7 literacy and numeracy • Retention at year 9 • Indigenous cultural studies in school curriculum and involvement of Indigenous people in

¹⁸ Framework for reporting on Indigenous disadvantage, Steering Committee for the Review of Government Service Provision, p66

	<ul style="list-style-type: none"> • development and delivery of Indigenous studies • Juvenile diversions as a proportion of all juvenile offenders • Transition from school to work
Substance use and misuse	<ul style="list-style-type: none"> • Alcohol consumption and harm • Tobacco consumption and harm • Drug and other substance use and harm
Functional and resilient families and communities	<ul style="list-style-type: none"> • Children on care and protection orders • Repeat offending • Access to primary health care • Mental health • Proportion of Indigenous people with access to their traditional lands • Participation in organised sport, arts or community group activities • Engagement with service delivery
Effective environmental health systems	<ul style="list-style-type: none"> • Rates of diseases associated with poor environmental health (including water and food borne diseases, trachoma, tuberculosis and rheumatic heart disease) • Access to clean water and functional sewerage • Overcrowding in housing
Economic participation and development	<ul style="list-style-type: none"> • Employment (full-time/part-time) by sector (public/private), industry and occupation • Self employment and Indigenous business • Indigenous owned or controlled land • Governance capacity and skills • Case studies in governance arrangements

In promoting good child protection outcomes in Aboriginal communities, all seven strategic areas for action could be expected to influence the key headline indicator, ‘Substantiated child abuse and neglect’. Similarly, progress in reducing abuse and neglect can only be achieved in conjunction with progress on other headline indicators such as family and community violence, incarceration rates and assault-related injuries. As the most recent *Overcoming Indigenous Disadvantage* report states:

This report recognises that many factors bear on change – no one action is going to eradicate Indigenous disadvantage. A key message from consultations with Indigenous people was that the report should not imply that the efforts of governments acting alone would be enough to achieve fundamental, long-term change. The drivers of change must include actions on the part of the private sector, the general community and, not least, Indigenous people themselves.¹⁹

This highlights the inter-connected nature of strategies needed to tackle the entrenched issues that give rise to Aboriginal disadvantage.

‘Closing the Gap’

In April 2007 the Aboriginal and Torres Strait Islander Social Justice Commissioner, Mr Tom Calma, announced a campaign involving more than 40 organisations advocating for government commitments to ‘Close the Gap’ in life expectancy and other key differences between Indigenous and non-Indigenous Australians within a generation. As part of improving life expectancy, the Commissioner noted there would need to also be a focus on the social determinants of health – living conditions, overcrowding in housing, education and employment. He said this was not just a health sector responsibility, but would require a ‘whole of government’, cross-departmental approach.

¹⁹ *Framework for reporting on Indigenous disadvantage*, Steering Committee for the Review of Government Service Provision, at 1.3

By April 2008, the Commissioner reported that the Close the Gap partnership had put the crisis in Indigenous health under the national 'spotlight'. For example, the Prime Minister included commitments to closing the gap in his 'Apology to Australia's Indigenous Peoples' in February 2008:

Our challenge for the future is to embrace a new partnership between Indigenous and non-Indigenous Australians. The core of this partnership for the future is closing the gap between Indigenous and non-Indigenous Australians on life expectancy, educational achievement and employment opportunities. This new partnership on closing the gap will set concrete targets for the future: within a decade to halve the widening gap in literacy, numeracy and employment outcomes and opportunities for Indigenous children, within a decade to halve the appalling gap in infant mortality rates between Indigenous and non-Indigenous children and, within a generation, to close the equally appalling 17-year life gap between Indigenous and non-Indigenous when it comes to overall life expectancy.²⁰

In May 2008, as part of its 'Closing the Gap' commitments, the Federal Government announced \$1.2 billion of funding over five years to be spent on a broad range of programs in areas such as literacy and numeracy, child and maternal health, drug and alcohol services, chronic diseases, early development and parenting support, and employment.

In making this announcement, the government indicated that the COAG had adopted its targets, and had established a working group 'to develop a detailed work plan for meeting the targets'.²¹

In addition, the Federal Government has established an Indigenous Affairs Committee of Cabinet. This committee will be chaired by the Prime Minister. The Prime Minister has also committed to reporting to parliament on the first working day of each parliamentary year on the progress against specific 'closing the gap' targets. In order to report against these targets, the Government acknowledges that there needs to be 'transparent monitoring to measure progress across government.'

National framework for protecting Australia's children

There are also other changes currently taking place at the Commonwealth level that are likely to impact on State/Territory child protection policies and programs. Later this year, the Federal Government plans to finalise its 'National framework for protecting Australia's children'. The recently published *Australia's children: safe and well* discussion paper has invited comment on a proposal to base the framework on six key measures:

1. Stronger prevention.
2. Better collaboration between services.
3. Improving responses for children in care and young people leaving care.
4. Improving responses to Indigenous children.
5. Attracting and retaining the right workforce.
6. Improving child protection systems. Although these measures or indicators could change or be refined as the final framework is developed, it is important to note that each is linked to, and builds on, the other five and none should be considered in isolation.

The discussion paper proposes various strategies in relation to each of the six key measures. There is a strong emphasis on Aboriginal child protection. Under the measure relating to 'Improving responses to Indigenous children' the paper sets out a number of potential options for dealing with a broad range of issues. Importantly, the paper also recognises the Working

²⁰ Prime Minister Kevin Rudd, Apology to Australia's Indigenous Peoples, 13 February 2008

²¹ Media release, Minister for Families, Housing, Community Services and Indigenous Affairs, 13 May 2008.

Group on Indigenous Reform established by COAG in December 2007, including its role in identifying duplication and overlap between the Commonwealth and States/Territories. It is also worth noting that the working group should finalise its work program by the end of 2008 (with implementation timetables) covering the following critical areas:

- basic protective security from violence for Indigenous parents and children
- early childhood development interventions
- a safe home environment
- access to suitable primary health services
- supporting school attendance
- employment and business development opportunities
- involving local Indigenous people in the formulation of programs, and
- optimal service delivery for small remote communities.²²

In developing a national framework, the Federal Government aims to clarify its role in child protection and to outline 'concrete actions' to be undertaken by all levels of government and other players. Some of these actions are already being implemented; others would require a change in approach or new commitment.

State Plan and Two Ways Together

As noted in our earlier submission on *Interagency Cooperation*, NSW is developing local, regional and state-wide committees and processes to support the implementation of State Plan objectives. These are emerging as the primary framework for the delivery of government services generally in NSW. The principal Aboriginal policy framework for the government sector in NSW is *Two Ways Together*, a 'whole of government' plan developed by the Department of Aboriginal Affairs (DAA) and adapted in light of the State Plan.

The DAA has responsibility in relation to coordinating the implementation of '*Priority F1: Improved health and education outcomes for Aboriginal people*'. Additionally, the State Plan includes a number of other priorities of direct relevance to Aboriginal people, these are:

- R1 Reduced rates of crime, particularly violent crime
- R2 Reducing re-offending
- R3 Reduced levels of antisocial behaviour
- R4 Increased participation and integration in community activities
- S3 Improved health through reduced obesity, smoking, illicit drug use and risk drinking
- S4 Increasing levels of attainment for all students
- S5 More students complete Year 12 or recognised vocational training
- F3 Improved outcomes in mental health
- F4 Embedding the principle of prevention and early intervention into Government service delivery in NSW
- F6 Increased proportion of children learning with skills for life and learning at school entry
- F7 Reduced rates of child abuse and neglect
- E4 Better environmental outcomes for native vegetation, biodiversity, land, rivers and coastal waterways
- E8 More people using parks, sporting and recreational facilities and participating in arts and coastal waterways²³

In presenting the NSW Government's submission to the NSW Parliament's Standing Committee on Social Issues in connection with its 'Inquiry into closing the gap – overcoming Indigenous disadvantage', the Minister for Aboriginal Affairs, the Hon Paul Lynch, indicated

²² *Australia's children: safe and well – A national framework for protecting Australia's children. A discussion paper for consultation.* Australian Government, May 2008 p24.

²³ *Two Ways Together report on Indicators 2007*, p7

that Priority F1 'aims to address disadvantage in a holistic manner across five objectives'. He listed these as:

- Safe families: ensuring Aboriginal families are supported to live free from violence and harm;
- Education: increasing the readiness to learn of Aboriginal children prior to school entry;
- Environmental health: ensuring that all Aboriginal communities have equitable access to environmental health systems;
- Economic development: increasing Aboriginal employment; and
- Building community resilience.

According to the submission, this approach builds on that established under *Two Ways Together*. As part of its coordinating role, DAA produces a biennial report using both national indicators of disadvantage developed by COAG and NSW-specific measures. DAA describes the production of these reports as 'a key element of accountability' by which progress can be measured against each of the priority areas.²⁴

In order to ensure that government agencies improve service delivery at the regional level, the DAA established a network of Regional Engagement Groups (REGs). REGs include representatives from NSW and Commonwealth Government agencies and regional representatives of peak Aboriginal organisations. REGs are coordinated through the regional DAA offices and are sub-committees of the Regional Coordination Management Groups (RCMG), which are supported by the Department of Premier and Cabinet and have a key role in implementing State Plan objectives at regional level. In 2007, the REGs developed regional action plans that identified a small number of cross-agency focused goals for each region and the agency responsible for leading the work towards each goal. (The goals between regions varied, but each sought to address the State Plan Priority F1.)

These REG action plans are meant to take account of information collected and published by the DAA in the previous year. These reports seek to bring together data about Aboriginal people and the government services for each RCMG region to provide a snapshot of demographic and service information about communities in each region. The DAA works directly with 40 communities across NSW, mostly through local Community Working Parties established as part of the DAA's Aboriginal Communities Development Program. These communities were identified by looking at indicators of need, community strengths and their willingness to work with government. In these partnership communities, local-level representatives groups are being established to assist with planning and delivering services to address community needs.

While the arrangements referred to above appear to be sound in a structural sense, whether they translate into effectively producing results on the ground is a separate issue. In this regard, we believe that a thorough evaluation of whether the existing governance arrangements are effective in garnering action by agencies across communities is needed. In making this suggestion we are particularly interested in whether the DAA staff who have an important role in coordinating agency/community action get the 'buy-in' and commitment from key agencies which is necessary to make things happen. While the Director General of the DAA is now a member of the Chief Executive's Council, this does not necessarily mean that DAA staff working at the community level will necessarily have the requisite influence to get the necessary support for, and action on, important initiatives.

²⁴ *Two Ways Together report on Indicators 2007*, p6

Observations on aligning state and federal policy approaches

As the above discussion illustrates, there are a broad range of state and federal planning initiatives directed towards addressing Aboriginal disadvantage, which also have relevance to Aboriginal child welfare. What is pleasing to note is that there is a reasonably close alignment between the broad areas which are being targeted through all of these endeavours. From a planning perspective, it is also important to note that there are initiatives underway which have the potential to provide an even closer alignment, in relation to both the issues which need to be addressed and how they should be responded to, across all States and Territories. For example, the national framework discussion paper refers to the COAG Working Party on Indigenous Reform seeking to identify duplication and overlap between the Commonwealth and the States. And the Working Party's targeted areas have much in common with the indicators in the *Overcoming Indigenous Disadvantage* reporting scheme. Furthermore, Mr Lynch's submission on behalf of the NSW Government to the Inquiry on Closing the Gap acknowledges the need for specific alignment between NSW's planning processes in this area and the work being done by COAG.²⁵

One illustration of the importance of better Federal-State alignment is the Federal Government's commitment to:

... implementing its *New Directions: An equal start in life for Indigenous children* policy in collaboration with State and Territory governments. The policy includes child and maternal health services with comprehensive mother's and babies services, nurse-led home visiting and Indigenous mothers accommodation fund; early development and parenting support; and early years literacy and numeracy. Local Indigenous leadership, participation and ownership are essential parts of this work.²⁶

This commitment to state-federal collaboration in developing and rolling out this policy has particular benefits in NSW given the existing *NSW Aboriginal Maternal and Infant Health Strategy (AMIHS)*.

The AMIHS was initially funded to run in seven rural locations around NSW. The model has been subject to an extensive three-year evaluation. The evaluation found:

- significantly more women attended their first antenatal visit before they were 20 weeks pregnant
- more women initiated breast feeding, and more were still breast feeding when asked again at six weeks after the baby was born
- there was a significant reduction in the number of babies born preterm, and
- Aboriginal women were very satisfied with the services provided.

In light of these positive (and measurable) results, a further 17 sites had been established as of 1 January 2008.²⁷

This NSW program is significant not only because it illustrates the critical need for alignment in state and federal planning, but also because it illustrates another important issue that needs to be addressed – namely, the need to build a solid evidence base to enable effective planning to take place. This issue of building a solid evidence base will be discussed in section 3.3 of this submission.

²⁵ NSW Government submission to the Inquiry into Overcoming Indigenous Disadvantage, p 6

²⁶ *Australia's children: safe and well – A national framework for protecting Australia's children. A discussion paper for consultation.* Australian Government, May 2008 p24.

²⁷ NSW Department of Health (2006), *NSW Aboriginal Maternal and Infant Health Strategy evaluation. Final report 2005.*

Planning and service delivery at the local community level

Aboriginal communities across NSW are diverse. Individual communities often have very different levels of need and access to basic services. Individual communities have different strengths and some have shown a greater willingness to work with government. Therefore, while it is important to align local community planning and service delivery with broad State and Federal objectives, at the local level, it is equally important to tailor programs and service delivery in a way that responds to the specific needs of local communities.

It has been broadly recognised that a 'one-size-fits-all' approach will not work. In making this point, we are not suggesting that, at a local level, there is a need to depart from the broad Federal priority outcomes outlined on page 14 of this submission. However, what is required at the local level is to identify the extent to which the local community is achieving these priority outcomes, and, in terms of identified shortcomings, what needs to be done to address these. It is also important that processes associated with aligning local community planning with broader state and federal priorities does not lead to a lack of flexibility in the way funding is provided. If this happens, this will prevent potentially successful community driven initiatives from 'getting off' the ground.

One issue that continually stands out in relation to our assessments of agency programs and trials in very disadvantaged Aboriginal communities is that the more agencies do in certain areas, the more gaps in service delivery and capacity they are likely to find. Improving capacity in one area can often highlight other issues that must be addressed. For instance, programs to address infant health can lead to disclosures of previously unreported domestic violence. Action on domestic violence offences can highlight deficiencies in community-based victim support. Programs to tackle substance abuse can raise issues of inter-generational abuse. Employment programs are essential, but are likely to be limited without concurrent action to reduce high rates of truancy, improve school retention, and provide training opportunities for adults who need a second chance at obtaining an education.

The connected nature of these issues is at least partly because of the significant concentrations of disadvantage and the limited agency and community capacity to respond. Communities with the greatest needs are also often among the least equipped to deal with these deficiencies because of resource and skill constraints, the limited availability of community-based services in those locations, and the challenges of delivering investigative, medical, mental health, family support and other such specialist services to far-flung communities. The prevalence of complex, inter-generational and inter-connected issues in some communities can also easily overwhelm the limited capacity of services to respond. For this reason, the various primary, secondary and tertiary services available to local communities need to be delivered in a coordinated way to address Aboriginal disadvantage and related child protection issues in a holistic way. The Commission's *Early Intervention Facts Sheet* notes a number of programs aimed at dealing with these issues in this way.

In our submission to the Commission on early intervention and assessment practices, we acknowledged the need to enhance universal and targeted support services for all vulnerable families, but noted data indicating compelling reasons for prioritising Aboriginal families and communities. With Aboriginal child deaths representing around 20% of the child deaths that we review each year, and with around 70% of Aboriginal child deaths occurring within the first 12 months of a child's life, we welcomed a DoCS and NSW Health agreement to facilitate Aboriginal access to existing prevention and early intervention programs. This measure is consistent with research literature pointing to the benefits of multi-layered strategies and ongoing comprehensive support, particularly for those most vulnerable. Similarly, in commenting on the Aboriginal Maternal and Infant Health Strategy, we noted

that its strength lies with a range of services provided in a coordinated way in recognition of the disparate needs of the service receivers.

The interconnected nature of issues affecting families in high-need areas, underlines the importance of effective communication and planning between government agencies, the NGOs funded by State and Federal agencies, and local Aboriginal community partners. This work is critical if innovations in this area are to make efficient use of scarce resources and respond effectively to community need at the local level. In emphasising the importance of this type of 'interaction', the Productivity Commission noted in its *Framework for reporting on Indigenous Disadvantage* that:

While information on the delivery of outputs is valuable, this Report does something different. The Report framework emphasises the importance of interaction — between sectors and between governments, and with Indigenous people themselves — in achieving good outcomes. Improvements in the wellbeing of Indigenous Australians will require the involvement of more than one government agency, and will need action on a whole-of-government basis²⁸.

Although our work in reviewing agency partnerships with local Aboriginal communities and services has shown that programs and services are often delivered in a fragmented way at the local community level, recent developments in this area are encouraging. The Department of Premier and Cabinet's submission to the Commission regarding its recent work with the Commonwealth through the COAG working group on Indigenous disadvantage, included considering the 'development of collocated family centres serving Aboriginal communities' as a possible priority initiative.²⁹ Although there is little available detail on what this scheme might involve, if it is effectively implemented it has the potential to give Aboriginal communities much easier access to suites of services aimed at providing a continuum of care. Clearly, DoCS' interest in trialling ways to enhance case worker support for high-need areas should be factored into planning for the collocated family centres.

Finally, in order to support planning processes, there is a need to capture solid data in relation to the nature and extent of need in local communities, and build a strong evidence base about the type of programs and services that appear to work. These issues are discussed in further detail in section 3.3 of this submission.

NSW policy to coordinate action on child sexual assault

The need to tackle the issue of Aboriginal child sexual assault is perhaps the best illustration of the need for agencies to build partnerships with local Aboriginal communities in order to effectively implement important federal and state policy objectives.

It is important to note significant developments at a Federal level, such as the recently completed review of the Northern Territory Emergency Response. As this review process will be ongoing, any lessons learnt from this exercise, together with relevant initiatives from other jurisdictions, should be used to help inform our response to tackling Aboriginal child sexual assault in NSW.

Of the many areas where closer interagency cooperation is needed to enhance service delivery to Aboriginal communities, the *Interagency plan to tackle child sexual assault in Aboriginal communities 2006-2011* is arguably the most significant. The initial focus has been on identifying agencies' various responsibilities for undertaking specified actions under the plan. While the planning work appears to be reasonably well advanced, there is clearly a great deal to be done.

²⁸ *Overcoming Indigenous disadvantage 2007 'The Framework'*, p.2.1

²⁹ Department of Premier and Cabinet, *Submission to Special Commission of Inquiry into Child Protection Services*, April 2008.

Published in 2007, the plan is meant to be a 'whole of government' response to child sexual abuse within NSW Aboriginal communities. It essentially outlines the NSW Government's strategic policy response to the Aboriginal Child Sexual Assault Taskforce's 2006 report, *Breaking the Silence: Creating the Future*, and focuses on law enforcement, child protection, early intervention and prevention, and community leadership and support. The report emphasises that interagency cooperation and community support are needed to achieve progress in relation to each of the four key areas.

A related development is the *NSW Joint Investigation Response Team (JIRT) Review* conducted by NSW Health, DoCS and the NSW Police Force and completed in November 2006. The review explained key deficiencies in current investigative work involving Aboriginal communities, and set out ways that agencies could use JIRTs to address these issues. Five of the report's 18 recommendations related to targeting Aboriginal sexual assault, noting the need for:

- a designated support person for every Aboriginal child
- JIRTs with significant numbers of Aboriginal referrals to develop a plan for regular pro-active engagement with Aboriginal communities in the area
- JIRT agencies to attract and retain more Aboriginal staff
- relevant cultural awareness training for all JIRT staff, and
- a working party of Aboriginal representatives and JIRT staff to develop a culturally appropriate JIRT model of intervention.

Significantly, the NSW Police Force has incorporated a number of these recommendations into its revised Aboriginal policy. With the introduction of the *Aboriginal Strategic Direction 2007-2011*, the NSW Police Force signalled a clear commitment to developing and extending its work in at least two key areas:

1. The new policy includes a specific objective (with associated strategies) to improve the police response to sexual assaults in Aboriginal communities, including specific measures to improve JIRTs and the investigation of child sexual assaults; and
2. It outlined a plan for police to develop a strategic response to Aboriginal substance abuse.

As the new *Aboriginal Strategic Direction* was being developed, we advised police that our auditing of police work with Aboriginal communities should also change to accommodate these two new elements. For this reason, we plan to adopt a more targeted approach, conducting fewer comprehensive audits and focusing more on police progress in developing strategies to tackle sexual assault and address substance abuse, and the links with other services and groups needed to achieve positive outcomes. As a first step, we sought police advice on how measures to implement the plan will intersect with related strategies, including police policies and plans, those of other agencies, and 'whole of government' instruments such as the State Plan. The detailed response recently provided by police will help shape our auditing of police work with other agencies and Aboriginal communities.

The success of our use of local command audits and assessments to hold police to account for delivering on their policy commitments was commended by the Aboriginal Child Sexual Assault Taskforce and noted in its *Breaking the Silence* report:

ACSAT has noted that NSW Police is being held accountable against its Aboriginal Strategic Direction policy through regular audits by the NSW Ombudsman. This is proving effective and

*real improvements have been made in police relationships with Aboriginal communities and in service delivery.*³⁰

ASCAT subsequently advocated that this Office be given powers to play a more direct role in reviewing or auditing the implementation of its recommendations and hold various agencies to account for their commitments in this area:

Recommendation 21. Legislate [for] the NSW Ombudsman to conduct a review/audit of the implementation of the Aboriginal Child Sexual Assault Taskforce Recommendations in a holistic context. This review would consider whole of government responses as well as the responses of:

- i. NSW Police
- ii. Department of Community Services
- iii. NSW Health
- iv. Joint Investigative Response Teams
- v. Department of Education and Training
- vi. Department of Corrective Services
- vii. Department of Juvenile Justice.

In relation to this recommendation we note that no legislation has been passed or any approach made to this Office to review/audit the implementation of the taskforce's recommendations.

We also note that the DAA has the primary responsibility for coordinating a 'whole of government' approach to implementing the interagency plan to tackle child sexual assault. However, we remain committed to examining at least the policing side of this issue – as far as our resources allow – and have met with the DAA to ensure our own work in considering the response by police to this issue complements rather than competes with DAA priorities.

While we have yet to finalise our methodology for examining this issue, our Aboriginal Unit is currently meeting with communities across the state for the purpose of assisting us in determining which particular issues we should target. These consultations have included meeting with key service providers, elders forums, and a number of women's groups and men's groups that are emerging in many locations.

Similarly, through our discussions with Aboriginal communities about police programs to address family violence and divert youth from offending behaviour, we are often given insights into sexual assault and risk-taking behaviour. For instance, in several country commands we have been approached by individuals voicing concerns about minors in their community regularly meeting truck drivers at particular locations and agreeing to have sex in exchange for alcohol, cannabis and/or amphetamines. In other locations, we have been told about sexual assault allegations involving family members, members of community or outsiders. These issues are almost always raised by senior Aboriginal women in the community, and occasionally by advocacy services or other services working closely with local people.

On each occasion, we obtain the informant's agreement for us to provide particulars to the local commander so police can investigate the allegations and look at what action can be taken. Commanders invariably undertake to speak to the people involved, but are often already aware of the allegations and, in many cases, had already tried to obtain formal statements or some other investigative action. A common problem is that victims rarely come forward, even when approached and even when they want the abuse to stop. Aboriginal leader Lowitja O'Donoghue recently commented on why Aboriginal communities often resist, and

³⁰ ACSAT, *Breaking the silence: Creating the future*, Attorney General's Department NSW, 2006, p.143.

sometimes strongly resist, police and welfare agency attempts to address issues such as child sexual assault:

*Many of my people have deep-seated fears about being removed from their communities by white fellas. It is a real issue in relation to welfare interventions and imprisonment. It is partly why a code of silence surrounds abuse in Aboriginal communities because people do not want to see the fracturing of families and communities again.*³¹

Police have a responsibility to act and must start somewhere. Although charges and successful prosecutions are rare, police occasionally have success implementing prevention strategies, such as using PCYC or youth officers to devise ways to engage young people who have sex with adults in order to obtain drugs. Even if they can't get the evidence to prosecute the perpetrators, police can at least work with communities on strategies that attempt to prevent the behaviour.

In our view, the most urgent area that needs to be addressed is to find ways to get victims to come forward and to have their matters put before the courts. The JIRT review recommended ways to provide better support to Aboriginal communities in relation to investigating sexual assault allegations. While it is important to implement these kinds of strategies as part of good investigative work, there is also a need for additional measures to build trust in the quality of services provided and strengthen agencies' relationships with local Aboriginal communities. Without strong links between local service providers and the communities they work in, investigators are unlikely to overcome the 'code of silence' that can prevail.

In terms of the police role, they cannot build an environment for 'disclosure' on their own. In most cases, they will need to work closely with members of the community and staff from other services – government and non-government services – to gain the trust of victims and provide necessary supports. It is also important to note that success in building community and agency capacity in this area may lead to disclosures of inter-generational abuse. As such, agencies and their community partners must be ready to find ways to support women who were victimised as children, as well as the current generation of children and young people subject to various forms of abuse and neglect. This is where Aboriginal staff recruited, trained and supported by agencies can play a critical role in providing crucial supports.

The difficulties that agencies are experiencing in responding to child sexual assault in Aboriginal communities highlight some of the many practical challenges for agencies required to deliver on their policy commitments to Aboriginal people. Even when supported by extensive policy and planning, and subject to various reporting and monitoring requirements, there is no guarantee of success. And although child sexual assault is necessarily a priority issue, it is just one of many policy areas requiring urgent attention.

We also have a number of specific concerns about some of the challenges relating to responding to Aboriginal child sexual assault.

One concern relates to the fact that the JIRT team based at Dubbo must service a range of communities across a very broad area. This raises real questions about how effectively child sexual assault can be dealt with in many of these areas.

A further concern relates to the adequacy of support provided to Aboriginal child sexual assault victims. While the recommendation from the JIRT review regarding the provision of a designated support person for every Aboriginal child sexual assault victim is a positive initiative, it will be important to assess what kind of real support will be able to be provided. We understand that 'cross agency planning' is currently taking place to outline the nature of

³¹ 'O'Donoghue bows out, her heart heavy over inaction', *Sydney Morning Herald*, p6, 28 May 2008.

the support required. The current lack of Aboriginal child sexual assault counsellors across NSW is but one illustration of the need to translate policy into practice in this critical area of support. While in some areas 'mainstream' sexual assault counsellors are available; in other areas, particularly more remote communities, there are no services of this kind available.

A related problem is how to support adult victims who were abused as children. We believe that this group represents a potentially significant source for reporting child sexual assault offenders. For this reason, we believe that the work which is being done around supporting child sexual assault victims should also take this group into account.

Another issue relates to the lack of availability of forensic medical services for sexual assault victims in certain parts of the state. For example, a child who has been sexually assaulted in Brewarrina may have to travel to Orange or Bathurst for a medical examination. A relevant factor is the requirement for general practitioners rather than registered nurses to perform sexual assault examinations on children under 16 years of age. It has been suggested to us that, if appropriately trained and supported registered nurses were able to perform this role through local Aboriginal medical services and/or other local health services, this would encourage reporting by victims and reduce the trauma associated with this type of examination. In any event, what needs to be addressed as a matter of urgency is the completely unacceptable situation of sexual assault victims having to travel large distances for the purpose of forensic medical examinations.

While the *Interagency plan to tackle child sexual assault in Aboriginal communities* and related agency plans strongly emphasise building trust within communities as an important part of encouraging victims to report, this is likely to require a significant long-term commitment of staff performing this kind of work before 'results' will be evident. For example, the work carried out in the Halls Creek area of Western Australia in successfully bringing a number of matters to the prosecution stage, came on the back of relationship-building over a significant period of time. Therefore, we believe that it is critical to examine whether we have the resources on the ground to invest in this kind of relationship-building and if so, whether it actually translates into measurable outcomes which indicate important breakthroughs in identifying offenders and/or protecting victims.

The NSW government recently announced an injection of \$22.9 million of funding over four years to 'combat child sexual abuse through the expansion of Safe Families in the Orana Far West region.' What will be important to assess is the impact of this additional funding and whether other high need communities would benefit from similar levels of support.

Following the *Breaking the Silence* report, community members regularly spoke to us about their hope that things would change. Subsequently, the National Indigenous Violence and Child Abuse Intelligence Task Force (NIITF) representatives commenced their consultations with Aboriginal communities in NSW. From our discussions with these representatives, we are aware that significant numbers of disclosures of abuse have been made across communities. We know that the issue of child sexual assault is being discussed at local community forums, in connection with the work being done around the implementation of the *Interagency plan to tackle child sexual assault in Aboriginal communities* and the NIITF consultations.

Against the background of all this activity, we are concerned that, if there is a continuing sense from within Aboriginal communities that nothing has changed because known perpetrators remain untouched, this is almost guaranteed to lead to a cycle of cynicism and/or despair. For this reason, we believe that how well the issue of child sexual assault is addressed will come to represent an important symbol for Aboriginal people in this State.

In January 2008, the NSW Government submission to the Inquiry into Overcoming Indigenous Disadvantage,³² the areas where it believed 'significant progress' had been made in implementing the *Interagency plan to tackle child sexual assault in Aboriginal communities*. While we acknowledge the importance of a number of the areas outlined, it is clear that much still needs to be done. In this regard, we are keen to see whether the many 'activities' taking place lead to increased formal reporting to police of child sexual assault by victims and other community sources along with the development of successful strategies to prevent and/or reduce the incidence of child sexual assault. The success of the plan should also be measured in terms of whether there is an increase in the number of prosecutions and convictions over time. However, a long term goal should be a reduction in the incidence of child sexual assault.

Finally, we note that as Aboriginal child sexual assault is a significant issue on the national agenda, it is important for NSW to seek to align its practices with what is shown to work in other jurisdictions. We also note that, as the Northern Territory Emergency Response illustrates, responding appropriately to child sexual assault also involves responding to broader social issues which leave children vulnerable.

3.3 Building an evidence base

Performance reports and related data capture

Earlier in this submission we noted moves to align state and Federal planning in the areas of Indigenous disadvantage and child protection. The Federal Government's discussion paper on building a national child protection framework also acknowledges that both the AIHW and the Productivity Commission have highlighted the need for jurisdictions to move towards more consistent data, information and performance measures for child protection and welfare issues. The paper also specifically recognises the need to capture specific data relating to Aboriginal children to enable the measurement of progress towards reducing the over-representation of Aboriginal children in the child protection system. (As noted previously, there is also a strong relationship between child protection indicators and the broad welfare indicators which have been developed by the Productivity Commission.)

It is worthwhile noting that the DAA's *2007 Report on Indicators* attempts to more closely align its performance indicators with the indicators in the Productivity Commission's Overcoming Indigenous Disadvantage framework and the State Plan. However, the DAA's 2007 report acknowledges that more needs to be done to improve the alignment of these indicators with the federal OID framework.

The Productivity Commission's *Overcoming Indigenous Disadvantage: Key Indicators* reports have been an important part of broader Council of Australian Governments (COAG) efforts to improve accountability and track progress in this area. The 2008 Federal Budget includes additional spending to improve data collection on Indigenous children. This will assist in providing the necessary data to allow us to determine whether the targets set by the Federal Government to close the gap in disadvantage between Indigenous and non-Indigenous Australians are being met over time.

On 13 May 2008, the Minister for Families, Housing, Community Services and Indigenous Affairs, the Honourable Jenny Macklin, MP released a statement commenting on the budget in the context of the Federal Government's closing the gap commitments. In relation to the need for transparency and accountability, the Minister commented:

³² Outlined at pages 29 to 30.

Through the COAG Working Group on Indigenous Reform we will be progressing arrangements for independent national monitoring and reporting of progress against agreed targets.

On 20 March 2008 the Prime Minister announced the establishment of a new National Indigenous Health Equality Council to assist in the development and monitoring of targets relating to life expectancy and child mortality.

These arrangements will complement, and not duplicate, other accountability arrangements including the Overcoming Indigenous Disadvantage reporting framework, program performance reporting, the National Aboriginal and Torres Strait Islander Health Performance Framework, and new arrangements being established to monitor performance through Specific Purpose Payments. They will complement the framework being developed by Commonwealth and State Treasurers to report on overall expenditure on Indigenous services funded from mainstream and Indigenous-specific sources.³³

We believe that it is important that the Minister's statement recognises not only the importance of improved data collection and associated reporting but also the need to 'complement and not duplicate' existing reporting frameworks.

While it is important to monitor progress from a State and Federal level, we also believe that it is important for 'the data' to tell us what's happening at a local community level. Furthermore, the type of information collected about local trends should be consistent with the broad indicators adopted at the State and Federal levels.

On 21 June this year, the *Sydney Morning Herald* ran an article about living conditions in Toomelah. The article illustrates the need for data to be available about local communities. An underlying theme was whether circumstances had improved in Toomelah since the time of Justice Marcus Einfeld's visit in 1987. The difficulty in answering this question relates to the lack of available data. One important element of the Northern Territory Emergency Response is the commitment to an evidence-based approach to assess the extent to which the measures being implemented are making a difference to the lives of the children within the affected communities. Given the diversity of Aboriginal communities, and the high levels of need in particular communities, we believe that there should be a similar commitment within NSW to capturing 'local' data across communities as an integral part of the planned improvement to data collection and reporting processes.

Associated research

In addition to capturing and analysing data, there is also the need to better evaluate what does and what doesn't work. Our research indicates that in NSW and elsewhere, there is currently a lack of available information about the effectiveness of particular initiatives and the reasons why they fail or succeed. In this regard, the DAA's 2007 report acknowledges that:

Many of the initiatives aimed at reducing Aboriginal disadvantage are targeted in specific locations', in recognition of the need to avoid the 'one size fits all' approach. Ultimately such information is required to build an evidence base of what works to close the disadvantage gaps.

We fully support the need for further research of this kind to be conducted. Information provided by the DAA in its 2007 report relating to 'Families and Young People' provides descriptions of several initiatives such as the Aboriginal Intensive Family Based Service and the Aboriginal Child, Youth and Family Strategy. However, there is neither information about the reasons why these particular strategies have been highlighted nor any information about

³³ Statement by the Honourable Jenny Macklin, MP, Minister for Families, Housing, Community Services and Indigenous Affairs on the budget as it relates to closing the gap between Indigenous and non-Indigenous Australians 13 May 2008.

their success or otherwise in the report. By contrast, the NSW Government's submission to the Inquiry into Overcoming Indigenous Disadvantage has reported on a number of concrete results over a ten year period in relation to the Aboriginal Communities Development: Housing for Health Program including:

Since 1998 *Housing for Health* has been delivered to approximately 2,100 houses in 66 communities in NSW. With some 38,400 items fixed, approximately 8,500 people have benefited from HIH. Recent analysis by NSW Health has indicated improvements in some environmental health conditions (such as skin infections and gastrointestinal infections) in Aboriginal people in local government areas where Housing for Health has been delivered; however, direct cause and effect relationships are unable to be established.

- A 10-fold increase in electrically safe houses (which reduces injuries and saves assets);
- A 5-fold increase in fire safety in houses (which reduces injuries and saves assets);
- A 3-fold increase in ability to wash people, particularly children (which reduces infections);
- A 7-fold increase in ability to wash clothes/bedding (which reduces infections);
- A doubling of satisfactory waste removal – such as a working toilet (which reduces infections); and
- A 6-fold increase in ability to store, prepare and cook food (improving nutrition).³⁴

Earlier in this submission we highlighted the outcomes from the Aboriginal Maternal and Infant Health Strategy – the results from this program were also referred to in the NSW Government's submission to the Inquiry into Overcoming Indigenous Disadvantage.

As previously noted, the need to evaluate the effectiveness of programs aimed at strengthening Aboriginal communities is not only a challenge for this state. In this regard, the Productivity Commission's reports on overcoming Indigenous disadvantage have sought to address the dearth of research about 'what works' by including case studies that highlight positive outcomes. While this is a good practical measure, to some extent it underscores, rather than resolves, this need for robust research. Against this background, it is worthwhile noting the Federal Government's recent commitment in the 2008-09 budget to building policy and practice upon a solid evidence base through the establishment of a national clearinghouse on best practice and successful Indigenous programs.

When considering the diverse range of federal, state and local programs which have relevance to addressing Aboriginal disadvantage and child protection, and the significant funds expended, there is an overwhelming case to support building a much better base of knowledge about what works and what doesn't. In this state, a number of key child protection initiatives relevant to Aboriginal communities either have been or are being rolled out, including:

- integrated case management
- Tirkandi Inaburra
- the Aboriginal intensive family based services
- Brighter Futures and its proposed link to the Aboriginal Maternal and Infant Health Strategy
- various community consultation mechanisms that focus on involving Aboriginal people in planning and change initiatives³⁵

³⁴ NSW Government submission to the Inquiry into Overcoming Indigenous Disadvantage, p10

³⁵ We note that the community working parties established as part of the Murdi Paaki COAG trial have been the subject of an independent evaluation.

- care circles
- KARI Aboriginal Resources Inc. Health care trials
- cultural support planning for Aboriginal children in out-of-home care
- various employment initiatives developed by agencies and Aboriginal services
- specific initiatives associated with the *NSW Interagency plan to tackle Aboriginal child sexual assault*, including the Nowra Aboriginal child sexual assault project³⁶
- the Toomelah/Boggabilla project and, in particular, the impact of the child protection team's work as a part of this project, and
- JIRT reforms, particularly those relating to Aboriginal children.

In noting these initiatives, it is important to recognise that a number of these programs have been or will be evaluated and that DoCS has substantially improved its research capacity over recent years. Nevertheless, consistent with the Federal Government's commitment, we believe that there is considerable scope to improve the extent and quality of our research (and related data collection and analysis) to determine the strengths and weaknesses of particular initiatives and the impact that they have delivering solid results across communities against the key 'welfare' indicators.

3.4 Expanding the frontline workforce

From our work, we have found that a significant challenge agencies need to confront is the requirement to have significant numbers of high quality staff working in Aboriginal communities. If this is not achieved, then any attempt to improve service delivery will fail.

Providing the necessary number of frontline workers requires concerted action on at least two fronts:

- measures to specifically recruit, retain and train additional Aboriginal staff, and
- attracting suitably experienced Aboriginal and non-Aboriginal staff to high-need locations, particularly in rural and remote areas.

Recruiting and retaining Aboriginal staff

An agency's efforts to recruit and retain Aboriginal staff can play a critical role in shaping Aboriginal community perceptions of that agency, and of its willingness to work with Aboriginal people. In this context, it is important to note the considerable time, effort and funding that DoCS has invested in strategies to enhance its Aboriginal workforce. As part of its *Aboriginal Strategic Commitment 2006-2011* to provide better services for Aboriginal people, DoCS has succeeded in increasing its Aboriginal caseworkers and other staff from 2.5% of all DoCS' staff in 2002-03, to 7% today. This is a considerable achievement. In addition, 10% of all DoCS case workers are now Aboriginal, retention rates are improving, and there are enhanced training, mentoring and other programs to improve the skills and career prospects of these recruits. According to figures provided to the Commission, 20% of DoCS' casework staff in the Northern and Western regions are Aboriginal. However, DoCS concedes that many more are needed in these areas, and that the organisation faces particular difficulties in attracting and retaining staff – not just Aboriginal staff but staff generally – to work in complex, high-need Aboriginal communities.³⁷

³⁶ Other sites will be identified in due course.

³⁷ *Aboriginal Communities*, DoCS submission to the Special Commission of Inquiry into Child Protection Services in NSW, April 2008, p 9-10.

There is scope for other agencies to do more to enhance the recruitment and retention of Aboriginal staff. In the case of police, for some time we have been pressing for improvements in their recruitment of Aboriginal staff, including the need for much tighter counting rules to provide a more accurate picture of how many Aboriginal employees are entering and leaving the NSW Police Force.³⁸ Until mid-2006, we had been receiving regular updates on the force's commitment to reviewing and revitalising its Aboriginal employment strategies – a key recommendation of our 2005 report to Parliament, *Working with local Aboriginal communities*. By June 2006, police had even produced a draft *Aboriginal Employment Strategy 2006-09*. Despite positive and sometimes very creative Aboriginal employment initiatives implemented in a handful of individual commands in 2006 and 2007, it became apparent that progress in other parts of the organisation had stalled. In late 2007 we formally sought the Commissioner's advice on the organisation's progress towards formalising its policy. We have recently been advised that the police Aboriginal employment policy has been updated and will be released soon. A draft copy provided to us for comment indicates that the revised strategy has the potential to produce much-needed progress in lifting recruitment and retention of Aboriginal staff across the NSW Police Force. If this is achieved, it has important implications in terms of the ability of police to respond to child protection and family violence issues within Aboriginal communities.

Utilising Aboriginal staff

A related challenge is how increases in Aboriginal recruitment might be used to complement agency efforts to address the particular needs of Aboriginal client groups. In evidence to the Special Commission's public forum on Aboriginal Communities on 24 April 2008, Mr Julian Pocock, executive director of the Secretariat of National Aboriginal and Islander Child Care (SNAICC), cautioned against recruiting big numbers of designated Aboriginal staff to suddenly tackle the legacy of years of neglect in Aboriginal communities. He said that after the Gordon Inquiry in Western Australia, the then Department of Community Development succeeded in recruiting significant numbers of Aboriginal staff, but:

... the first thing they got them all to do was to go out to all the communities and tidy up all the dirty business that the department hadn't sorted out for many years, chase up all the funding agreements that no one had done an acquittal for, talk to all the communities about all the really hard things, and that is what often tends to happen, in our experience, in these large departments. The Aboriginal workers get sent out to do the really hard, dirty work that no one else in the department wants to do, and then people get surprised when they meet conflict and potential breaks of those positions are rife.³⁹

In our auditing of police work with Aboriginal communities we have found that Aboriginal police officers can sometimes face similar issues when posted to communities with large Aboriginal populations. This is especially challenging if the communities they work in are high-need and include a number of their own relatives. The NSW Police Force generally tries to accommodate the desire of many Aboriginal police officers to live and work relatively close to their home communities so they can maintain their connections with family, kinship networks and country, but it tends to avoid placing them directly in their home communities where they risk being confronted with having to police family or friends. On the other hand, we have also found instances where Aboriginal officers can succeed in these situations, especially more experienced officers. Despite intense community scrutiny and other challenges associated with such postings, these officers can be very effective in the work they do – especially after gaining good professional experience elsewhere.

³⁸ At least part of the recent lift in the number of Indigenous people employed by the NSW Police Force can be attributed to an increase in the number of existing employees willing to identify as Aboriginal or Torres Strait Islander. While this is positive, as it indicates that the organisation is creating a culture that is more accepting of Aboriginal people, it is also important to establish whether recruitment programs are successfully attracting new Aboriginal recruits.

³⁹ Transcript, Aboriginal Communities forum 24 April 2008, p16.

While police Aboriginal Community Liaison Officers perform a different role to Aboriginal police officers, it is nevertheless significant that over the years, we have found many examples of ACLOs who are adept at balancing their position as community members with their professional responsibilities. However, from our work it would appear that what is needed is for agencies to recognise the unique pressures on frontline Aboriginal staff who opt to work in communities where they have strong family or kin connections, and to provide them with appropriate supports.

A related issue is the importance of mentoring Aboriginal staff to encourage retention, especially in the early stages of their careers. This is especially the case in criminal justice, welfare and other agencies, as the history of poor relationships with Aboriginal people can create additional pressures on Aboriginal staff in those agencies. Peer support networks can also be useful in helping these staff through difficult periods and in developing their potential. This issue of mentoring is particularly important in situations where there is only one Aboriginal staff member employed by an organisation.

Agencies also need to ensure that they use their staff effectively, and value the goodwill that their work can generate among Aboriginal communities. Sometimes, simply having Aboriginal people in key positions can make a huge difference to how an organisation is perceived. For instance, many health sector agencies have made their services more responsive to Aboriginal communities by employing and training Aboriginal outreach staff, creating teams of Aboriginal and non-Aboriginal staff with a mix of skills to support each other when working with communities, and in placing Aboriginal people in key positions of responsibility.⁴⁰

Where Aboriginal staff are performing a relationship-building or educative role beyond that expected of their non-Aboriginal peers, there can be a need to recognise this through higher remuneration or adjusting their workloads. DoCS noted this issue in its *Aboriginal Communities* submission:

Many other agencies rely on Aboriginal Community Liaison Officers to support non-Aboriginal professional staff in engaging Aboriginal communities. DoCS' strategies build this community engagement aspect of DoCS' work within the care functions of caseworkers. This means that DoCS' Aboriginal staff have time allocated in their workload planners in recognition of the different communication requirements, respectful cultural approach and trust building strategies required. Different program streams may engage in particular ways for example Brighter Futures caseworkers may have differing approach to JIRT caseworkers.⁴¹

However, we also recognise that it is important that agencies do not rely too heavily on Aboriginal staff to build bridges with local Aboriginal communities. While important, their work in relationship-building should be part of wider actions and initiatives. For attitudes to change and programs to be effective, individual agency staff at all levels must play their part in improving communication and creating partnerships with key Aboriginal individuals and organisations.

Our extensive work in the policing field has clearly demonstrated to us the excellent relationships which can be built when there is a shift in the culture of a workplace towards forming genuine partnerships with Aboriginal people. We have found that the quality of relationships is largely dependent on how the day-to-day work is carried out within communities and can be reinforced through formal and informal relationship-building

⁴⁰ In this regard, we are aware of programs run through the Aboriginal Maternal and Infant Health Strategy and in the Aboriginal mental health field that have adopted the approach to which we have referred.

⁴¹ *Aboriginal Communities*, DoCS submission to the Special Commission of Inquiry into Child Protection Services in NSW, April 2008, p14.

measures. Formal initiatives include senior and specialist staff participating in key interagency groups, convening community forums or establishing programs to tackle specific issues. Informal measures are also important, enabling agencies to focus on breaking down barriers by creating positive contact between staff at all levels and members of the community, including staff attending NAIDOC celebrations, Aboriginal gatherings or organising sport for young people.

Resourcing high-need locations, especially in rural and remote areas

While enhancing and developing agencies' Aboriginal workforces may expand the opportunities for, and capacity of, agencies to engage with Aboriginal people generally, this will not necessarily resolve the capacity shortfalls that frequently impair service delivery to outlying locations. As noted above, DoCS' apparent success in recruiting significant numbers of Aboriginal employees has not resolved the particular difficulties associated with attracting both Aboriginal and non-Aboriginal staff to complex, high-need Aboriginal communities. Specific measures are often needed to address this issue.

Our work with frontline agencies and Aboriginal communities across NSW has repeatedly highlighted the importance of the adequate resourcing of high-need locations. As the following example shows, staffing shortfalls can impact significantly on an agency's capacity to deliver services. Conversely, dealing effectively with basic service capacity issues can pave the way for engaging Aboriginal communities on more difficult issues:

RECRUITMENT PAVES WAY FOR SERVICE INNOVATION

Our initial review of police work with Aboriginal communities in Walgett and surrounding towns in September 2003 found that chronic staff shortages were crippling any prospect of positive work with the community. Staff numbers were well below the command's authorised allocation of 59 officers. Of the 12 sergeant positions, nine were vacant for extended periods, including supervisory roles at Lightning Ridge and Coonamble. Staff turnover was high, requiring officers from smaller centres to travel long distances to fill in at busier stations. Goodooga and Collarenebri police regularly filled in at Lightning Ridge and Walgett, and Coonamble relied heavily on neighbouring sectors for support, worsening already-poor response times and adding to the pressures on police. This also reduced the police capacity for crime prevention or other essential planning, giving frontline police few options when responding to high levels of family violence and youth crime, and leaving Aboriginal Community Liaison Officers unsupported and under-utilised. Community and police dissatisfaction was high.

Filling those vacancies was a critical step in turning this situation around. Our follow-up audit in 2005 found vast improvements, with vacancies filled throughout the command, a fully staffed crime management unit, strong and diverse police links with Aboriginal communities, innovative crime prevention strategies in place, and much better police support for outlying communities. The enhanced supervisory and frontline capacity greatly improved service delivery, lifting staff morale and boosting community confidence in police. For instance, the improved staffing – including the recruitment of a female ACLO – and various other relationship and capacity-building measures enabled police to establish innovative partnerships with local organisations and individuals to address high rates of domestic and family violence. For the first time, local organisations and individuals became involved in coordinated police attempts to prosecute more domestic assault offences, provide better follow-up and support to victims, and trial measures to rehabilitate perpetrators.⁴²

⁴² Ombudsman audits of police work with local Aboriginal communities in Castlereagh Local Area Command, 2003 and 2005.

Resourcing in the Western region

On this issue of resourcing high-need locations, a particular concern that we have is the need for DoCS and other service providers to address certain resource deficiencies in the Western Region.

Concerns raised with us by the Brewarrina Shire Council in August 2007 about family violence and child protection issues in that area, together with information we have received from our own work in the Western Region led to us:

- pursuing with DoCS how it might improve its caseworker presence and service delivery in that region
- seeking specific advice from NSW Police Force as to the status of its plans for responding to Aboriginal child sexual assault, and
- consulting with DAA on its coordinating role in relation to the NSW interagency plan to tackle child sexual assault.

From these discussions we are aware that DoCS is considering particular strategies to both increase caseworker numbers to cover high-need areas and provide its staff with better infrastructure and support. In supporting this initiative, we have asked DoCS to identify the communities likely to benefit the most from this approach and the anticipated increase in the number of operational positions. We have also asked DoCS to consider this planned increase in child protection case workers in the context of its other work in this region such as out-of-home care and family support services (including early intervention services). We are mindful that an increased child protection presence without a corresponding strengthening of family support services may result in a community backlash. Furthermore, increased child protection intervention is also likely to require increased out of home care options across the region. Although we put these issues to DoCS in the form of a written request for information in November 2007, the department is yet to provide us with specific advice on these issues. Furthermore, recent police advice regarding agencies' respective contributions to implementing actions in the interagency plan to tackle child sexual assault in Aboriginal communities indicates that police are also awaiting DoCS advice on a number of important issues.

The current lack of detailed plans from DoCS might be viewed negatively. However, we are optimistic that the delay is more about the need to 'get right' a range of initiatives that are designed to strengthen service coordination and responses to vulnerable communities. In this regard we were pleased to see the \$22.9 million announcement in the State budget to combat child sexual abuse through the expansion of the Safe Families to the Orana Far West Region. In the context of recent discussions that we have held with a number of key stakeholders about the needs of the Western Region and other 'isolated' areas across the state, we are hopeful that this announcement is linked to a broader response for dealing with serious child abuse and neglect issues in these areas.

The need for incentives

What also needs to form part of any strategy to attract staff to outlying locations is incentives. The use of incentives to fill vacancies in rural and remote locations is often the fastest and most effective way for frontline agencies to attract suitably qualified staff and address service deficiencies in those areas. The law enforcement and education sectors have had proven success in attracting staff to remote locations, largely through incentives such as providing their remote area staff with:

- preferential placement at other locations after serving a set period in remote communities
- higher remuneration and other allowances for additional costs associated with living in outlying locations
- longer annual leave and other special leave entitlements
- purpose-built accommodation, and
- training opportunities and experience to enhance their promotion prospects.

Increasingly, agencies that recognise the importance of employment incentives are also beginning to include partners and families in recruitment and induction processes, assist partners to find work with other agencies in the same remote locations, contribute to travel expenses and fees associated with families sending their children away to school, and provide extended leave and other incentives to encourage good staff to extend their tenure beyond the minimum period. These kinds of incentives recognise the hardship, expense and challenges that can be associated with remote-area work.

While higher remuneration and other incentives will be required as part of the strategies that DoCS and other key agencies develop, high quality staff in these locations will also need to feel that they are being well supported to provide good services. In this regard, it is worthwhile noting the concerns expressed during the Commission's public hearing at Boggabilla on 11 June 2008, during which a number of staff from agencies spoke about service deficiencies and their desire to see an improvement.

A good return on investment

It is also important to acknowledge that we have often received positive feedback from communities in remote locations following the successful recruitment of staff, particularly in circumstances when the new recruit(s) demonstrate that they can work well with communities. This has highlighted to us that key agencies will be much better received by communities if they can demonstrate a genuine commitment to communities through the successful recruitment of high quality staff. In fact, we have found that the successful recruitment of even relatively small numbers of high quality staff can result in very positive community feedback. Conversely, ongoing failure to address staffing and other shortfalls in service capacity can seriously erode a community's confidence in an agency's capacity to deliver effective services. Agencies need to staff these areas adequately if they are to provide effective services, respond to risks and perform early intervention work.

Other options for strengthening service delivery

There are also additional measures agencies can consider to enhance their frontline capacity in remote locations or locations with particular needs. One strategy for towns with large Aboriginal populations, high needs and few frontline services, is to share a designated liaison officer to represent several agencies, coordinate agency outreach visits and assist local Aboriginal residents to access their services. For instance, our review of police work in Narrandera in late 2005 found wide community and agency support for trialling a Multi-Agency Support Officer (MASO) position.

Another approach is to collocate teams made up of staff from different agencies. Collocating teams of staff in this way could enhance agencies' presence and provide easier access to their services, while providing members of the team with better back-up and professional peer support. Earlier in this submission we noted the advice from the Department of Premier and

Cabinet regarding its work through the COAG working group on the viability of collocated family centres to serve Aboriginal communities. This type of innovative thinking represents an important acknowledgement across governments of the need to consider ways in which we can provide a more viable service base to significantly disadvantaged communities.

The SNAICC executive director, Mr Pocock, has presented evidence before the Commission that a more sustainable approach would be for agencies to explore ways to expand their own capacity, while also looking for opportunities to build up the skills within established and emerging NGOs based in the communities they need to engage. Mr Pocock argued that this kind of developmental approach should ideally include a commitment to establishing and mentoring Aboriginal and other community-level NGOs that could, over time, take on more complex and sensitive duties – including certain statutory child protection functions – as part of a broader and more holistic suite of services. The aim would be for government and other agencies to build capacity in community-based Aboriginal organisations, and to eventually situate care and protection services within genuinely grassroots organisations that deliver a range of services, from early intervention to parenting and family support. However, community-based Aboriginal organisations should only take on these broad responsibilities when they are ready for it, and only if they are properly resourced to perform the work.

Although developing this kind of capacity within communities would be difficult and time-consuming, there would be considerable advantages in creating and enhancing the capacity of Aboriginal NGOs to deliver a range of services such as play groups, family support, school transition, therapeutic healing for adult victims of abuse and other such programs. However, in supporting this vision we are not blind to the challenges. Particularly in those communities with the highest levels of need, sourcing significant numbers of Aboriginal staff to deliver these kinds of services would currently be impossible due to acute skill shortages directly linked to the level of disadvantage. In addition, attracting suitably qualified Aboriginal staff from outside these communities to run these services would be difficult to achieve. Therefore, in supporting Mr Pocock's vision, we believe it is important to stress the level of commitment, planning and practical support which would be required to successfully provide a broad range of Aboriginal services which are delivered by Aboriginal people, particularly in relation to certain remote or isolated communities. Having said this, if, over time, we are unable to move in this direction, this potentially raises significant questions about the long term viability of at least some of these communities. On this issue, the lessons which will be learnt from the Northern Territories intervention should be instructive.

4. CONCLUSION

Underpinning much of what we have said in this submission is about the need to see change. In this respect, our unique role has given us access to thousands of community members who have expressed this view to us over the years. Consensus about the need for change is one thing; achieving it is another.

In this submission, we have not seen a need to move away from what has been unfolding at a state and federal level in relation to tackling issues associated with Aboriginal disadvantage and child protection. In this regard, we have spoken about the need for consistency around broad planning frameworks to help meet targets aimed at reducing the level of disadvantage across key 'social' indicators. We have also emphasised the need to map out what needs to be done at a local community level to achieve real progress against these indicators.

It is essential to ensure that base-line data on indicators of need is systematically collected and reported on. A related activity is the need for research about what works and what doesn't. Creating a solid evidence base is critical to informing future planning and program delivery. It is also crucial to establishing a more transparent monitoring and accountability process. We

have also stressed the importance of this kind of base-line data being captured and tracked even down to the local community level. It is essential that we get a good understanding of the circumstances and needs of individual communities and ascertain whether progress is being made.

In concluding this submission, it is apposite to illustrate what we believe needs to take place through giving an example of recent discussions that we have had with leaders from one community in the Western region. In discussions with a community working party representative, he spoke about the desire of the working party to work with the education department to reduce the drop-out rate of Aboriginal children as they move from primary school to high school. His focus was on developing strategies that would lead to measurable increases in the numbers of students who successfully make that transition. Another working party member spoke to us about a forum he was proposing to deal with the impacts of substance abuse on his community. We were also present during earlier working party discussions related to the establishment of a safe house for local children. (Notwithstanding the working party's support and broader involvement from other community members, we have recently learned that there is little likelihood of the safe house proposal being progressed in the immediate future.) If community members who are committed to change do not see results then, over time, this will translate into despondency and inaction.

From our perspective, in order for this to occur, we need to examine:

- the quality of current planning, implementation and accountability processes (including the alignment of these processes with state and federal objectives)
- existing data collection practices and agency performance measures (including the need to provide more detailed information about results rather than activities and outputs)
- the type of partnerships that need to be built between agencies, Aboriginal services and communities to deliver a broad range of holistic services
- the complexity of current funding arrangements and whether there is sufficient flexibility to promote genuinely innovative local initiatives
- what kind of service models are required to respond to the complexity of need, particularly in high need communities, and
- workforce capacity and other resulting requirements to make these models work (including an expansion of the Aboriginal workforce).

Finally, we believe that progress reports need to present a realistic picture not only of the successes but also the unmet challenges in individual communities.



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Bruce Barbour
Ombudsman



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Steve Kinmond
Community and Disability
Services Commissioner and
Deputy Ombudsman