

REPORT ON PROCEEDINGS BEFORE

SELECT COMMITTEE ON HUMAN TRAFFICKING

HUMAN TRAFFICKING IN NEW SOUTH WALES

CORRECTED PROOF

At Macquarie Room, Parliament House, Sydney on Monday, 29 May 2017

The Committee met at 10:00 am

PRESENT

The Hon. P. Green (Chair)

The Hon. N. Maclaren-Jones (Deputy Chair)

The Hon. G. Donnelly

Dr M. Faruqi

The Hon. T. Khan

The Hon. E. Wong

The CHAIR: I welcome you to the third hearing of the Select Committee on Human Trafficking. The purpose of this inquiry is to examine the role and effectiveness of New South Wales law enforcement agencies, legislation and policies in responding to human trafficking. Before I commence, I acknowledge the Gadigal people who are the traditional custodians of this land and I pay respects to the elders past and present of the Eora nation, and extend that respect to other Aboriginal people present or those who may be joining us today on the internet. Today the Committee will hear from various Federal Government departments as well as Norma, the Fighting for Justice Foundation, Scarlett Alliance, the Sex Workers Outreach Project and concluding with the New South Wales Department of Family and Community Services. Before we commence I will make some brief comments about the procedures for today's hearing.

Today's hearing is open to the public and it is being broadcast live on the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with the broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence at this hearing. I urge witnesses to be careful about any comments you may make to the media or to others after you complete your evidence, as such comments would not be protected by parliamentary privilege if another person decided to take an action for defamation. The guidelines for the broadcasting of proceedings are available from the secretariat.

There may be some questions that a witness could answer only if they had more time or with certain documents at hand. In those circumstances witnesses are advised that they can take a question on notice and provide an answer within 21 days. I remind everyone that Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. I therefore request that witnesses focus on the issues raised by the terms of reference of the inquiry and avoid naming individuals unnecessarily. Several seats have been reserved near the loud speakers for persons in the public gallery who may have hearing difficulties. Finally, would everyone please turn off their mobile phones or set them to silent for the duration.

CATHERINE HAWKINS, First Assistant Secretary, Criminal Justice Policy and Programs Division, Australian Government Attorney-General's Department, affirmed and examined

LESA GALE, Manager, Victim Based Crime, Australian Federal Police, affirmed and examined

RYAN PERRY, Director, People Smuggling and Human Trafficking Section, Australian Government Attorney-General's Department, affirmed and examined

PETER RICHARDS, Acting First Assistant Secretary, Community Protection Division, Commonwealth Department of Immigration and Border Protection, affirmed and examined

JOANNE CAMERON, National Co-ordinator, Offshore Criminal Operations involving Australians, Australian Federal Police, sworn and examined

FLORA CARAPPELLUCCI, Principal Adviser, Families Group, Commonwealth Department of Social Services, sworn and examined

The CHAIR: Would you like to make an opening statement?

Ms HAWKINS: I thank the Committee for inviting the Australian government agencies to appear at this inquiry today. I will make a short opening statement on behalf of the Australian government agencies who are here at the table. As we know, the Committee is very aware human trafficking and slavery are important issues and a number of parliamentary committees are currently considering Australia's response to these crimes. Australian government agencies recently appeared before the Federal Parliamentary Joint Committee on Law Enforcement on 10 May 2017 and my statement this morning before this Committee will be similar to the information that we provided to the Australian parliamentary committee recently.

The Australian government has overarching responsibility for Australia's response to human trafficking, slavery and slavery-related practices. Since our comprehensive response to these crimes was established in 2004, we have developed an international best practice strategy to combat human trafficking and slavery. Our strategy is detailed in a National Action Plan to combat human trafficking and slavery 2015-19 and in that National Action Plan we have four pillars that are guiding the work that we do. The first pillar is prevention and deterrence. The second pillar is detection and investigation. The third pillar is prosecution and compliance. The fourth pillar is victims' support and protection.

Over the past 14 years the Australian Government implemented a strong suite of measures to combat human trafficking and slavery. This has included a comprehensive and effective legislative framework that has led to the successful prosecution and conviction of 20 offenders, a specialist Australian Federal Police investigative team that has received more than 750 human trafficking and slavery-related referrals, a dedicated support program and visa framework that assisted more than 340 suspected trafficked people and collaboration with the community through the annual ministerial level National Roundtables on Human Trafficking and Slavery.

We are also committed to continually improving our response to ensure we respond to changing trends and challenges. On that front in 2013 we significantly amended the human trafficking and slavery-related offences that are set out in the Commonwealth Criminal Code to ensure that we are able to combat exploitation irrespective of the industry where it occurs. We also made significant reforms to the human trafficking visa framework in 2015-16 to safeguard the privacy of trafficked people and to facilitate better targeted government support, including improving access to welfare payments and adult migrant English programs.

While we have made, we think, great efforts to combat human trafficking and slavery in Australia we know that there is still a lot of work to be done. It is very important that the community works together to address these crimes as we all have a role to play. As I noted, since the inception of the Australian Government Support for Trafficked People Program in 2004 we have had a total of 342 suspected victims of trafficking identified and supported across Australia. We have got a more detailed breakdown of statistics available from March 2009 when the Australian Red Cross became a service provider for the Commonwealth support program. To give you some New South Wales targeted statistics, for example, the Australian Government has identified and supported a total of 98 suspected trafficked people in New South Wales since 2009. This is a higher number of suspected victims than in other jurisdictions. Of those 98 identified suspected trafficked people in New South Wales, 43 per cent were allegedly exploited in the sex work industry, a further 42 per cent were allegedly subject to other forms of exploitation and 15 per cent subject to forced marriage. I note suspected forced marriage victims have only been referred to the support program since March 2013, because it was around that time that forced marriage was criminalised specifically at the Commonwealth level.

In regards to successful prosecutions, since 2004, seven people have been convicted for Commonwealth human trafficking or slavery-related offences, where the offending took place principally here in New South Wales. As I said at the start of my statement, the Australian government primarily leads Australia's response to human trafficking, but we are of course working close with New South Wales government authorities to combat human trafficking and slavery in a number of ways. Operationally, my colleagues from the Australian Federal Police and the Australian Border Force work closely with New South Wales counterparts to detect and investigate suspected cases of exploitation. The New South Wales Commissioner of Victims Rights is a member of our national roundtable on human trafficking and slavery and in April this year, so just last month, the Australian Government posted a collaborative workshop on forced marriage here in Sydney for frontline New South Wales Government officers and non-government organisations.

The Australian Government remains committed to a future where no one is subjected to human trafficking and slavery and we are very happy to be here today to assist the Committee in its deliberations. One of my team has raised it with your staff, but we have brought two documents.

The CHAIR: You would be happy for us to table those?

Ms HAWKINS: Very happy.

The CHAIR: I think the members have got them.

Ms HAWKINS: They are the National Action Plan to Combat Human Trafficking and then the Interdepartmental Committee Annual Report, which reports on the initiatives in that National Action Plan. I hope that is of assistance to the Committee.

The CHAIR: Thank you very much for that. I just might get straight into it, in terms of some of the hopes that I have for the inquiry. Do you have a comment on having an anti-slavery commissioner and how that may or may not help the overall cause?

Ms HAWKINS: This is something that, of course, has been raised with us, given that the United Kingdom has—

The CHAIR: That is my next question, about the Modern Slavery Act.

Ms HAWKINS: Of course, the anti-slavery commissioner being one of the features of the United Kingdom's Modern Slavery Act. Here in Australia the way we are approaching it currently is, the Attorney-General's Department, are the central agency that is bringing together this whole-of-government response that is set out in the National Action Plan that we have tabled before the Committee. Our Department of Foreign Affairs and Trade has an ambassador for people smuggling and human trafficking, Andrew Goledzinowski, and so together the work that my colleague in the Department of Foreign Affairs and Trade, Andrew Goledzinowski does, in terms of the outward international piece on human trafficking and the work that we lead in terms of garnering whole of government partners at the government level and collaborating, very importantly, with our counterparts in civil society, we see that the kind of role that we are together playing there, does a lot of the role that the United Kingdom anti-slavery commissioner does.

We are coordinating and monitoring government activities, we are publishing reports, doing international advocacy and as I say, doing that very important partnership with our civil society organisation colleagues. But I would say that the national roundtable that is one of the very important parts of the Commonwealth's response to human trafficking is always looking at refining and improving how we do things. We will monitor the results of the two parliamentary committees at the Commonwealth level and here at the New South Wales level.

The CHAIR: This particular person is government supported, it is not an independent role, is it?

Ms HAWKINS: The ambassador for people smuggling?

The CHAIR: Yes.

Ms HAWKINS: Yes, as with all our ambassadors he is—

The CHAIR: One of the comments that has come to me is that it should be an independent role.

Ms HAWKINS: We do understand that that is a slightly different role that the United Kingdom anti-slavery commissioner plays. In fact, we are meeting with him tomorrow, as you may be aware.

The CHAIR: Yes, a few of us will be meeting with him this week.

Ms HAWKINS: That part of it is different. Obviously, my colleague in the Department of Foreign Affairs and Trade and myself are government officials, so to that extent it is different. I do think that different countries have different trends and patterns of offender methodologies, so you want to tailor the response according to what is happening in the country. It is a matter for the Government to decide whether or not it would want to introduce an anti-slavery commissioner, but in terms of the way we have a good show of coordinated whole of government response here and as I say, coordinating with our colleagues in the civil society organisation sector, we are working very closely in collaborating on these issues at the moment.

The Hon. GREG DONNELLY: Thank you all for coming along and thank you for the most important work that the agencies and the departments are doing in this very critical area. I am not quite with some of my questions who best to direct them to, so perhaps if I direct them to you, Ms Hawkins, and obviously anyone can intervene and respond. Around the question of improving and enhancing working with and cooperating with the New South Wales Government and its agencies to assist, obviously at an operational level that is taking place, and I presume is taking place in a satisfactory way, but what are your thoughts about how that might be improved or enhanced? What I was particularly thinking of is obviously you work with individual agencies, perhaps on a particular operation or operations to deal with evidence or intelligence that has come to your attention, but in terms of across all the agencies to try and enhance the horizontal agencies to improve their capacity to cooperate with the Commonwealth agencies so you are not dealing with individuals one at a time, do you see any room for that or are you reasonably satisfied with the modus operandi that is currently working in New South Wales as it applies to yourselves?

Ms HAWKINS: First of all, I thank you for the opening comments you made about how we are working at the moment generally. I think in relation to cooperation, it is one of those issues where there is always room to continue to be looking at how you can improve. I would use the positive example of this multi-agency New South Wales working group that has been set up on forced marriage. I think that that is a good example of, on a particular issue that required the spotlight of attention, given that the Commonwealth had criminalised it only a couple of years ago, that there is this New South Wales working group on forced marriage that I understand has been convened by New South Wales Legal Aid and our own department, Attorney-General's Department at the Commonwealth level is now working with that working group, as are my colleagues from the Australian Federal Police.

The issue there is making sure that the protocol that can be developed by that group, the raft of services that are available at the Commonwealth level, the kind of work that my colleagues in the Australian Federal Police do, the kind of work that is done by New South Wales police, the kind of work that is done by my colleagues in the Department of Social Services at the Commonwealth level and the work that is done by the Department of Family and Community Services, that all of that is actually working in tandem and that there are clear pathways through that, so that people are not falling through the gaps or there is not duplication of service. Would you like to add anything to that?

Ms GALE: Just reaffirming basically that that is the intent—to work collaboratively with our partners. What I would say from a law-enforcement perspective, particularly in New South Wales, is that Australian Federal Police have a dedicated human trafficking team capability and we work very closely with our NSW Police Force counterparts.

Ms HAWKINS: The other thing is, I have been in touch with my counterparts in the New South Wales Justice Department to say that we will be looking carefully at what recommendations come out of this Committee. I have been in this role for a couple of months and we are always looking at how we can refresh and make sure that we are as joined up as possible. Our aim is to make sure all of these government programs that we have are operating absolutely to their maximum efficiency and effectiveness. That is our aim and we will continue to look at ways to continue to improve that.

The Hon. GREG DONNELLY: I turn now to the issue of exploitation in workplaces covered by the Fair Work Act. We effectively have an industrial relations system in Australia now that in the main the Commonwealth presides over if the entity employing is a corporation, which is quite a different position to where we were some years ago when there were shared responsibility between the State and the Commonwealth over industrial relations. Now it is essentially a Commonwealth system of industrial relations and the position of the State has subsided significantly. The State Government has little responsibility in this area because in effect the field is now being covered by the Commonwealth. Once upon a time you had the effect of both State and Commonwealth bodies working in this area of industrial relations and their mere presence had the effect of identifying or establishing that certain things were going on that perhaps should not have been going on.

If the Commonwealth has effectively taken over in the main the field of industrial relations in Australia then it would need a pretty big resource base, particularly for the Fair Work Ombudsman, to undertake the type

of work to cover a substantial number of the workplaces to ensure compliance. I know that you cannot comment specifically on policy, and I am not asking you to, but I am talking about the capacity to deal with a reasonable coverage of ensuring compliance in workplaces and how that is brought about. At the end of the day there are literally tens of thousands of workplaces and that must obviously be placing a great stretch on the Fair Work Ombudsman and the people they employ, to say nothing about the work done by the other Commonwealth agencies with respect to people coming into Australia who find themselves in a Sydney suburban restaurant washing dishes for a pittance or whatever the case may be.

It is a real challenge as to how we tackle over time this issue of exploitation in the workplace when people obviously can be working in thousands and thousands, if not tens of thousands of workplaces. How can we realistically approach that? I apologise if that sounded more like a statement than a question, but I am trying to set the scene. Employment is a very significant part of the economy and some pretty dreadful cases of exploitation do come into the public domain from time to time. It is like looking up at Mount Everest and wondering how we tackle it.

Ms HAWKINS: We could have a very long conversation about all the issues you have raised. In terms of looking at the framework of how we approach human trafficking and slavery-like practices at the Commonwealth level, you have got this very large spectrum of treatment of people, which starts at the very extreme end of slavery—and we are familiar with that kind of egregious conduct—and goes all the way through servitude, forced labour, debt bondage, to unfair exploitative work practices. So we have got different kinds of criminal offences that go through those different levels of conduct. So the kind of issues that you are raising go to a factual question of what kind of exploitation we are talking about. If we are at the end of underpayment of wages, at that kind of level talking about employment matters, then the Fair Work Ombudsman, as you raise, is key for that.

Often underpayment or unfair wages is not going to actually hit the criminal bar of the criminal offences that we have got at the Commonwealth level. So there is an issue there of: What is the nature of the exploitation? As I say, going from very egregious exploitation of slavery, on that spectrum, through to what I hear in your question of more in the employment sphere, and inappropriate conduct that is most appropriately dealt with by the Fair Work Ombudsman. I understand that they are going to appear before the Committee in June. As you know, I am not in a position to go to the heart of what you are talking about. I hear you ask: Do they have enough resources? Is that kind of an appropriate body to be dealing with it? But I guess I just wanted to situate your question in that framework of a spectrum of exploitation. I do not know if that helps?

The Hon. GREG DONNELLY: I think that gives it a context.

Dr MEHREEN FARUQI: I am interested in trying to understand how a victim of human trafficking is treated and processed within the system—for example, let us say someone who did not have a legal right to work in Australia, or has an expired visa, who turned up at a police station and said they had escaped a trafficking situation, where they were being held against their will. What would happen then? I am particularly interested in the immigration side of things.

Ms GALE: I can start and then I will hand over to my colleague. The Australian Federal Police works closely with our State counterparts in how you would initiate a first response to a victim coming into a police station. Again, I think as my colleague mentioned earlier, the level of response depends on the nature of what is being reported. There could also be State offences that are being disclosed and determinations about who is the lead. Certainly if we operate on the premise that this is an Australian Federal police led allegation then we have a dedicated team here in New South Wales. That team would make an assessment on what it is that has occurred to the victim and then we would conduct an investigation and obviously collaborate with our partners. My colleague mentioned before, the Support for Trafficked People program. The Australian Federal Police is the only agency that can refer a victim through that particular program. That obviously has a number of factors for referral, which my colleague can probably touch on in a second, and the criminal justice process being one. In essence we would wraparound support and then we would also conduct an investigation into the allegations that the person has come forth and disclosed to us.

The Hon. TREVOR KHAN: What does "wraparound support" mean? Does that mean putting them in Villawood?

Ms HAWKINS: No. In fact, it is probably a good opportunity for our colleague from the Department of Social Services to talk to that because the wraparound service is positive.

Ms CARPELLUCCI: As my colleague mentioned, the person could be referred to the Support for Trafficked People program. That program is delivered by the Australian Red Cross on behalf of the Department of Social Services and it provides assistance to victims of human trafficking and slavery-like practices. The

program was established in 2004. The Australian Red Cross provides a response to those people; it is available 24 hours a day, seven days a week, 365 days a year across Australia.

The program helps people access a range of supports—that can include case management, identifying suitable accommodation, financial support, mental and physical health support and treatment, counselling and referral for legal and migration advice as well as to develop options for life after they leave the support program. The program has a number of streams. Initially, a person would enter on the assessment and intensive support stream—that is basically the entry stream for the program—and under that stream people are able to have 45 days of intensive support irrespective of whether clients are willing and able to assist with the criminal justice program. That then goes into the next stream, which is the extended intensive support stream—that is a further 45 days of support. They might be able to access that stream, for example, if the AFP has determined that the client is willing but not yet able to assist with the criminal justice process either because they are particularly vulnerable or because of factors such as trauma, ill health or some sort of practical impediment, and this stream is also automatically available to minors and victims of forced marriage. That is kind of the first 90 days of the program.

Dr MEHREEN FARUQI: One of the submissions was by the Josephite Counter Trafficking Project and they said that they visit Villawood Detention Centre to visit victims of human trafficking. Are there victims of human trafficking in Villawood Detention Centre or in any other immigration detention centre in Australia?

The CHAIR: And can you clarify is it human trafficking or people smuggling?

Mr RICHARDS: Victims or alleged victims of human trafficking will have a range of visa statuses; some people will hold valid visas and for those people who do not have a visa there are specific arrangements through the human trafficking visa framework to give them visas.

Dr MEHREEN FARUQI: So there are no victims of human trafficking in Villawood Detention Centre?

Mr RICHARDS: I think the answer to that is obviously where we have any information that would indicate the presence of trafficking or trafficking-like matters, the department has a very low threshold for referral of those matters to the Australian Federal Police. All of our frontline officers—that is from field compliance officers within the Australian Border Force through to staff that are working in our detention facilities—have training around human trafficking and sort of possible indicators. Can I say that there is not somebody who has been trafficked? Obviously, a lot depends on the information that is available to us or what information that somebody is prepared to state for the proper authorities to investigate that. Anybody who comes to notice, as I said, for any sort of low threshold, we would look to regularise their status.

So yes there are people who probably have been located in areas around illegal work who did not hold visas and, depending on the visa pathways et cetera, some of those people might say, "I would like to go home", in which case the processes would apply around trying to facilitate that as quickly as possible. But certainly issues around people's circumstances et cetera are considered both through the compliance but also as people move into the detention framework, if that is appropriate. But certainly the detention of people is based around a risk to the community.

Ms HAWKINS: I think my colleague Commander Gale can add to that too.

Dr MEHREEN FARUQI: I am sorry, I still do not understand. Was that a yes or a no? Are there people in detention centres or not?

Ms GALE: If there was a victim of human trafficking that was identified by the AFP we would not put them in detention. There may be people in Villawood who have not come forward to the AFP relating to the human trafficking claim; that may very well be the case.

Ms HAWKINS: So in that circumstance one of the things that we are always trying to get out there is for a victim of human trafficking or slavery-like practices, for them to get in contact with the AFP because the AFP is the pathway through. So there is a lot of community awareness that we do. Of course, if someone has been trafficked they are probably coming from a country where they do not trust the police, where they are vulnerable, they are traumatised, there are language barriers, all of these things, which is why we work so closely with the community sector to make sure that we can be reaching out. As I say, someone who is in that situation we would be wanting them to contact the AFP.

Dr MEHREEN FARUQI: That was my point, that if people think they are going to be put in a detention centre they are not going to come forward even.

Ms HAWKINS: Absolutely. Just going back to the previous question about wraparound services, these wraparound services are all designed to try to reduce those huge barriers that victims of human trafficking and slavery-like practices have to be able to access the services. So that is why there is this great support program that DSS runs, it is why there is a specific visa framework that Immigration runs and that AFP has these specialist teams. So it is not like you are dealing with an AFP officer that might be going from drug trafficking one day and counterterrorism the next to human trafficking the next day.

Dr MEHREEN FARUQI: If someone was identified in a detention centre who had been trafficked would they be then taken out and given those wraparound services?

Mr RICHARDS: Absolutely, and that is where the framework allows people to receive what we call a bridging visa F, so that they can be back out into the community with the support services.

The Hon. TREVOR KHAN: I suppose that assumes that they are not there for another reason. Simply because you are trafficked would not of itself be a, dare I say, get-out-of-jail-free card if they had been taken into custody for other reasons—for instance, if they had been involved in the commission of an offence and were found to have been here illegally would the fact that they had been the subject of human trafficking result in different treatment from what you would otherwise do?

Ms HAWKINS: Similar to that question before from one of your colleagues about the employment situation, it is going to depend on the facts. If there is an issue that they have separately themselves committed a criminal offence, there is going to be a whole criminal justice process that is proceeding there. So it will depend on the facts. But if they are not actually themselves going through the criminal justice process for anything that they have committed, then they would have access to this.

The Hon. TREVOR KHAN: You have spoken about the wraparound services. Could I go to the circumstances surrounding Mr Manjit Singh? That was a gentleman who was the subject of a coronial inquiry—I can see somebody knows something about Mr Singh—I think it was in 2016, but he died in 2011. He was a gentleman who was employed in, in fact, a restaurant where I used to get my Indian takeaway, in Oxford Street, some years ago and it would seem he was exploited in the sense of some form of servitude: working seven days a week for extended periods of time, did not get the money he was promised et cetera. He eventually died of tuberculosis, which he had had for a long period of time. At least the article that appeared in the *Sydney Morning Herald* seemed to suggest that as this process went on for some years, the services really did not support him—he was unable to work, he was unable to pay for medicines, he was unable to get sufficient nourishment and it was the subject of adverse comment, I think it could be fairly said, by the Coroner in terms of those wraparound services. I am wondering if any lessons were learnt from Mr Singh's life and death.

Ms HAWKINS: I think we will have to take this on notice and have a look at it. What time period was this in, roughly?

The Hon. TREVOR KHAN: It was from 2006 when the exploitation was occurring, he was on a 457 visa, and he died in 2011. So the Red Cross program, having operated from 2004, was in operation at the time that he was here, and certainly by the time he sought to get out of his exploitation. I am not having a shot.

Ms HAWKINS: No, I hear. I think it would be helpful for us to actually have a look at the dates. As I am new to this I do not have the historical knowledge myself but I am sure my team does.

The CHAIR: You can take the question on notice.

Ms HAWKINS: We will take it on notice and come back to you because there have been changes to the support program and there have been changes to the visa framework program as well so it could be that the timing of that case crossed over that transition.

The Hon. TREVOR KHAN: Everyone is learning all the time so I accept that. It is just one that I knew of partly because I used to buy my curries there. It certainly was a serious incident, it would seem, of exploitation and it did result in his death in Australia.

Ms HAWKINS: We will be happy to take that on notice and have a look at that.

The CHAIR: I ask a question of Ms Carapellucci. Recent travels indicated that up to 80 per cent of kids in care who were on the street in the United States ended up in some sort of sex exploitation. In light of that very shocking statistic in the United States, can you give a snapshot of what the Federal Government is doing to track kids in out-of-home-care and how many are falling through the cracks and ending up in situations of sex exploitation or other types of exploitation?

Ms CARAPELLUCCI: I think that is really a question for the New South Wales Department of Family and Community Services, which I understand is appearing.

The CHAIR: It is at the end of the day but I thought I would get a snapshot from the Federal Government.

Ms CARAPELLUCCI: As to statutory responsibility for child protection, it rests with the States and Territories. While the Commonwealth plays a leadership role in working with the States and Territories to implement the national framework for protecting Australia's children the focus of that framework is more about prevention and early intervention and improving the evidence base, getting greater national consistency in the child protection space. As to the actual management of the out-of-home-care system, that is very much a New South Wales Government responsibility.

The CHAIR: I understand that, but you do not collect any data or research as to what is happening in the States?

Ms CARAPELLUCCI: There is data collected through the Australian Institute of Health and Welfare. I am happy to take that on notice and have a look at that data to see what is available.

The CHAIR: Yes, could you take that on notice. I would be interested to see the statistics on what kids are falling out of the system and on to the streets; selling their soul virtually to survive.

The Hon. TREVOR KHAN: Ms Hawkins, you gave some statistics with regard to various groups, one being forced marriage. Are you able to identify whether those forced marriages involved adults or children and are they forced marriages where the party leaves Australia to be married or is it somebody being brought into Australia to be married? Is it 15 a year that you are talking?

Ms HAWKINS: We have tabled some documents—and we have a few copies of them there—and on page 20 of the "IDC Trafficking and Persons Response"—the interdepartmental committee does an annual report to the Parliament—you will see down the bottom that there are some statistics about the type of AFP investigation by financial year and in this report it is grouped up; it does not break it down according to the specific question you have asked: are the forced marriages going offshore or are they happening here? In terms of whether or not we have got those figures, I do not think we have got that level of breakdown.

The Hon. TREVOR KHAN: Do I draw anything from the fact that in 2013-14 on forced marriage there are 11, in 2014-15 there are 33 and in 2015-16 there are 69? Do I assume this is a skyrocketing problem or is it a reflection of better identification of the issue?

Ms HAWKINS: Indeed, and also criminalisation. Forced marriage was criminalised at the Commonwealth level in 2013 so we think that it is a mix of things. In 2015 we did a community awareness program to let people know there is a new offence. We do not necessarily think that there is necessarily an increase so much as we are identifying it now. It has been criminalised only for a short time so as people know that this offence is in place, more people are coming forward to the authorities so that is what we think is happening. It has only recently been criminalised, people are slowly getting to know about it and as more people know about it, they are coming forward to the authorities, is what we speculate.

The Hon. TREVOR KHAN: And is it that people are coming forward to the authorities themselves or are they being identified by service providers, particularly with regard to children. I am interested in whether there is adequate education in our education system and within the Department of Family and Community Services?

Ms HAWKINS: As to the community awareness we are doing, we are talking to State and Territory governments, we are talking to service providers and we are putting materials out into schools to increase knowledge and awareness about forced labour. We also at the Commonwealth level give grants to non-government organisations. For example, there is an excellent website—

The Hon. TREVOR KHAN: My Blue Sky, I think you refer to it on pages 10 and 11 of your report.

Ms HAWKINS: Thank you very much, but these are all different initiatives that we are doing to increase community awareness about the fact that forced marriage is unlawful; it is a criminal offence in this country and to give a pathway for victims to get assistance.

Ms GALE: From a law enforcement context, a role that the AFP plays in this space is about education, particularly of first responders, frontline police who may come across victims of forced marriage. We conduct nationwide training for State and Territory law enforcement agencies on human trafficking offences and early indicators so that frontline police are more aware of what to look for.

The Hon. TREVOR KHAN: What should they be looking for?

Ms GALE: There is a whole raft of different factors.

The Hon. TREVOR KHAN: What are the key things that you would tell your colleagues to look for?

Ms GALE: It is as much about trying to engender trust within the culturally and linguistically diverse [CALD] community so that they are more willing to come forward and have a conversation with police and develop that trust. We have an extensive list of different things we do deliver to our State colleagues but the AFP also holds extensive sessions with interest groups to try to articulate that trust so that communities can talk to the police and know that we are there to assist and prevent offences such as forced marriage from occurring.

Ms HAWKINS: There is another document—

The Hon. TREVOR KHAN: I have not seen that one yet.

Ms HAWKINS: I just realised we did not bring that in the pack but we will get it for you. The National Roundtable on Human Trafficking and Slavery has done a guide called "information about forced marriage for agencies, community organisations and service providers" and on page 7 of that document under the "Prevention and Assistance" heading one of the questions is "How can I tell if someone is at risk of forced marriage?" Then there is a list of indicators—this is for people in the community such as a schoolteacher who might think, "How do I know what the indicators are"—such as a sudden announcement that the person is engaged; the person's older brothers or sisters stop going to school or were married early; the person's family has a lot of control over the person's life that does not seem normal or necessary; they start to display signs of depression, self-harm, social isolation, substance abuse; and they are scared or nervous about the fact that there is an upcoming family holiday overseas. As you can see it is very detailed.

The CHAIR: Ms Hawkins, can you conclude your answer; I am mindful of the time, your flight and the many questions we have. If you could table that document that would be incredibly helpful. Can you indicate where the Federal Government is up to in slave-proofing its procurement or supply lines? Does it have a policy for tightening its procurement requirements to traffick-proof them?

Ms HAWKINS: In respect of procurement issues, at the Commonwealth level we have the Commonwealth procurement rules and that requires all of us as government officials to be making reasonable inquiries that the procurement is carried out, considering all of the relevant regulations and so on.

The Hon. PAUL GREEN: Including trafficking?

Ms HAWKINS: All of us, when we are making procurement decisions, have to do so on an ethical basis. It is one of the key things.

The CHAIR: I understand. I want to be specific about this. Are they traffick-proofed or are they just ethical? Have you got a clause in there saying that the procurement lines have to be trafficking free, slavery free?

Ms HAWKINS: It is ethical.

The CHAIR: That is what I am after. I want to tighten New South Wales with a recommendation that there be a clause within the conduct of procurement. You have mentioned witnesses being scared to give evidence because in their culture the police may be corrupt, so when they come to our country they are afraid of the same situation. Are you of the view that we should have a national hotline and a State hotline that is a non-government organisation [NGO] so it is a victim-centred line and then it goes out to the authorities?

Ms HAWKINS: In Australia at the moment there is not a single national hotline, but we encourage people to ring the Australian Federal Police.

The CHAIR: You can understand that is a problem for victims.

Ms HAWKINS: I can, which is why there is also a Crime Stoppers line and My Blue Sky, the website were talking about before has contact details on it.

The CHAIR: In the United States they have Polaris, which does a good job and victims are more likely to use that line because it is victim-centred and they are embraced, "We are going to look after you first", so they do not have to worry about visas and those things.

The Hon. TREVOR KHAN: Do you think that people who would be the subject of forced marriage, particularly young girls who may find themselves in that circumstance, would have access a computer that would allow them to see My Blue Sky?

Ms HAWKINS: That is why we are reaching out to schools, to community service organisations so that they can be involved in helping identify those young girls.

The CHAIR: An education curriculum would be helpful?

Ms HAWKINS: From our point of view, definitely doing community awareness with schools so that they can be aware of all of those kinds of indicators and risks that I was reading out before.

The CHAIR: My point is, if the New South Wales Government took on an eight-week curriculum that dealt with these issues, that would be helpful?

Ms HAWKINS: You can appreciate I would be saying that is matter for the New South Wales Government, but we can be talking about the kinds of things that are helpful.

The CHAIR: I am looking for endorsement for such an initiative.

Ms HAWKINS: I am saying to you as the Commonwealth that community awareness is a good thing.

The Hon. GREG DONNELLY: You can give us advice any time. We do not have to accept it; we may listen to it. I take you to page 11 of the report tabled this morning, specifically halfway down on the matter of sex work. I want to specifically go to the second sentence which says:

As a party to the trafficking protocol, Australia is obliged to address the exploitation of the prostitution of others or other forms of sexual exploitation, rather than sex work itself.

Excuse my ignorance, but what is the trafficking protocol?

Ms HAWKINS: The protocol is the United Nations [UN] protocol to prevent, suppress and punish trafficking in persons, especially women and children. There is a UN—

The Hon. GREG DONNELLY: Thank you. Going back to the first sentence in that heading, you make the point about what is, in effect, the deregulation or no regulation, or decriminalisation of prostitution in Australia, but the term "sex work" is also included. I want to understand this clearly. We have the situation in New South Wales where there are, I am sure, now many thousands of establishments that are so-called Asian or Thai massage places. From what I can understand from reports given to me and in talking to people who are trying to deal with this, particularly at the local government level because there are particular issues and problems around the context of how these places are to be zoned, these Asian or Thai massage facilities are not what you would call a full service facility. You do not go there for sex, you go for fellatio, masturbation or whatever might come at the end of a back massage. So they are not a brothel in the sense of the traditional idea that one might have. Are places like that deemed to be considered a sex service, as we are talking about this idea of a sex service, or when we talk about a sex service, are we talking about the traditional notion of a brothel where you go and have a complete and full service of sexual intercourse?

Ms HAWKINS: How I would approach that, in terms of going to that paragraph about sex work on page 11 of the National Action Plan, and the sentence you were talking about, I want to underline that the trafficking protocol is about putting standards in place to protect the person who is being exploited in sex work, so it is not actually about criminalising the sex work, it is about protecting the person who is engaging in that sex work from exploitation.

The Hon. GREG DONNELLY: I will come to that in a moment. The question I asked you was about what I have described in these massage establishments. Are they encompassed in the consideration of sex work, as understood by the work done by the Commonwealth agencies in New South Wales?

Ms HAWKINS: It is a similar answer to the one I gave you to your question about employment. It depends on the factual circumstance of that person in respect of how they are caught by the criminal offences. I am bringing it back to the criminal offences at the Commonwealth level as to whether or not the circumstance that that person—

The Hon. GREG DONNELLY: That was not my question, with due respect. My question was the nature of what happens in those establishments is clearly well understood in the community.

Ms HAWKINS: It sounds broadly like it is sex work.

The Hon. GREG DONNELLY: So it is understood within the broad definition of sex work as to how a Commonwealth agency or a department would deal with these matters; is that right?

Ms HAWKINS: I guess it goes—the reason that perhaps we are hesitating a bit is because the regulation of sex work—

The Hon. TREVOR KHAN: Not perhaps, you are hesitating.

Ms HAWKINS: —is a matter for States and Territories.

The Hon. GREG DONNELLY: With the greatest respect, I am saying that this is your document with the term "sex work". I have given you an explicit description of what goes on in these places. Is this being treated as sex work by the Commonwealth and its agencies or not?

The Hon. TREVOR KHAN: You have given a description of what may occur in some places.

The Hon. GREG DONNELLY: What does occur.

Ms HAWKINS: What you have read out is under a heading of what human trafficking and slavery is not, so sex work in and of itself is not necessarily human trafficking. I know you are asking me a question of do those particular factual circumstances—

The Hon. GREG DONNELLY: This leads to the next point of exploitation, which I will come to in a moment, but I am saying, for the purpose of trying to understand how the Commonwealth and its respective agencies are dealing with this, is it treated under the umbrella—to use that phrase—of sex work?

Ms HAWKINS: It does. On the basis of what you have said, it does sound like that, yes.

The Hon. GREG DONNELLY: I take the point that not all places that offer Asian or Thai massages provide those services that I have described in my comments, but let us assume that a number of them are at the moment but that they are not what we understand to be traditional brothels, and we have brothels. In terms of dealing with the exploitation of prostitution of others, so we are dealing with the exploitation of these people engaged in these places, how do we understand exploitation to apply to such people?

Ms HAWKINS: I am just looking for my list. In respect of what is exploitation, going back to the criminal offences, when I was talking before about the cascading offences that we have in the criminal code, using that term, at that egregious end of conduct we have the slavery offence. Australia's slavery offences apply where a person exercises the powers of ownership over another person.

The Hon. GREG DONNELLY: This is the Commonwealth Crimes Act?

Ms HAWKINS: This is the Commonwealth Criminal Code. We have the forced labour offences apply where, due to coercion, threats or deception a victim is not free to cease providing labour or services or to leave the place where they provide labour or services. We have a servitude offence, which has the same elements as that forced labour offence but with the additional element that the victim is significantly deprived of personal freedom in respect of aspects of their life other than the provision of labour or services. We have a debt bondage offence that applies where a victim pledges their personal services, or the personal service of another person under their control, as a security for a debt owed or claim to be owed. As you can see, there are different levels of conduct across those offences that we have for exploitation of people under the Criminal Code.

The Hon. GREG DONNELLY: That is what I was trying to get to. With respect to exploitation as we understand it, from the point of view of the Commonwealth and its agencies, it is within the framework of what is criminalised. Is that correct? Is that the way in which exploitation is understood—not beyond that? If there are other things happening beyond the strict matters that will be subject to a charge in regard to these matters, that would not be deemed to be exploitation; that would perhaps be something else, is that right?

Ms GALE: That is right. Certainly from a law enforcement context, yes, the application of the offences in sections 270 and 271 of the criminal code, yes.

The Hon. GREG DONNELLY: In regard to the work of the Commonwealth and its agency in this area, I note from your opening statement you have had 98 examples of supported individuals being the subject of exploitation in New South Wales, 43 per cent of whom were involved in—I think the phrase you used was—sex work. Are you identifying other matters beyond the boundaries of the criminal code—and we are talking about the Crimes Act—which you think really are exploitation that perhaps are deserved of consideration of whether they should be deemed to be criminal?

Ms HAWKINS: I guess in terms of that question—

The Hon. Trevor Khan: It is starting to sound a bit like policy.

Ms HAWKINS: The honourable member has taken the words out of my mouth.

The CHAIR: Interjections are disorderly.

Ms HAWKINS: We can be here to tell you what the offences are at the moment, and we can talk to how that goes, but your question is really kind of a matter of our opinion and goes to policy about what happens outside of that.

Dr MEHREEN FARUQI: The Committee has heard about the development of national policing protocol to combat human trafficking, slavery and slavery-like practices. In fact, the former Commissioner of Police, Mr Andrew Scipione, gave evidence some weeks ago and said that they had reviewed and provided comment to the Australian Federal Police regarding advice into the protocol. Has that protocol been completed?

Ms HAWKINS: The working group between the Commonwealth and New South Wales on that protocol, as I understand, is under development. My colleagues are telling me there might be another one.

Ms GALE: It is still under consideration.

Dr MEHREEN FARUQI: When will it be completed?

Ms GALE: Can I take that on notice and come back to you? I can report back on exactly where the status is.

Dr MEHREEN FARUQI: Yes, sure. The Committee has also delved into cybersex trafficking. Former Commissioner Scipione described it as a brave new world because of the number of difficulties in identifying victims as well as prosecuting offenders. How is that being dealt with at the Federal level?

Ms HAWKINS: Online sexual exploitation of children has been criminalised at both the Commonwealth and State levels.

Ms GALE: I can probably help out. The AFP also has dedicated teams responsible for the investigation of online child exploitation and that transcends not just domestic responses but also international. We also have an international network that is across a number of countries globally. What we leverage off that is a placement of our people in a number of those countries in order to disrupt and deter crime at its source. Particularly when you are talking about online child exploitation we leverage off our international footprint to work with our international Federal law enforcement partners and non-government organisations at the source to disrupt that type of crime as it is occurring. We also have a team dedicated to combatting online child exploitation in every State and Territory around the country, and that is their sole focus. They are joint teams and in most of the State and Territory jurisdictions they are combined Commonwealth and State police.

Dr MEHREEN FARUQI: Obviously with international alignment?

Ms GALE: Absolutely, and then we leverage off that with our international footprint so that we are not just looking at the issue here domestically but we are also disrupting and deterring it at its source.

The Hon. TREVOR KHAN: How many convictions a year are there?

Ms GALE: If it is okay, I would need to come back to you with that. There is a lot in that context.

Dr MEHREEN FARUQI: In 2012 a United Nations report of the Special Rapporteur on trafficking in persons, especially women and children expressed concerns after visiting Australia in 2011 about the use of Immigration raids to identify victims of trafficking. In particular it said that the raids are carried out with the specific purpose of locating and detaining foreign nationals who have breached their visa conditions or are otherwise unlawfully in Australia. It also said that raids that may involve trafficked persons also appear to have focused primarily on brothels and this focus may contribute to a failure to identify trafficking in other sectors and may also lead to a stigmatisation of sex workers who do have the legal right to work. How have you responded to those concerns?

Ms GALE: I will answer that jointly with my colleague from Immigration. One comment that I would make in response is that the AFP would partner with Immigration on any warrant activity. We would be there specifically to look for indicators or bump in human trafficking. Our role would be there in order to interdict early if there were victims of human trafficking. Our members would deploy for that reason.

Mr RICHARDS: If I can just add, the comment around targeting of sex work that is certainly the activity that the Australian Border Force undertake is broadly across a number of industry sectors. There is a task force that was set up jointly with the Fair Work Ombudsman and has other agencies participating. Taskforce Cadena is looking at the serious end of labour exploitation and is looking at and certainly undertaking warrant activity across a broad range of sectors. Certainly agriculture, broader parts of the service sector and manufacturing have all been looked at under that taskforce.

Ms HAWKINS: Indeed, on that particular point, if I heard you correctly reading it out, they are concerned that there is not a focus on other industries. I mean just to pick up on that point that my colleague from Immigration made, in 2015-16, 77 per cent of referrals received by the AFP related to forms of exploitation not involving the sex industry.

Dr MEHREEN FARUQI: So that has changed already?

Ms HAWKINS: Absolutely, and the offences have changed. So in 2013 there was a move away from focusing on sexual servitude to having a standalone forced labour offence. One of the trends we have seen in this national roundtable when we have been looking at what has been happening in agriculture, construction, hospitality, domestic service and indeed in intimate relationships human trafficking and slavery-like practices across those industries. I think I read out in my opening statement that the split in New South Wales when we look at since March 2009, 98 suspected trafficked people were identified in New South Wales. The breakdown there was 43 per cent allegedly subject to exploitation in the sex industry, 42 per cent in other industries and personal exploitation and 15 per cent in forced marriage. I think that the picture has shifted since that rapporteur.

The Hon. TREVOR KHAN: May I just ask one thing?

The CHAIR: I do not mind your taking the question on notice.

The Hon. TREVOR KHAN: With regard to the number of convictions, my interest is in the number of people convicted, not in the number of overall convictions—if that makes sense—because I suspect in many cases it is a charge sheet as long as your arm in regard to particular individuals.

Ms GALE: That was for online child exploitation?

The Hon. TREVOR KHAN: Yes.

The CHAIR: I think it is very important to note, certainly for my part, for the Committee to get the traffickers, not the traffic. That is what this inquiry is all about: trying to do something there. I thank you all for your time; you are incredibly gracious with it. Thank you for what you do. It is very important work, and we know that you flew up here to give evidence. I have put a few questions on notice for you and, in light of our time, I am sure the other members may do that. If so, you have 21 days to answer those questions.

(The witnesses withdrew)

SAMANTHA BRICKNELL, Research Manager Violence and Exploitation, Australian Institute of Technology, affirmed and examined

SAMANTHA LYNEHAM, Research Analyst Violence and Exploitation, Australian Institute of Criminology, affirmed and examined

The CHAIR: Thank you for coming along to give evidence this morning. Would either of you like to make an opening statement?

Ms LYNEHAM: No, we are happy to go straight to questions.

The CHAIR: May I take you to page 4 of your submission? Under the topic "Labour Exploitation", you say:

While the body of literature on trafficking for the purpose of sexual exploitation has grown steadily, much less is known about trafficking where the exploitation occurs outside the sex industry.

Can you clarify your term "growing steadily"?

Dr BRICKNELL: That would be based largely on the referrals and investigation numbers that we are seeing from the Australian Federal Police and the people who are going on the support program. Our evidence around that is information that we get through the IDC report and conversations that we have with law enforcement and other Commonwealth Government players in the human trafficking/slavery space. As indicated by our colleagues in the previous session, we are seeing increases, partly drawn in by changes in the legislation of matters that are involving exploitation outside the sex industry.

The CHAIR: Are there percentages on the steady growth or research or findings?

Dr BRICKNELL: There are no percentages or statistics as such. The Australian Institute of Criminology has been looking at developing a monitoring program on human trafficking and slavery. We collected data from a number of agencies to see whether that monitoring program could indeed be feasible. We are still assessing the information that we have received, but that was two years worth of data. We were not able to back-capture data from the agencies that were providing information from that, so we cannot comment necessarily on increases as such from those sources of information. As I said, the information that we receive is that that is captured by other agencies as published in the IDC report and discussions that we have with our government counterparts.

The CHAIR: If I can take you to page 5, mid-page it talks about:

In addition to a wide range of abusive behaviours that characterise violent relationships (eg violence or threats of violence if the woman considers leaving the relationship; sexual, physical, psychological, financial abuse; surveillance; and isolation from family and friends), the exploitation described by stakeholders and experienced by victims included a number of human trafficking indicators ...

You have them listed and I do not want to particular draw attention to those, but immediately after those dot points you say:

This study has shown that in many instances, cases of human trafficking are misidentified as domestic violence.

Can you clarify those comments?

Ms LYNEHAM: That is to clarify that the particular type of human trafficking that we are talking about involves marriage and intimate partner relationships and also forced marriage. It is not necessarily all types of human trafficking; it is those that are limited to exploitation that occurs in private settings, typically involving intimate relationships. What we are finding is that those types of cases are most likely to be initially identified as domestic violence and that victims will seek help from domestic violence services. There were challenges around properly identifying those cases as human trafficking and slavery cases.

The CHAIR: At the top of page 6 you have "Community Awareness and Attitudes". You talk about a national survey of community awareness and attitudes conducted by the Australian Institute of Criminology in 2009 that indicated human trafficking is misunderstood and unrecognised. What we are hearing from previous witnesses is that an awareness campaign or education campaign might be a very helpful opportunity for a recommendation. Do you want to contribute to that comment by way of your evidence?

Ms LYNEHAM: This survey was undertaken initially as a pilot in 2008 within the Australian Capital Territory and then run nationally in April 2009, so the findings may be somewhat outdated at this point and there is consideration that another community attitudes and awareness survey may be run to see how those attitudes have changed over that time. In terms of the responses, one of the primary mechanisms through which

response is targeted at anti-human trafficking and slavery initiatives is through awareness-raising campaigns, and a number of those have in fact been run already.

Dr BRICKNELL: It is also fair to say that there has not really been any formal evaluation of awareness campaigns that have been run in Australia. There is some research—not ours—that was undertaken by academics at one of the Queensland universities looking at overseas campaigns and the responses of evaluations of these. It would probably be worthwhile if awareness campaigns are run in the future and that some take-home messages are drawn from evaluation of these to indicate whether the sorts of people, the broader public, are actually understanding and receiving the messages that are messaged in these campaigns and what needs to be done to make sure that that message is more broadly received.

The Hon. GREG DONNELLY: Thank you both for coming along today and providing us with the opportunity to ask you some questions about your submission. May I take you to page 3, "Sexual Exploitation" "Migrant Workers Network in Australia"? Just so we are clear, with the notion of sex work as considered here, are we talking about sex work in both the traditionally understood establishment known as a brothel or brothel services and the other types of services that are quite commonplace these days, which are the Thai or Asian massage type establishments? Is that fair to say that sex work is deemed to apply in both, or it is a different sort of dichotomy—one is the full service and one is something different? Do we understand that?

Dr BRICKNELL: Those who were interviewed as part of this survey may have provided sex services in a different range of settings. We were not privy to that information. We would suspect from their responses to this survey that the majority were working, if you like, in a formal setting as opposed to an informal setting such as providing services off the street.

The Hon. GREG DONNELLY: Sorry, I did not understand that.

Dr BRICKNELL: Those who were working on the street, as opposed to working in a formal setting such as a brothel or in a private setting in the home, providing services at a home address or what have you.

The Hon. GREG DONNELLY: These are in places known as—you see them everywhere in Sydney—Thai or Asian massages. It is well understood that sexual services of sort are provided there—perhaps not the full services as understood in a brothel, but certainly fellatio and masturbation and related services are readily available. Are they the sort of sex worker services provided for in this study?

Dr BRICKNELL: We would have to take the question on notice as to whether that was included in the definition attached to this research. I would expect for this particular survey, no, they were not included. These were sex workers providing probably the broader definition around that.

The Hon. GREG DONNELLY: From an academic point of view what do you understand sexual services to be?

Ms LYNEHAM: It is not so much based on the location of those services and where they are provided, whether that is a formal or informal setting, if sexual services are being provided by one person to another that could occur, as you said, within a massage context, a brothel context and through private services—there are also sex workers who work privately off the street—so that would encompass the full range of services provided as part of sex work.

The Hon. GREG DONNELLY: Was the provision of assistance and support for those who may be involved in doing this work and who desire to leave—in other words, to find an avenue out of it once they are in it—considered as part of the research we are talking about?

Dr BRICKNELL: No. The services that we were asking the sex workers about were counselling services, health services, other advocacy services that they may require or need as they were working in the sex industry.

The Hon. GREG DONNELLY: But not to exit.

Dr BRICKNELL: Not to exit, no.

The Hon. GREG DONNELLY: My next question is of a technical nature but nonetheless relevant in terms of questions of entitlement. In these places of sexual service are people being deemed to be in some type of employer-employee relationship or working on a subcontract basis? What is the nature of the relationship, as you understand it, that we are talking about in these premises?

Dr BRICKNELL: For the most part—again, this is based on the responses that we got from this survey—it was an employer-employee arrangement. The group that was captured within this survey was probably those at the least vulnerable end of the spectrum. So they would be sex workers who were working in

situations who probably fell out of that employer-employee situation and had been deceived about the contract that had fallen into place between those who brought them into the practice.

The Hon. GREG DONNELLY: Did they have a contract of employment that they actually saw or was this an informal arrangement?

Dr BRICKNELL: Some of them did, yes.

The Hon. GREG DONNELLY: As you understand it what was the nature of the relationship between those who were more at the marginal end—not in that formalised employer-employee relationship—with these places?

Dr BRICKNELL: We have not done any research around that. I am not sure whether Ms Lyneham can answer that. As I said, the respondents to this survey were those who had a more formal or legal arrangement with their employer to provide those sex services.

The Hon. GREG DONNELLY: As you understand it were they enforceable contracts?

Dr BRICKNELL: I would have to take that on notice. I am not sure if that is the case.

The Hon. GREG DONNELLY: I turn now to the issues in hospitality and related services, which we understand anecdotally do employ people who are paid, in some instances, wages, allowances and entitlements well below what would be provided for in the relevant award. Given the plethora or tens of thousands of workplaces that exist where people can be employed, how can we as a State or a nation tackle this sort of exploitation of trafficked people into these sorts of workplaces? As I said earlier today, it is like looking at Mount Everest. There are hundreds of thousands of workplaces and the Fair Work Ombudsman is left to find out about the example here and the example there and then make best endeavours to investigate and, if appropriate, prosecute. At a more general level, if we are seeing people coming to Australia and being put into establishments such as restaurants, catering and related workplaces where we know there is a fair bit of exploitation going on, is there a way in which we should be looking at trying to tackle this that we are not currently looking at?

Dr BRICKNELL: The Australian Institute of Criminology has not done any research on that per se. That is really a question that should be answered by our government counterparts. Suffice to say, we have done some work around the construction industry. That was published earlier this year. What we found in our research was with those experiencing exploitation in the construction industry, some of it was inherent vulnerabilities attached to being a migrant worker and the visa they came on, but there were also systemic issues that may have been attached to the industry per se around contracting—legal forms of contracting, period of contracting, subcontracting, which is a big issue around potential for exploitation, and also sham contracting.

The Hon. TREVOR KHAN: What does "sham contracting" mean?

Dr BRICKNELL: Illegal forms of contracting where often people are paid on a cash basis, they do not have a formal contractual arrangement with the employer and there are illegalities attached to that. What we found from the research was that no-one really had a good sense of how much sham contracting was actually occurring in the construction industry. There were very different voices around that. It was either a huge problem affecting the construction industry or it was a problem as such but not particularly monumental.

The Hon. TREVOR KHAN: Can you say that again?

Dr BRICKNELL: It was either a huge problem or it was a small problem but it was not a monumental problem. So there were really divided voices about the level of sham contracting that was affecting the construction industry, and probably affecting other industries as well. A lot of the research, particularly around that sort of activity, is done outside of the human trafficking space. So it is being able to bring in that research to identify what might be occurring. But certainly more research could be done around those systemic issues that are affecting these particular industries and then working in concert with the respondents to those problems.

The Hon. ERNEST WONG: Do you have any official figures as to how many foreign workers have legitimate visas to be able to work as sex workers in Australia? I am asking you this because a lot of people come to this country with different types of visas and then they work as sex workers. How can we aid the campaign overseas as to how they can reserve their rights?

The Hon. TREVOR KHAN: They might come wanting to work as a sex worker.

The Hon. ERNEST WONG: You need a working visa to come here. So how many of those people say, "I applied for a visa to work as a sex worker in Australia"?

The CHAIR: It is my understanding that people can nominate to work for up to 19 hours, but there is no defined meaning as to what the job is. As long as they do the minimum hours in a legitimate industry that is defined as work and they can have a visa.

The Hon. ERNEST WONG: But usually then they would have to put in, say, who will be the employer, and the employer will be in the sex industry. The reason I am asking is that you mentioned about the campaigning overseas so that we will have a broader campaign spectrum. However, I think it would be very difficult to carry the message overseas in regard to how they would be able to reserve the right in relation to that. I am wondering if that is something you have done a bit of research on or a study and how we are able to tackle that.

Dr BRICKNELL: Again, we have not done research around that. The women—largely women—who were interviewed as part of the migrant sex worker research had come in on a valid visa. They did not specify and we did not ask the question about what visa they came in on. We do know from those who have been exploited within the sex industry that they came in on a range of visa types; some would have come in on a migrant working visa, but the majority were coming in on student visas and the like.

The Hon. GREG DONNELLY: The majority on student visas?

Dr BRICKNELL: Some were coming in on student visas.

The Hon. TREVOR KHAN: Are some coming in as tourists and just overstay, or is that not the way it is done now?

Ms LYNEHAM: Some people who have entered the country and found themselves in a situation of slavery and trafficking would have come in on tourist visas as well. I cannot speak to the issue of overstaying, however.

Dr BRICKNELL: Certainly, moving away from the sex industry back to the construction industry, when the research was done there was a lot of focus on the 457 visa. However, the stakeholders seem to think that there is more of a problem with those coming in on student visas and working holiday visas who are then subsequently exploited getting work within the construction industry. We certainly could not say to what extent those are coming in on working holiday visas; in the sex industry probably not so much, but there would be some coming in on student visas who are then working in the sex industry.

Ms LYNEHAM: It is really hard to put statistics around these kinds of things because this kind of information just simply is not available in most cases.

The Hon. TREVOR KHAN: But why?

The Hon. GREG DONNELLY: It is pretty obvious why.

The Hon. TREVOR KHAN: No, it is not. There has obviously been some material that has been obtained. I am just wondering why it is so hard to gather this material.

Dr BRICKNELL: From those who have been exploited or those who are just working in the industry?

The Hon. TREVOR KHAN: Yes.

Dr BRICKNELL: In the former case, those who will go on the support program, they would be aware—if they came in on a visa—what visa type they came in on. When we talk about finding out those who are migrant sex workers, there are sensitivities about asking such questions. Who is going to ask those questions and in what forum are you going to ask those questions? We made a very ethical choice not to ask them about the visa that they came in on; we just wanted to know whether they came in on a valid visa—and even that question, I think, probably upset some of the respondents.

The Hon. ERNEST WONG: Does that mean that with all those reported cases—usually we would not be able to be aware of what visa they came in—we have that kind of data in regard to what sorts of visas they come in on?

Dr BRICKNELL: Those who go on the support program would know what visa they came on. Immigration would have a record of those people—what visa they came in on.

The Hon. ERNEST WONG: If that is the case, we will be able to campaign. If we know those visas—student visa or whatever it is—then we will start to have campaign programs targeting those visa applicants from overseas. Is that something that is possible to do?

Ms LYNEHAM: It is, and I think it is very dependent on the type of trafficking and the type of visa that someone would come in on. For example, in the work that we did around human trafficking involving migration and marriage visas we certainly made specific recommendations about how we can address that form of trafficking and what needs to be done in an immigration context to try to reduce marriage trafficking into Australia. Some of those recommendations included the provision of information. There is a booklet that is given to people who migrate to Australia through a marriage visa or partner visa about what to expect in terms of life and what relationships look like. We have updated that booklet now to provide information about forced marriage and marriage trafficking situations. For people who are under the age of 18, the applicant and the sponsor now have a separate interview so there are opportunities for people to seek help if they need to and they are happy to reveal that to an immigration officer. So there are targeted initiatives that can be undertaken depending on the type of visa and the type of exploitation that that person might be experiencing.

The Hon. TREVOR KHAN: Is it not a real problem if people are coming in under what I will call an arranged marriage? You hit the country and one of those persons who have been involved in arranging that marriage is likely to have been one or both of your parents. An interview at Immigration is unlikely to produce much tangible evidence because what is likely to be a young woman has no alternative—she has got nowhere to go back to—has she?

Ms LYNEHAM: I think the first important thing to state is that arranged marriages are not illegal or exploitative in and of themselves.

The Hon. TREVOR KHAN: I absolutely know that. But many of them have the hallmarks of compulsion: The young woman is given no choice—it is a forced marriage in fact.

Ms LYNEHAM: Yes. The situation where there is no genuine consent by one or both parties to that marriage, regardless of whether it is arranged, would constitute a forced marriage. There are difficulties with people coming forward and reporting. We know that there are a lot of challenges around help-seeking behaviours for migrant women or migrants more generally and that those challenges are compounded by being a victim of human trafficking, slavery or forced marriage as well. So there is a lot of work that probably needs to be done around ensuring people are able to seek help and are supported to seek help. One of the ways Immigration is now dealing with that is to separate the applicant and the sponsor to ask them about the genuineness of their marriage. Immigration has an obligation to decide genuineness, regardless of what type of marriage it is, but to go further than that and decide whether that is in fact a forced arrangement as well.

The Hon. TREVOR KHAN: In some of these cases what will have occurred back in the country of origin is that a dowry will have been paid by the family of the groom to the family of the bride, will it not? So that when the young woman comes into the country there is a financial obligation that almost applies to her: In the event of separation, there is a demand for the return of the dowry. I only need to go to the case of Manpreet Kaur, who was killed a few years ago by Chamanjot Singh, where that whole exercise played out shortly before she had her throat cut. There is an inequality of power in the relationship and whether you call it forced or arranged, the problem is that young woman cannot really get out of it. Is that not right?

Ms LYNEHAM: There are significant challenges to young women in particular who are experiencing forced marriages to be able to leave their situations. We have undertaken a study on forced marriage in Australian and New Zealand, where we included the stories of 13 victims of forced marriage, either through interviews or analysis of their case file information, to analyse exactly what their experiences were, how they got into a situation of forced marriage, what they experienced while they were in a forced marriage—not all of them ended up having to go through with their marriages; some of them were able to exit their situation before the marriage took place but it was intended that they would be forced into marriage—and we analysed the help-seeking behaviours they took and the pathways that they took to exit those situations.

They did identify that it was a great challenge for them to leave; they were afraid in many cases of honour-based violence and honour killings in some cases. But in the majority of cases the young women took active steps to leave their situation and they reached out for help through a domestic violence service, through their schools, through family members that they could trust or through their friends and colleagues. They were assisted to leave that situation, largely with the support of a domestic violence service.

Dr MEHREEN FARUQI: If I could clarify something on that line of questioning. There is a difference between arranged marriages and forced marriages. Arranged marriages could be forced marriages but not necessarily all arranged marriages are forced marriages.

The Hon. TREVOR KHAN: I am sorry I gave that impression.

Dr MEHREEN FARUQI: Mine was an arranged marriage and it was not a forced marriage at all. I just wanted to clarify that.

The CHAIR: It was consensual.

Dr MEHREEN FARUQI: Exactly. I just want to draw your attention to one of the submissions that was made to the inquiry by an organisation called the A21 Campaign, which referred to your work. I am interested to know whether you know about this A21 Campaign. Have you ever come across them?

Dr BRICKNELL: No.

Dr MEHREEN FARUQI: From how I read their submission there is a suggestion that the work of the Australian Institute of Criminology has found a correlation between the decriminalisation of sex work in New South Wales and the prevalence of human trafficking. I will read that paragraph to you. It states:

The prevalence of human trafficking in NSW generally, and in Sydney specifically, may be attributed to the fact that "New South Wales has decriminalised all forms of sex work" and "is the only jurisdiction [in Australia] that has legalised the soliciting of sex services (which affects the legality of street-based sex work).

The reference number is 15, and it is quite illegible but you can read that it is the Australian Institute of Criminology and the Australian Sex Industry. I want you to clarify if you have done this work and if you have found a correlation between the decriminalisation of sex work and the prevalence of human trafficking?

Dr BRICKNELL: No, we have not.

The Hon. TREVOR KHAN: Sorry, that is no, we have not done the research?

Dr BRICKNELL: No, we have not done the research, nor have we stated that finding in any research we have done. The main body of work again that we have done around the sex industry is the survey with migrant sex workers. Part of that report looked at the different State and Territory laws around sex work and what was considered legal across the States and Territories but the bulk of the report was just reporting on the findings of the survey of around 600 migrant sex workers. Those conclusions were not drawn from the findings of the report, no.

Dr MEHREEN FARUQI: Do you know of any other research that draws those conclusions?

Dr BRICKNELL: Not in Australia, no.

Dr MEHREEN FARUQI: Maybe I will send you a copy of that report in case you want to follow it up with that organisation.

The CHAIR: What was the report?

Dr MEHREEN FARUQI: A21. Just one more question on labour exploitation being discussed earlier in the construction industry, and I apologise if it has been answered. On page 29 of your report on labour exploitation in the Australian construction industry, under risks and protections for temporary migrant workers it states:

The findings suggest that despite major reforms to the construction industry, and visa and employer sanctions in legislation, employers may still have the capacity to use employment conditions imposed on temporary migrants as a method of control.

Have you made any recommendations to change that?

Dr BRICKNELL: We did not make any recommendations other than to suggest that there was an added emphasis to start looking at some of the visas that some of these exploited workers had come in on. As I mentioned, there was a huge focus on 457 visas workers; little attention to 417 and student visa holders who had been exploited in the construction industry, so the recommendations were really looking around that group—obviously not to exclude the 457 workers—and what needed to be brought into place to better protect them. A number of initiatives have been brought into place, obviously led by the Fair Work Ombudsman, and a lot of work has been done since then by that agency, again in collaboration with Immigration and other government counterparts. It is really to get a better sense in the construction industry and other industries of which visas are at greatest risk of being exploited and certainly research has suggested that the visa category where everyone thought the exploitation was occurring was not the case; it was elsewhere.

The Hon. TREVOR KHAN: Is it the construction industry as a whole or is it particular trades or occupations within the construction industry that are most liable to see exploitative practices?

Dr BRICKNELL: The anecdotal information—and this is drawn from comments made by stakeholders and stories published by the media—is you have seen exploitation with plasterers, finishers, painters and those sorts of people. That is not to suggest again because we do not have the data to hand that it is only within those specific trades that exploitation is occurring. It could be across the full gamut of the construction industry but those particular trades have been cited within that anecdotal information, and

concentrating on particular groups—Koreans, but I cannot remember the particular trade. There was exploitation occurring in one particular capital city in the construction industry.

The Hon. TREVOR KHAN: So it is the finer trades?

Dr BRICKNELL: That is right. That is where you start to get these questionable contracting arrangements occurring. It is also worth saying from that research that the stakeholders could not identify any known examples of forced labour. There was certainly a lot of poor working conditions and exploitative behaviours occurring in the construction industry. Again, this is not to suggest forced labour is not occurring in the construction industry. The stakeholders that we spoke to were not able to articulate examples of that and we were not able to talk to any victims who had been exploited within the construction industry. Getting back to the point that was made in the previous session, labour exploitation obviously covers that full gamut and some of the recommendations need to come towards that poor working conditions end of the spectrum but also around the forced labour.

The Hon. TREVOR KHAN: What about the agricultural industry?

Dr BRICKNELL: We have not done any work around the agricultural industry. There has been some focus around that, obviously again from the Fair Work Ombudsman. *Four Corners* looked at the horticulture industry so there is labour exploitation occurring there, again affecting working holiday visa makers. That was largely the focus of that media story. We have not looked at that but I believe a lot of work has been done by the Fair Work Ombudsman around exploitation in the particular industry.

The CHAIR: Any further questions?

The Hon. GREG DONNELLY: No, that was very good.

The Hon. TREVOR KHAN: It is depressing.

The CHAIR: It is not the best topic in the world but it is one worth fighting for.

Dr BRICKNELL: I was going to add, following on from Ms Lyneham's point, the question about awareness campaigns and so on, what really came through to Ms Lyneham and I when we did the forced marriage research. She mentioned the range of people who provided help to those women who reached out for the first or second time. That demonstrates how making sure that a broader group of people are aware of forced marriage and the signs of forced marriage can help these women and healthcare workers some of the women had spoken to. They could pick up from some of the things they said that they were probably in a forced marriage arrangement, so the work that has already been done around awareness of forced marriage can be hugely beneficial to those who are exploited and who are very nervous, sensitive and scared about bringing their stories to the authorities.

The Hon. TREVOR KHAN: Would these be health workers in accident and emergency departments?

Dr BRICKNELL: It was general practitioners.

Ms LYNEHAM: It was GPs. One of the challenges around awareness-raising campaigns, however, is that it is not just about raising awareness; it is actually translating that into action. There was an evaluation of the MTV EXIT campaign, which found that while it did increase awareness of issues around human trafficking and slavery and it changed attitudes to those crimes, there were challenges in that translating into any kind of actions. Whether that increases reporting or whether that increases assistance to people who need it is still a challenge that needs to be overcome and incorporated into strategies to raise awareness about these crimes.

The CHAIR: It is very much the same as White Ribbon, is it not, trying to get that action and awareness; to get people to buy in and report on behalf of victims?

Ms LYNEHAM: That is right.

The CHAIR: Obviously we will put forward some draft recommendations. This is your opportunity to contribute. What recommendation would you like to see in the report?

Dr BRICKNELL: This is something that Ms Lyneham and I have talked about. I think an evaluation of the responses is really important. Australia has done tremendous work over the last 10-plus years in responding to human trafficking and slavery but there are probably some areas that would benefit from an evaluation.

The CHAIR: Can you clarify which areas?

Dr BRICKNELL: We will not in this instance.

The Hon. GREG DONNELLY: You can take it on notice if you need more time to deliberate.

The Hon. TREVOR KHAN: Or are you starting to walk on hot coals?

The CHAIR: My point is we know where we are stepping off from. If you leave that unidentified, we may not know where to step from, that is all. Perhaps you can give us a rough idea of what you are talking about?

Dr BRICKNELL: There are some areas. One in particular is about being able to improve data collection for human trafficking and slavery. Without that, we cannot do a proper evaluation or really get a sense of it. It would be tricky to estimate the prevalence of human trafficking and slavery in Australia. That is a huge ask, but if we were able to get better data and be able to coalesce that data in an easier way where we could explore some of those issues, that certainly would help.

The CHAIR: That would be consistent with the computerised operational policing [COP] system that we have talked about in the NSW Police Force. There are different tick-a-box situations, but there are no ticks on these particular items that will give you data and research, so it seems we have more work to do there so far as data collection from the police and other agencies. Thank you very much for your time. We may have some more questions on notice. The secretariat will help you with that and you will have 21 days to answer those questions. It was a really good submission, full but short, which is the way I like them. Thank you for your time. I wish you all the best in what you do and we will try to contribute to your data research even further after this inquiry.

(The witnesses withdrew)

(Luncheon adjournment)

HELEN PRINGLE, Member, NorMAC, sworn and examined

The CHAIR: Would you like to make an opening statement?

Dr PRINGLE: Yes, a short statement. I have been invited by Simone Watson, director of NorMAC, to speak today. I have a position of my own in relation to these issues. I am the coordinator with Dr Maddy Coy and Dr Meagan Tyler of a global network of researchers on the Nordic model. We also have many links with survivor groups, in particular, and other groups working for the abolition of the prostitution system and the end of trafficking. The submission that NorMAC has done focuses on particular areas of trafficking. I would like to note that our submission focuses on trafficking for the purposes of sexual exploitation, but our members are opposed to other forms of trafficking for labour exploitation, the organ trade and other forms of slavery.

The particular connection that we would like to stress is the connection of prostitution with trafficking and of trafficking with the prostitution system. As the trend is in the Commonwealth Criminal Code, when we assimilate that to other problems of trafficking, forced marriage, labour trafficking, you can lose the question of gender equality which, to us, is very central in questions about trafficking and prostitution. These are not just forms of forced work or work under duress, but they have a unique connection, both to gender inequality and forms of violence against women and because of their unique connection to the prostitution system, we believe that they cannot be simply treated like other forms of trafficking in that way. But I want to emphasise that our members are concerned about those.

The other question in relation to this is that it is not always possible to divide forms of labour trafficking from sexual trafficking either in a number of cases globally. In particular, the Kovacs case in Queensland in 2008 was a case about a woman who had been trafficked for the purpose of sexual exploitation and labour exploitation. She was supposed to service sexually the man who had brought her here and she was expected to do his housework as well. There was a continuum in that way. My own network is also concerned with these questions of continuity. Our emphasis is on understanding the gender issue of the connections between prostitution and trafficking. In connection with that, the submission goes through our view of the prevalence of trafficking, the current effectiveness of laws and the enforcement of law and the legal framework. The NorMAC submission proposes the introduction of the Nordic model which originated in Sweden. The latest country to adopt that is the Republic of Ireland and, before that, France last year.

We would seek to stress that trafficking for the purposes of sexual exploitation will not end until steps are taken to end the prostitution system. We are in favour of the Nordic model. It is often misunderstood and it is presented as a sex purchase law. In other words, that its main aim is to penalise the clients and pimps in the prostitution system, but the first branch of our four-pronged strategy is to decriminalise soliciting and decriminalise women in the prostitution system in all aspects. The second branch of that is to provide exit and support for prostituted women and to provide pathways out of prostitution; thirdly, the criminalisation of the purchase of sex; and fourthly, education in relation to the harms of prostitution and other forms of human commodification, so we have that wider context as well.

We believe that the Nordic model can be implemented and should be implemented. We also have a series of legislative and police strategies that can work towards that model more gradually. For example, strategies that have been adopted in Sweden by the police and in the policing of prostitution. Also, we are in favour of a particular initiative in Chicago, Illinois, which has been copied in other States of the United States, called the Predator Accountability Law, which provides remedies for women and men to mount civil suits around injuries and harms that have come to them through prostitution or trafficking. Of course that includes children as well. We believe that this is a very effective means, and we believe it is a no-brainer. Whatever your position on prostitution or trafficking is, there should be civil remedies for harms against those in the prostitution system.

The last thing I will briefly mention—I have a lot more here—is that we also believe that, in general, the legislative response to questions of prostitution and trafficking should be done together, that you cannot cut them off from one another, and in this we follow the lead of the European Parliament and of the Parliamentary Assembly of the Council of Europe, which both, in 2014, with a bipartisan approach from Greens through from the left to right, by overwhelming majorities, passed resolutions which recommended that other States of Europe consider and implement or move towards the Nordic model. We believe that that will be the best legislative response overall.

The CHAIR: Thank you. You mentioned decriminalisation of prostitution. I gather that is probably because of the concern that if the woman is charged criminally she has to pay a fine and the only way to pay the fine is to go back to prostitution and it is a revolving circle.

Dr PRINGLE: That is part of it, but it obviously also includes women who have exited and may have the stigma, if you like, or other injuries of prostitution which would hamper her in getting other work or exiting from the system. It is a little bit more than that, if I can push it a little further and say that it is really shifting the whole fault, blame, wrong, harm here towards the prostitutes—I know it is a slightly clumsy word, but it is in the *Oxford English Dictionary*—and away from the prostituted. We believe the prostituted in this system are the victims of systemic victimisation. In this case we believe it is false to speak of choice and agency where the coercion is so pervasive on women in the prostitution system.

The CHAIR: The essence of what you talked about in Chicago, do you have more information to table? One of my great concerns is that we are trying to fight domestic and family violence but it seems to be okay in that industry but not okay in this industry. I am interested in hearing more about the Chicago approach, and the opportunity to prosecute. Given that women are so vulnerable in these circumstances, what are the steps they take? I imagine there is retribution if they leave?

Dr PRINGLE: I absolutely agree. We do not believe that there is a hard and fast distinction between domestic or family violence and the violence of prostitution. I know that Dr Faruqi raised this in an early hearing about the commonness of domestic violence as distinct from violence in prostitution. We have to be careful about thinking what is the definition of violence. We adopt the definition of violence in the Declaration on the Elimination of Violence against Women. The definition is about coercion. We know that when people leave situations of domestic violence it is a time of greatest danger to them in terms of retribution, continuing coercion, and the height of violence. It is the same when women leave prostitution. When they leave it is a period of greatest danger to them, particularly when they take action with regard to reparation or amelioration of the harms they have suffered.

The Chicago Act was written following consultation with survivors in Chicago and it was modelled by somebody who was a member of Amnesty International. He was of Indian family heritage and was especially concerned about trafficking from the Asian continent. He put it together and it had input from survivors and legal experts. This is a recent Act and we have no evidence that anybody has been willing to mount a challenge under the Predator Accountability Act. There are similar acts in 20 other states and there has been reluctance to use them for the reasons you say. The prostitution, and sex industry more generally, are very powerful and as you know they are backed by criminal networks. What it would need, in order to be used, is a great deal of support for people using it. There are some moves, I have been speaking to somebody in America about this, to bring a case under that act, but it has not come to anything as yet. It is referred to in one particular article by a law firm in Chicago as a "sleeping giant" or a "dormant volcano", it has potential if used with proper support.

The Hon. GREG DONNELLY: I thank you for the work you have done over a long period. It is an important social policy area.

Dr PRINGLE: Thank you.

The Hon. GREG DONNELLY: One of the challenges that confronts us in New South Wales, and perhaps in other Australian jurisdictions, is that basically we do not have a problem. This is a situation that we find ourselves in where there is denial of reality. In terms of issues to do with that, for example, in the trafficking domain, the other side of the argument states that very few individuals are prosecuted and found guilty of engaging in trafficking. How do you think that a breakthrough can be achieved? Maybe you do believe it is starting to happen, but from where I sit it seems to be going on in plain sight in Asian or Thai massage places. We are told by organisations such as Scarlet Alliance, "No, there is no exploitation here. These are all essentially entrepreneurial women that have come to Australia and realised that they want to enter into the sex industry or prostitution or related businesses, and you do not have anything to worry about. You are grossly exaggerating". How do you think we might be able to break down that alternate description of what is happening?

Dr PRINGLE: The last part of the submission deals with our understanding of the errors in the analysis by the Scarlet Alliance and other sex worker groups defending the sex industry. We believe the core problem is their misreading—I do not mean that it is an academic interpretive problem—of the trafficking protocol in particular when they make claims about the prevalence of trafficking.

The Hon. GREG DONNELLY: Elucidate on that please?

Dr PRINGLE: The Palermo Protocol defines violence and trafficking very broadly. The picture that is painted by the Scarlet Alliance and others portrays trafficking as a situation in which somebody, a woman, is kidnapped, taken to another country and is kept chained to beds. They use that image. Or it might be somebody who has been told that they will get a job as a waitress and they come here and their passport is taken away and they are subject to debt bondage. Sometimes they admit that is trafficking. But, apart from those two cases they

will not admit that anything else is trafficking. Of course, their interpretation of the Trafficking Protocol means they hardly see any trafficking.

The Hon. GREG DONNELLY: On the issue of young women coming to Australia on student visas and finding themselves in massage establishments, is that a case in point? It does not fall within what they consider is that strict protocol arrangement.

Dr PRINGLE: Correct.

The Hon. GREG DONNELLY: There is almost a wilful blindness to it?

Dr PRINGLE: Yes. If you talk look at the trafficking protocol it talks about the exploitation of vulnerability, or the playing on vulnerability or abuse. It covers a wider interpretation. It is a picture that is fostered by the media in movies like *Taken*, for example, which foster the view of forced kidnapping. It does happen, but fundamentally the bulk of trafficking is about people who do know something about what will happen to them but you can hardly call it choice in the full neoliberal sense. A good example of that was a woman who died in Villawood about 10 years ago, about whom I have written, Ms Simpalee. Yes, she knew she was coming to work in a parlour and she knew certain parts of her employment conditions, but you could hardly consider it a question of choice or of entrepreneurship. It would be an insult to her memory to think of it along those terms. It is insulting to women who are coerced and in positions of vulnerability to characterise them as that. It is disgraceful.

The Hon. GREG DONNELLY: We have a general understanding of the situation in New South Wales and it is unlikely the mindset will change any time soon. It seems to be wilful blindness. In the meantime, in terms of what a Government might be able to do by providing resources or assistance to those who wish to exit this so-called work they are engaged in? Will you comment about the capacity of the State to assist women to exit work that they have found themselves in and then wish no longer to participate in?

Dr PRINGLE: Yes, I think that is the state at the moment, as I understand it—New South Wales licenses prostitution; it licences exploitation. I think there are ways to get out of doing that, in particular, by ending the direction of government funds to any newspaper that advertises escort services, as they are called in the newspapers, or magazines. I think that is one immediate step that can be taken to end that direct licensing of prostitution. When funds could be gained through suits against the prostitution system or fines against clients, we believe they could be put in a fund for exit programs.

In France—if I could deflect a little bit to the French example—even in the year that they have put in place the steps towards the abolition of the prostitution system, the French have developed extremely good—I think the best in the world—exit programs and programs for women. We believe that they are absolutely necessary. It is not enough to criminalise clients and it is not enough to take away funds; those programs must take place—retraining programs, for example. This is a little bit outside the brief of the submission, but we also believe that these programs must enable women who have come to Australia from other countries to stay; they must not be punished by being deported, as is the practice now.

Dr MEHREEN FARUQI: Thank you for giving evidence today. As you said earlier, this inquiry is focused on the broad range of human trafficking. You said you look at trafficking, I guess, from a gender nature—a gender lens—as well. In terms of forced marriages, that is also an issue of gender. Have you done any research on that in terms of trafficking or slavery-like practices?

Dr PRINGLE: I myself have, but NorMAC has not.

Dr MEHREEN FARUQI: And you represent NorMAC?

Dr PRINGLE: But clearly they are against it. In particular, I suppose the angle that is relevant in the work of NorMAC is the use of children. We could see that as a form of prostitution and, as you know, there is no defence of consent or of anything to children being trafficked for sexual exploitation in the Palermo Protocol.

Dr MEHREEN FARUQI: You spoke earlier about the Scarlet Alliance—I do not think you used the word "blinded"—

The Hon. Greg Donnelly: I did; I said "wilful blindness".

Dr MEHREEN FARUQI: It is downplaying some of the trafficking issues within the sex industry. Please correct me if I am wrong, but did you say that trafficking will not end until prostitution ends?

Dr PRINGLE: Yes.

Dr MEHREEN FARUQI: You said that people misconstrue the agency of women. Is that the other extreme of the case that women who do sex work have no agency? Is it a huge assumption that some may not actually do that work because they want to?

Dr PRINGLE: I think this is one of the problems in the way that we think about prostitution in that we still—and I include myself here because I slip back into this way of talking—assume, when we think about the question of prostitution; a woman and a man, he wants sex and she wants money. They come to an agreement and it is an ordinary old contract. And that is also one of the reasons that people use the term "sex work"—to focus on the women. We believe that we need to look at men's agency and men's choices. We know a lot about their agency and their choices. We know that, increasingly, from what are called "punters' sites"—I do not know whether you have come across them; they are kind of like TripAdvisor for brothels or women in prostitution.

The CHAIR: I am sorry I did not hear that.

Dr PRINGLE: They are called "punters' sites". It is the name that people often prefer for "john" or "buyer". They buy sex and then they write a review of it, and these reviews are brutal. Nobody could read them without thinking the problem is men's choices in using women. The problem is men's agency in what they do. We know why women make choices to enter prostitution. It is simple: They want to live and that is the best choice they have, or it seems to them the best choice they have in a particular case in order to live. That is not a mystery and it is not a problem. We all want that, but we all do not want to buy the body of another person in order to live our life. We focus on men's choices rather than on women's in that way.

Dr MEHREEN FARUQI: Does NorMAC push for a Nordic model? Is its support for a Nordic model eventually about ending sex work? Am I right?

Dr PRINGLE: Yes.

Dr MEHREEN FARUQI: Do you have any research in the countries that have that model to show whether sex work is then driven underground?

Dr PRINGLE: Yes, we have a great deal. In my particular research network we have a number of researchers from Sweden, including Max Waltman who has produced incredibly detailed work on the impact in Sweden—which, of course, is the oldest in the implementation of the Nordic model. What the research generally finds is that both prostitution and trafficking, in particular, have decreased. The research also finds that because of the way the Nordic model is set up, women who continue in prostitution in Sweden have far fewer problems about contacting the police when there are problems in their work. We also find that since the model has been implemented in Sweden, only one woman in prostitution has been killed. She was killed by her partner, but the circumstances obviously had to do with the prostitution system. Whereas in a country like The Netherlands or Germany over that same period there were numerous murders. We also have researchers doing work there.

Dr MEHREEN FARUQI: I was interested in how government measures the prevalence of sex work effectively when it has been driven underground. How does that happen practically?

Dr PRINGLE: We find that prostitution actually cannot be driven underground. It has to be overground. It has to advertise itself otherwise people cannot make use of it. So we find even the notion of underground does not really make sense in a way. Where I think it does make a lot of sense—and this is a very important question—is the question of: Are women in prostitution more likely to seek assistance or help under the Nordic model? That is the way of underground that I would talk about. But if there is underground, that is the job of the legal authorities to find it.

Dr MEHREEN FARUQI: Perhaps you can take this question on notice. Do you have any research on comparisons of prevalence of trafficking in the sex industry in New South Wales and other States in Australia?

Dr PRINGLE: I might take that on notice.

The Hon. NATASHA MACLAREN-JONES: In your opening remarks you talked about one of the four pillars of the model was the pathways out. I am interested in that detail and the number of victims that NorMAC has helped, particularly trafficked people?

Dr PRINGLE: NorMAC is not government funded at all—unlike the Scarlet Alliance, for example. NorMAC is an organisation initiated and headed by survivors who support each other.

The Hon. NATASHA MACLAREN-JONES: I seek clarification on your opening remarks in relation to one of the pillars—that is, the pathways out. Does that mean you do run programs?

Dr PRINGLE: No.

The Hon. NATASHA MACLAREN-JONES: Do you refer people to other programs?

Dr PRINGLE: Yes, there are other organisations that people can be referred to.

The Hon. NATASHA MACLAREN-JONES: But you do not refer?

Dr PRINGLE: NorMAC is not an organisation that provides pathways. We support that model and the implementation of that model, and we support government funding for exit programs.

The Hon. TREVOR KHAN: I am scant on material so I will just put this to you, that in Sweden there is the Aliens Act, which forbids foreign women from selling sex in Sweden. Would that be correct?

Dr PRINGLE: No, the law in Sweden does not forbid any women from selling sex, what it forbids is men from buying it.

The Hon. TREVOR KHAN: I understand that concept of the Nordic model, but if it were that another Act had the effect of preventing foreign women, non-Swedish women, from engaging in the sex trade, could that have an impact on your research?

Dr PRINGLE: I am not quite sure what you mean, but there are laws in Sweden about illegal immigration and people working who are not permitted to work, yes, but those do not specifically, as far as I am aware, and I can get on the phone to Max Waltman this afternoon.

The CHAIR: You can take it on notice.

The Hon. TREVOR KHAN: The question is as to whether it is, in the sense, an even playing field. If the issue of trafficking or the impact on trafficking arises out of the impact of the Nordic model or other laws in Sweden that may impact upon the outcome, that is essentially what I am implying.

Dr PRINGLE: We find that the police in Sweden, especially Simon Haggstrom—it would be great if you could get him to speak here.

The Hon. TREVOR KHAN: It is a long way.

Dr PRINGLE: But he travels, and they also have a roving coordinator who travels across the world as well, whom I met in London actually. He is the son of a migrant himself. I think that the situation in Sweden, as you probably know, is uniquely favourable towards immigration in Europe. It is one of the places, apart from Scotland, where immigration is troubled, but certainly nothing like it is in Hungary or Romania, for example, or in England.

The CHAIR: Thank you, Dr Pringle, for your evidence this afternoon. Given your evidence, as you heard, there may be some questions on notice. The secretariat will be glad to help you provide those answers within 21 days.

Dr PRINGLE: Thank you for the invitation and NorMAC also thanks you. Any other questions that you have or ones that I might have missed the point on a little bit, please do ask them and we would be very happy to provide that information within 21 days.

(The witness withdrew)

ANDREA TOKAJI, Founding Director, Fighting for Justice Foundation, affirmed and examined

ANNE O'CONNELL, Director of Policy and Research, Fighting for Justice Foundation, affirmed and examined

The CHAIR: I remind everyone here today that Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. I therefore request that witnesses focus on the issues raised by the inquiry terms of reference and avoid naming individuals unnecessarily. Do either of you have an opening statement that you would like to present?

Ms TOKAJI: The Fighting for Justice Foundation thanks the Committee for our invitation. We are an organisation that seeks to curb the demand of human trafficking by addressing gender-based violence through social legislative reform in the Australasia region. We commend our recommendations to you as per our submission. Ms O'Connell will be presenting immediately in relation to some additional recommendations and then I will be speaking to a broader context of our submission from an international human rights perspective.

Ms O'CONNELL: We have noted that there are issues that are common to the majority of submissions to this inquiry. The Fighting for Justice Foundation ask that these be actively considered by the Committee in its recommendations for legislative change to the Parliament. At the outset, you will have noticed that the Fighting for Justice Foundation, as with the majority of submitters, has focused on trafficking in the sex industry. This is not to reduce the importance of trafficking in other industries, notably hospitality and construction, but the Fighting for Justice Foundation's focus is on the protection, education and rehabilitation of women in the sex industry, and the elimination of the consequent exploitation which these women suffer.

I have several issues that have been drawn out of other submissions as well that I would like to emphasise for you that are clearly important to a number of the submitters. Firstly, statistical information supports services and resources. Several submissions introduced the paucity of convictions for trafficking. Collective Shout submission No. 27 notes that since 2005 there have only been 17 convictions for trafficking or slavery offences in Australia. In relation to the actual prevalence of trafficking in New South Wales, the Law Society, submission No. 18, quotes the NSW Police Force's evidence to the Legislative Assembly's inquiry into brothels in 2015. That observed that the reporting of sexual servitude was increasing, despite sexual servitude remaining an under-reported crime. The Catholic Women's League observed that only 13 people were convicted between January 2004 and June 2011 and concluded:

It is evident that trafficking in this country remains a major problem with little research or statistics available to reveal the true extent of the problem.

The contributing factors to low reporting include lack of opportunity to report and the means and support to do so. The Australian Institute of Criminology, submission No. 26, notes that a national survey of community awareness and attitudes conducted by the Australian Institute of Criminology as long ago as 2009 indicated that human trafficking is misunderstood and unrecognised, contributing to low reporting. Clearly, there is need for raising community awareness about the recognition of human trafficking and also, related to this lack of statistical information, there is the issue of sufficient resources to detect and prosecute. Both the Commonwealth and New South Wales government submissions identify admirable programs and strategies, but the real issue is the funding priorities for governments to implement these initiatives fully.

Secondly, the nexus between prostitution and trafficking in women and children—this has been drawn to your attention by the Australian Christian Lobby, NorMAC, Life Marriage and Family Centre, Family Voice and the Coalition Against Trafficking in Women Australia. They identify the central role of prostitution in the trafficking of women and endorse, along with the Fighting for Justice Foundation, the Nordic model. The local government, State, Commonwealth legislative powers. Collective Shout observes that many of the regulatory and enforcement functions of the State Government are delegated to local governments. They do not have the resources, nor do they have the expertise to regulate an industry even in their local area, which involves both local and international organised crime and other interests.

Hagar Australia says that the laws legalising certain kinds of sex work makes it easier in some areas for trafficking to take place unnoticed and complicates victim identification. There are two levels of government in each of the Australian States. The two Territories have self-government. Adding the Commonwealth Government to this means there are 15 separate lawmaking entities in this country. The submission by the Law Society of New South Wales notes that there are no fewer than seven legislative frameworks in New South Wales alone which regulate brothels in New South Wales. You add to this the provisions of the Commonwealth Code Act—there is currently a parliamentary joint committee inquiry, as you are probably aware, about adopting the Modern Slavery Act; so we will see what happens with that.

The difficulties in obtaining a consistent legislative and regulatory approach to any activity are obvious, yet in the current world trafficking is a global concern. In the absence of abolishing State governments, an unthinkable option, FFJF contends that the laws governing criminality in the sex industry should at least be harmonised as far as possible and based on the obligations to which Australia is a signatory under international law. Lack of legislative consistency will only provide more opportunities for traffickers to slip through legislative gaps and promote domestic trafficking.

As to organised crime, Scarlet Alliance contends it is frequently the case that comments about the existence of organised crime in the sex industry come from a moral viewpoint and misconceptions, and that large-scale crime and pimping is not a characteristic of the sex industry in New South Wales. While FFJF respects Scarlet Alliance's position, other submitters have stated otherwise. The question arises: In the absence of extensive research and data how would we know? It was hoped that the decriminalisation of the brothel industry would automatically lead to the removal of organised crime from the industry but, as the Coalition Against Trafficking in Women Australia [CATWA] observes, this has not eventuated. Family Voice considers that decriminalising the owning and operating of brothels has led to an increase in organised crime but, again, we need the statistics.

The AIC observed while the existing research is far from comprehensive, the role of organised crime networks in the trafficking process is complex. In fact, the AIC suggests that although organised crime groups dominate the landscape there are also what they call officially unorganised crime groups—small family groups, groups of a particular ethnicity, loosely connected networks that include friends or relatives similarly involved using existing networks. The Law Society of New South Wales cited evidence given by the NSW Police Force to the 2015 Legislative Assembly inquiry into brothels. Then Deputy Commissioner Nick Kaldas told the Committee of intelligence of organised crime and outlaw motorcycle gangs being involved. The question must be asked: If there is such evidence, where are the prosecutions? It is clear that the extent to which organised crime has infiltrated the industry has yet to be documented. Collective Shout recommended that the New South Wales Government commission research into the extent of organised crime, trafficking victims and foreign national involvement in the New South Wales sex industry. To this the FFJF would like to add "and undertake appropriate legislative action without delay".

Finally, as to victim support and compensation, Scarlett Alliance observes that currently the Support for Trafficked People program requires a referral by the Australian Federal Police to gain access to the program. Among other requirements: the trafficked person must be willing to participate in a criminal investigation and the person must be an Australian citizen, which narrows down the base of people who are going to be likely to take any action, let alone be able to. The submission notes that these conditions create significant barriers. Providing safe and supportive avenues under which reporting and subsequent participation in court proceedings can be undertaken by victims would assist in identifying offenders, reduce trafficking and its attendant problems. We would also like to suggest that as the Red Cross-observed support could extend to things like housing stability, education, transport. The Law Society suggests legal assistance. Australian Catholic Religious Against Trafficking in Humans [ACRATH] also suggests the need for victim support, requesting a review of the New South Wales Victims Rights and Support Act 2013 to provide that offences relating to human trafficking and slavery are included with those in the category for all support provided in the legislation. Fighting for Justice endorses these recommendations and thanks the Committee.

The CHAIR: From memory, Anti Slavery Australia had the idea of having it in the Victims Compensation Scheme.

Ms TOKAJI: Yes. I should say that they were not exclusive.

The CHAIR: I refer you to page 6 of your comprehensive submission. In this inquiry we are trying to tighten the trafficking protocol to which you refer and to make it best practice so that women are not trafficked. Can you elaborate on the last statement on page 6 where you refer to best practice and what you think needs to be addressed in order to achieve that?

Ms TOKAJI: Sorry, I was also going to give a presentation. Do we have time for that?

The CHAIR: I can allow you five minutes.

The Hon. GREG DONNELLY: I am happy to allocate my time. How much time do you need?

Ms TOKAJI: Seven minutes would be fine. I hope to address your questions.

The CHAIR: I am happy to put my questions on notice.

Ms TOKAJI: I do apologise. We hope to answer your questions in this presentation. We hope to give international human right and gender equality approaches to answering this complex, criminal, social question.

According to the Global Slavery Index there are 45.8 million slaves in the world—80 per cent are women and girls, and 50 per cent of those are children. This is a huge problem. The majority—78 per cent—are in our region. We know that Australia is a demand nation in a developing region. Whether a person is trafficked for labour, as a child bride, through adoption or for sexual exploitation, they all experience sexual violence and exploitation. Sexual exploitation makes up 79 per cent of identified forms of human trafficking, including forced prostitution, stripping, massage services and pornography. Whether it is pornography, prostitution or human trafficking there are often two common denominators—gender-based sexual and physical violence, and demand.

Australia is a demand nation for trafficked persons and consumers of child sexual exploitation material both online and as sex tourists. In fact, Australia's demand and consumption of child sexual exploitation as sex tourists, consumers of pornography, live sex shows via webcam and prostitution is on the rise. We know from Professor Michael Flood's research that nearly one in six men have paid for sex. They are average men, including professionals, and most have girlfriends, wives or are in long-term relationships. Their motivations are obviously mixed. Some men see women as mere sex objects; they feel they have a right to the bodies of women. We would like to address this male sexual entitlement behaviour, and it goes to gender-based violence across the board in our community.

There are various push and pull factors, of course, to human trafficking I am sure the Committee has heard of poverty as being one of the causes but we need to focus on gender-based violence as being one of the causes. The World Health Organization cites that one in three women throughout the world experiences physical and/or sexual violence. Australia is no different, as we know according to statistics. Violence against women and their children affects us all. That is why it is so important to identify violence, especially sexual violence in pornography, prostitution and human trafficking. Gender-based violence issues require a human rights preventative and diversionary approach for all of the community. Australia's current prostitution laws are out of step with international best practices. They are not compliant with international human rights standards. In fact, they directly violate the Declaration on the Elimination of Violence Against Women.

Article 2 of the Declaration on the Elimination of Violence Against Women clearly states that violence against women is understood to include not only the trafficking of women but also forced prostitution. The trafficking protocol explicitly states that prostitution and the accompanying evil of the trafficking persons for the purpose of prostitution are incompatible with the dignity and worth of the human person, and endanger the welfare of the individual, the family and the community. Article 16 of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, calls member States to adopt a human rights approach to preventing, protecting and redressing trafficking in persons, including providing an exit program for women working in brothels who wish to access other forms of employment. So there is clear evidence that the legalised models of prostitution in New South Wales and the decriminalised models in Victoria have simply not worked. In fact, evidence shows us that it has created a safe harbour for traffickers, it has encouraged criminality throughout the industry, including links to bikie gangs. It has entrapped many vulnerable women and girls into debt bondage and further victimised vulnerable women. It has encouraged gender-based and sexual violence.

Studies have shown that 78 per cent of women working in brothels in Victoria are simply there because they are trying to feed their babies. Where is voluntariness in the choice of these women? Fifty per cent are there because of homelessness-like circumstances, and 80 per cent have experienced childhood sexual abuse and assault. Through violent pornography and male sexual entitlement, coercion, force, fraud and debt bondage, women are being groomed and subjected to a life of gender-based and sexual violence. The current legalisation models of prostitution are incompatible with Australia's national agenda to combat domestic violence and it is totally out of step with our international obligations to the rights of women and as signatories to the Convention on the Elimination of All Forms of Discrimination Against Women.

Melissa Farley's research tells us that over 80 per cent of women in prostitution, if asked, want to exit—they do not want to be there. Why are we as a society not facilitating their exit? We know from media reports on women in the industry and from survivors' stories that women on a daily basis experience bashings, brutalisations and even murder. Our society has legalised prostitution, but if women want to get out we discriminate against them. There is evidence from organisations such as Project Respect that when women try to exit they are discriminated against from potential employers and landlords because of their backgrounds. How are they meant to rehabilitate their traumas, and why are organisations like Scarlett Alliance facilitating 457 visa processing for sex workers from overseas? Why do they have an office in Timor? To my mind, this facilitates human trafficking.

Australia has no other option but to implement the international best practice model which has seen a reduction of human trafficking by half in various countries. Sweden, Norway, Iceland, Finland, Korea, Canada, France and Northern Ireland have all endorsed the Nordic model and European Parliament. Italy, Israel,

Luxembourg and Scotland are considering it. Australia has no other option but to implement the Nordic model that curbs the demand and addresses gender-based violence from a human rights and women's rights perspective by criminalising demand and providing preventative and exit pathways for vulnerable women—the approximate 20,000 women in prostitution. The regulated system does not work.

The CHAIR: You have one minute.

Ms TOKAJI: We need to consider the standard we want to see in our community. If we are to continue buying and selling flesh like an archaic people from the Stone Age we will continue to commodify women and facilitate the vileness and sexual violence against them. As survivors have said, prostitution is paid rape. Article 2 of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others criminalises anyone who keeps, manages or knowingly finances or takes part in financing a brothel or knowingly lets or rents a building or other place for the purpose of prostitution.

The CHAIR: You need to conclude, thank you.

Ms TOKAJI: The New South Wales Government needs to consider the Nordic model and these international regulations.

Dr MEHREEN FARUQI: Thank you for coming in to provide evidence today. In your submission you state on page four that "it is estimated that there are 4,300 people in modern-day slavery in Australia today, with the majority trapped in the sex trade". You spoke about a lack of statistics earlier on. What statistics are there to back up this statement? Is it just an extrapolation from global indices or percentages or is there any data behind it?

Ms TOKAJI: Of course, and hopefully the reference is there for you.

Dr MEHREEN FARUQI: No, there is no reference there, but it would be good if you could provide a reference.

Ms TOKAJI: The leading organisation at the moment in Australia is Walk Free Foundation and a Global Slavery Index is their data.

Dr MEHREEN FARUQI: That data does not say that the majority of these people are trapped in the sex trade. Maybe if you could provide some data?

Ms TOKAJI: I will.

Dr MEHREEN FARUQI: Amnesty International, as you know, is an organisation that is dedicated to ending human rights abuses. They have called for an end to the Nordic model and they have stated that laws against buying sex and against the organisation of sex work can actually harm sex workers. They go on to say that it means sex workers have to take more risks to protect buyers from detection by police, they find it difficult to secure accommodation as their landlords could be prosecuted for letting premises to them or that they are penalised for working together or organising. I would just like to understand your view on Amnesty's response to this model, which obviously you advocate.

The Hon. GREG DONNELLY: Is that the widely discredited response by Amnesty or another one?

Dr MEHREEN FARUQI: I was not asking you the question, Mr Donnelly.

The CHAIR: The witness can choose to take it on notice or answer.

Ms TOKAJI: That is fine, I will answer. I actually pulled my membership from Amnesty International for this reason in 2014—I was at the AGM as a voting member—because the international policy of Amnesty International that was passed that year without due process was that the legalisation of prostitution is their position, and that was instituted by a brothel owner and a sex worker from London and it is incompatible with the rights of women and it does not consider gender-based violence frameworks. This policy that Amnesty International has implemented has come under much discredited attention, including from the United Nations. Their current stance is totally incompatible with human rights standards and it is against protecting victim survivors in the industry. It is a shame that they are taking this opportunity. Therefore, I do not agree with their stance.

There is evidence from eight countries around the world that the Nordic model is in fact working and it has cut human trafficking by half and it has got rid of street prostitution and it is protecting victims and upholding the rights of women's opportunities for external employment opportunities and education, and they are flourishing and thriving because of that support.

Dr MEHREEN FARUQI: You said it had cut trafficking by half. Is there any reference that you could provide for that?

Ms TOKAJI: The Swedish Government, after 10 years of implementing the Nordic model in 1999, did a survey and a thorough research report on the effects of the Nordic model. The Swedish Government provided that report and that is their statistical data.

Dr MEHREEN FARUQI: Do you remember if that was just based on street-based sex work or did it include other forms of sex work as well?

Ms TOKAJI: It included all forms of sex work. The report also found that it did not have a rise in rape or any other sexual crimes in the community because the benefit of the Nordic model is not just the policy approach; it is the social approach, because, as you know, the law sets standards in society and Sweden decided that they set the standard of gender equality and the rights of women. The Nordic model was just one part of a raft of gender equality policy approaches that they took. What they saw is that the attitudinal behaviours of the common citizen changed and shifted according to the standards of this law, and that is really exciting, that we can change community's perceptions and understanding, and that is what we seek to do.

The Hon. TREVOR KHAN: Can you provide us with the reference to that Swedish Government report?

Ms TOKAJI: Yes, sure.

The Hon. GREG DONNELLY: With respect to the statement that you presented, you may have had to curtail it towards the end.

Ms TOKAJI: Yes, I apologise.

The Hon. GREG DONNELLY: Are you agreeable to tabling that statement?

Ms TOKAJI: I am happy to.

The CHAIR: It might be helpful if you table both opening statements.

Ms TOKAJI: No problem, I can do that.

The CHAIR: Your opening statement was very in-depth. I appreciate your passion for ending gender-based violence. I think everyone is working very hard to get rid of domestic and family violence. Thank you for evidence. We may have questions on notice that we will send to you. The secretariat will help you with that. You have 21 days to answer those questions. We thank you for your submission and for your time.

(The witnesses withdrew)

(Short adjournment)

JULES KIM, Chief Executive Officer, Scarlet Alliance, Australian Sex Workers Association, affirmed and examined

The CHAIR: Would you like to make an opening statement?

Ms KIM: Yes, thank you. Scarlet Alliance, Australian Sex Workers Association, is the peak national sex worker organisation in Australia. Membership consists of individual sex workers and sex work organisations, projects and collectives. Sex industry owners and operators are specifically excluded from our membership. Scarlet Alliance and our member organisations and projects have the highest level of contact with sex workers in their workplaces of any other agency in Australia, government or non-government. Many of our member organisations have bilingual migrant outreach workers who interface with migrant sex workers in their workplaces and this occurs in both the regulated and unregulated sectors of the industry.

Scarlet Alliance's work with migrant sex workers is directed by the migration project, which has been funded through the Attorney General's Department since 2009 through the Commonwealth package of grants to assist non-government organisations [NGOs] working in anti-trafficking. The Scarlet Alliance migration project is staffed and led entirely by migrant sex workers and we aim to advocate for evidence-based migrant sex worker-driven approaches to trafficking prevention and migrant sex worker rights. The migration project also coordinates the migrant sex worker steering committee, which consists of migrant sex workers, some of whom have experienced debt bondage and trafficking-like conditions.

Sex workers do not have to be members of Scarlet Alliance in order to access our services or participate in our consultations. In this way we represent not only our membership but also those who are unable to have their name associated with sex work for fear of stigma and discrimination. So we aim to represent the actual experiences of migrant sex workers in Australia; the people who are at the centre of this issue we are discussing today. I would like to note that there have been a number of previous Federal and State inquiries so far that have confirmed that trafficking is a relatively rare phenomenon in the Australian sex industry. Extensive policing, surveillance and compliance checking by various agencies occurs in our workplaces daily.

There are unsubstantiated claims of organised crime infiltrating the sex industry despite a multitude of evidence that this is not the case. Inflated trafficking estimates are frequently used to push for more regulation and criminalisation of either sex workers or our clients and to remove the best practice model of decriminalisation. Decriminalisation of sex work has been in place for over 20 years in New South Wales and this has delivered exceptional outcomes for sex workers. In New South Wales decriminalisation enables effective peer outreach by allowing outreach workers unfettered access to sex industry businesses resulting in world-renowned low rates of sexually transmitted infections [STIs] and HIV, a good culture of occupational health and safety and access to essential health and support services.

It has resulted in low to no amenity impacts or no noted increase in the size or visibility of the industry. Decriminalisation is a whole-of-government approach whereby a number of government agencies and authorities play a role in contributing to the effective regulation of the different components of the sex industry, making for a highly transparent sex industry. Decriminalisation in New South Wales has removed police corruption and since its implementation various government inquiries and investigations have been unable to find any evidence of organised crime.

The outcomes of decriminalisation in New South Wales are significant and cannot be assured under any alternative model. The Nordic model and licensing do not safeguard the rights and wellbeing of sex workers. In fact, reports show where these models have been implemented, they have harmed sex workers, including migrant sex workers, and forced sex workers to take more risks in order to avoid detection by authorities. They have penalised sex workers for working together or organising together and discriminated against us on the basis of our chosen occupation. They have also impeded anti-trafficking efforts by creating disincentives for victims to come forward for fear that the police will prosecute or discriminate against us.

Decriminalisation of sex work has been recognised as the best practice model of sex industry regulation from a variety of sources of evidence, and internationally New South Wales is held as an example of the effectiveness of decriminalisation. It is not just sex workers who are calling for the decriminalisation of sex work; it has been recognised from a public health perspective by the UNAIDS, United Nations Population Fund [UNFPA], the World Health Organization, and within Australia's own national HIV strategies. The workplace benefits have been recognised by the International Labour Organization and the human rights benefits have been recognised by Amnesty International, the United Nations and the *Lancet*.

Similarly, there has also been support to show that decriminalisation is the best model for anti-trafficking interventions as well and this has been recognised Amnesty International and also the Global

Alliance Against Traffic in Women. Also, there has been widespread recognition by a number of those bodies of the recognition of the harm of the Nordic model. In contrast, decriminalisation supports the rights, health and safety of all sex workers, including those who have been trafficked. Migrant sex workers need avenues for support that do not involve reporting necessarily to the police or participating in a criminal proceeding in order to access support. Migrant sex workers need greater access to legal and safe migration pathways to reduce the need to use brokers or agents or to apply for expensive and complicated visa applications. Victims of trafficking need access to a national compensation scheme and migrant sex workers need equitable access to Australian justice mechanisms, arbitration processes, industrial rights protections akin to Australian citizens without fear of arrest or deportation.

Over-policing and compliance checking of migrant sex workers in the guise of uncovering trafficking is inappropriate and ineffective. On the other hand, peer education and community outreach are best-practised interventions which help to mitigate the cultural and social isolation experienced by migrant sex workers. This can be done by providing information and avenues of support and referral when needed. Migrant sex workers need complete decriminalisation of the sex industry, because this means sex workers can access police and other justice support without fear of prosecution in the event of a crime.

Finally, I want to note that previously there have been numerous inquiries into decriminalisation in New South Wales and each of those inquiries has found that maintaining decriminalisation is the best model of regulating the sex industry in New South Wales, which has been the finding of committees and the Government. We are not discussing sex industry regulation today. Unfortunately, often the discussion about the sex industry and its regulation can take away opportunities to address trafficking, which is what is at issue today.

The CHAIR: Well put. That is our issue today.

Dr MEHREEN FARUQI: Thank you for coming in today to provide evidence and for your opening statement. In your submission you have made a comment which I am interested in exploring further. The comment is, "Treating labour exploitation in the sex industry as trafficking is not helpful to migrant sex workers." Can you expand on how conflating these two issues is problematic?

Ms KIM: Sure. If you look at all of the cases that have been prosecuted so far in Australia, and there really have not been that many, and the cases that we come across through the migration projects, in each of the cases that have been prosecuted none of the sex workers were deceived of the fact that they would be a sex worker. What was an issue was that many of them had sex worked in their own country. What they were subject to was workplace exploitation and unfair debt. In the migration project, we would have people coming to us who want to claim their last pay check, and because they are migrant sex workers, when they have gone to the police or have sought support through other avenues, they have tried to force it into a trafficking framework because they are migrant sex workers.

The Hon. TREVOR KHAN: Who is "they"?

Ms KIM: Sorry, if they tried to seek support from police and others.

The Hon. TREVOR KHAN: But when you say "they have tried to force it into a trafficking"—

Ms KIM: The police have. Sometimes other anti-trafficking organisations have as well. Really, what is at issue is that it is a migrant sex worker who wants to claim her last pay check. If it was any other industry, it would be recognised as such, but, yet, because we are talking about sex work and because it is a migrant sex worker, immediately it is forced into a trafficking framework rather than addressing the issue at hand, which is a case of labour exploitation, or unpaid wages. Through the migration project, we will try to address the issue at hand that the person is asking for, instead of immediately assuming because that person is a migrant sex worker that they do not have agency or they do not have choice. In fact, they do not want to leave the sex industry, they just want to deal with the issue that they are presenting with.

Dr MEHREEN FARUQI: On the question of leaving the sex industry, if some sex workers want to leave the sex industry, I understand that Scarlet Alliance provides support. Can you expand on that a little bit?

Ms KIM: Absolutely. Scarlet Alliance and a number of our member organisations provide support for people wherever they are at, so regardless of what it is they are presenting for. If someone comes to Scarlet Alliance for support to exit the sex industry, that is what we will do. Instead of seeing it as all sex workers having the same need, we deal with the need that the person presents with. The person might have a university degree, or they might not, so depending on what that person's skills are, or which direction they want to go in, that is how we will respond to the issue, instead of assuming that somebody must exit the sex industry. Of course, some people want to exit the sex industry, so it is about responding to the needs as they present instead of viewing sex work as one thing or being exploitive, we try to help that person with where they are at.

Dr MEHREEN FARUQI: Your organisation has come under attack in one of the submissions from NorMAC. It has stated in its submission that Scarlet Alliance denies the reality of trafficking for the purposes of sexual servitude in Australia and denies the reality of sexual exploitation in Australia as well. Do you want to respond to some of those accusations?

Ms KIM: The sex industry is like any other occupation. Also, in some States and Territories there is poor legal framework, stigma and discrimination. These things also impact on people's access to services and access to the justice system. Of course there is exploitation in the sex industry, of course there is trafficking; we have never suggested otherwise. What we have said is that it is not the experience of the majority of sex workers in Australia. However, when we have tried to conflate trafficking responses with the consensual sex work, we have a situation where it disadvantages all migrant sex workers and does not help those people who are experiencing trafficking.

Dr MEHREEN FARUQI: What would be your recommendation to deal with trafficking in the sex industry?

Ms KIM: Often we see trafficking as something that is happening over here, and it is separate to labour exploitation, but we know that it is a continuum of conditions that can lead to trafficking, so it is about prevention. Prevention has been an incredibly successful response for sex workers in respect of sexually transmitted diseases and the human immunodeficiency virus [HIV]. Sex workers in Australia have lower rates than the general population for the most part and there is no recorded instance of HIV between sex workers and their clients in Australia, which is extraordinary.

Everywhere else in the world it is a different picture and trafficking is similar. People look at inflated global statistics and apply them to Australia, when that is not the case. Prevention is the best way to deal with trafficking. We have a great network of peer educators in the states and territories that do get access to workplaces. Being able to provide translated information of a person's rights and responsibilities goes a long way to that person being able to independently make decisions for themselves. In addition, having pre-departure information about somebody's migration rights and responsibilities cuts out the need to engage a third party. That is not to say that all third parties are exploitive but it eliminates that potential avenue for exploitation. Promotion of an action such as simple translated information on a person's rights and responsibility goes a long in reducing a person's vulnerability to trafficking.

That is not only my opinion, through the migration project we spoke to a lot of people, including those who had been caught up in trafficking investigations and those who had experienced exploitation and asked them, "What would have helped you to make a different choice?" And, not for a moment suggesting that it was their fault they were in that situation, but asking, "Is there something that we could have done or provided you to help you make different choices?" Sex workers do not willingly break the law. It is not in their interest to do that, but people may have no idea what their rights and responsibilities are. Having translated visa and laws information on their migration and legal rights and responsibilities went a long way to help people make different choices.

Dr MEHREEN FARUQI: We have heard evidence earlier today from some organisations and there were claims made that the Nordic model has been successful in reducing sex trafficking by 50 per cent since it was introduced. I have not seen the Swedish Government report on it. Have you come across the statistics and what is your view of the Nordic model in terms of reducing sex trafficking?

Ms KIM: There has been no evidence that the Nordic model has reduced sex trafficking or the size of the sex industry. The figures in the Swedish report you refer to are tenuous. There was no research to provide a base line of figures. Simultaneous to that the advent of technology restructured the sex industry: there were less people working on the streets and more people working privately. There were other factors that impacted on what was the perceived reduction and what was more correctly termed a restructure of the sex industry. When the United National special raconteur on people trafficking, Ms Joy Ngozi Ezeilo, visited Australia she stated that she investigated the Nordic model at great length, because people had made claims this would reduce trafficking, and she said she found no evidence that it had an impact on trafficking.

Amnesty International speak about the negative impact of the Nordic model on trafficking interventions. There is a quote from another Swedish study that states the Nordic model has proven to be dangerous to the mortality of sex workers with increases in sex worker deaths since the laws were implemented and resulting in high levels of isolation and social exclusion. It has impacted negatively on sex workers' rights. There have been situations where sex workers working together for each other's safety have been accused of pimping each other according to the laws. All the support and safety structures of sex workers are criminalised under the Nordic model. It is not just our opinion but certainly a lot of the evidence based research for a number

of international organisations support that the Nordic model has not been successful in addressing trafficking. I am happy to submit those to the Committee.

The CHAIR: What is the reference for the quote?

Ms KIM: It is "Sweden's abolitionist discourse and law: Effects on the dynamics of Swedish sex work and on the lives of Sweden's sex workers", by J Levy and P Jakobsson, in a peer review journal *Criminology and Criminal Justice*.

The CHAIR: You stated that the death rate increased under the Nordic model.

Ms KIM: That was the quote and I will provide the research.

The CHAIR: I came across an article from Candace Sutton in *news.com.au* that spoke of a sex worker in Melbourne. That sex worker acknowledged her industry was dangerous. The article stated, "he attacked me with a baseball a bat". Further: "St Kilda sex worker talks about the dangers of her job". In light of the dangers, it seems that the mortality rate is quite high. It is part of the danger of the job. Do you have statistics of mortality rates of prostitutes in New South Wales and Australia?

Ms KIM: More to the point is the stigma and discrimination that exists against sex workers and the poor legal framework that makes it difficult for sex workers to access justice. That is where decriminalisation is important. In Melbourne the licensing system creates a two tier system under which the majority of sex workers are working outside of an unworkable licensing system and are considered criminals. It makes it difficult for people to come forward to the police. By contrast, decriminalisation means that sex workers can seek police assistance without fear of being arrested just for being a sex worker.

The CHAIR: It is a dangerous job?

Ms KIM: Compared to what? A number of assertions could be made about a number of different jobs.

The CHAIR: In this job it is gender violence. I have been a great proponent of White Ribbon and I have a t-shirt that says, "There is no excuse for abuse". I do not care what industry you are in.

Ms KIM: Absolutely.

The CHAIR: It seems in this industry gender-based violent is part of the job. A sex workers knows it is dangerous and there may be a situation.

Ms KIM: It is not to say that violence does not happen in sex work, of course it does. It is not to say that sex work is inherently violent.

The CHAIR: How do you address that and if you have a situation where you think there are workers that have been trafficked how many have the Scarlet Alliance reported and what are the pathways forward if you have that suspicion?

Ms KIM: That is a lot of questions. In terms of violence in the sex industry: if somebody has experienced violence and presents to Scarlet Alliance we ask if they want to make a report to police and we will assist them if they are in immediate danger—we will respond to that. It depends on the individual circumstance. We need to be careful of basing views on one *news.com.au* story.

The CHAIR: I understand that. Scarlet Alliance is the peak body?

Ms KIM: Yes, we are.

The CHAIR: How many ladies would report to you that they have been recipients of violence as part of their occupation? What statistics do you have per year that you have a system that they have confidence in?

The Hon. TREVOR KHAN: How does this fit in with the terms of reference?

The CHAIR: This line of questions is about the gender base. It comes under human trafficking.

Ms KIM: We have systems in place such as the "Ugly mugs" reports. We do have a range of systems in place where we can communicate to other sex workers and there are safety structures in place, as well as reporting mechanisms, as well as the assistance to report to police if the sex worker should choose to do so. In terms of the trafficking situation, yes, there has been situations where we have made referrals to the police.

The CHAIR: How many since Scarlet Alliance started, or in the past 12 months?

Ms KIM: I could not tell you off the top of my head. When we are alerted to a potential trafficking situation we will go there and investigate the situation. If there is a need, or if somebody has come forward to

us, then we will contact usually Anti-Slavery, who provide us with legal information so that that person knows what to expect out of the situation they are in.

The CHAIR: Will you present to the Committee how many of those cases—we do not need names—have been presented to Scarlet Alliance with people who have made representations that they are a trafficked person and are reaching out for help?

Ms KIM: It is a whole range of issues.

The CHAIR: I just want statistics; I do not want generalisations.

Ms KIM: Do you mean somebody actually coming to say "I have been trafficked" or "I am experiencing workplace exploitation"—

The CHAIR: Because Scarlet Alliance is the peak body surely it has a knowledge of how many women have come to it saying "I've got issues" in this area. A way for them to find safety is to find its peak body just like a union or anyone else. I want to ensure there is a pathway for these people. How many people have used your pathway in the past 12 months?

Ms KIM: I cannot tell you the number off the top of my head.

The CHAIR: Will you take the question on notice?

Ms KIM: Yes, I will take it on notice. There have been a number of people who do come forward with various different issues. Obviously people do not present to us when things are going okay. It does not represent an accurate picture of exploitation within the broader sex industry because people are only coming to us when they actually have issues.

The CHAIR: I am being specific to trafficking. I understand they might come to you for other reasons but I am specifically interested in how many have approached the peak body in the area for human trafficking issues.

Ms KIM: Yes. I am happy to present you with the numbers on notice.

The Hon. NATASHA MACLAREN-JONES: In your opening remarks you said that some people are coming to Australia to work in the industry.

Ms KIM: Yes.

The Hon. NATASHA MACLAREN-JONES: And then from there they are not getting paid or they stay for different reasons. Is there enough education information provided to these women prior to their arrival, or when they do arrive, if they intend to work in this industry on the challenges they may face? They come in and think they are fully informed but when they arrive they find that they are not.

Ms KIM: Through our migration project we have been funded to work together with Empower in Thailand. The Empower Foundation has six centres throughout Thailand. That was funded specifically because, early on, the majority of the numbers that we were seeing within the trafficking figures were of Thai sex workers. That was funded through the Commonwealth Government.

The Hon. NATASHA MACLAREN-JONES: When did that begin?

Ms KIM: It was first funded in 2009. We have been incredibly successful in actually reducing the numbers of Thai sex workers that have been coming forward as trafficked and within the trafficking framework. We have reached out to thousands—I am happy to again provide you with those numbers—of sex workers in Thailand.

The Hon. NATASHA MACLAREN-JONES: Yes, provide some details.

Ms KIM: We provide them not only with information on their rights and responsibilities if they are thinking of coming to Australia to sex work but also with a referral base so they know that they can get in touch with Scarlet Alliance if they are thinking of working in Australia, and we can put them in touch with our members in the States and Territories that have the peer outreach programs.

The Hon. GREG DONNELLY: On page 2 of your submission, third paragraph down, it states that "Various government inquiries have also been unable to find the presence of organised crime in the sex industry ..." Does Scarlet Alliance stand by that position?

Ms KIM: We have referenced the inquiry so that you can see with the third reference there was a Victorian inquiry, an inquiry into prostitution in Queensland as well as the Select Committee of the Legislative Assembly on prostitution in New South Wales.

The Hon. GREG DONNELLY: Are you familiar with the 2015 inquiry into the regulation of brothels by the New South Wales Legislative Assembly?

Ms KIM: That report was not accepted.

The Hon. GREG DONNELLY: I know its recommendations.

Ms KIM: Three of the committee did not accept its own report.

The Hon. GREG DONNELLY: No, I am not talking about the recommendations.

Ms KIM: Nonetheless, if three members of the Committee do not accept a report—

The Hon. GREG DONNELLY: You cannot talk over me.

The CHAIR: There is no question.

The Hon. GREG DONNELLY: I ask you not to talk over me. You stand by that position but on page 47, paragraph 4.4, of the report of the inquiry in relation to trafficking, it states:

As discussed in chapter two of this report, one of the reasons for the introduction of decriminalisation in NSW was to make the sex services industry less attractive to criminal elements. However, there is still significant criminal activity present in the industry. Around 40 brothels have some recorded connection or ties to outlaw motorcycle gangs in NSW Police intelligence holdings. There are also numerous reports of links to Asian organised crime in NSW brothels. This is a national problem. The Victorian Police also reported problems with outlaw motorcycle gangs and Asian syndicates operating in the sex services industry in that state.

The footnote specifically refers to the evidence of Deputy Commissioner Kaldas in open public hearing and also in-camera evidence. How does that evidence of the Deputy Commissioner of the NSW Police Force citing evidence from New South Wales and also talking about the Victorian situation sit with your statement that various government inquiries have not been able to establish the presence of criminal activity?

Ms KIM: I would certainly question the statements of Deputy Commissioner Kaldas as they were not even in line with the police union's own submissions. I do not believe his statements. To the issue of organised crime, in its report the Australian Institute of Criminology has found that there is significant evidence to support that offenders were not highly organised criminals. In fact, in the trafficking cases that we know of in Australia individuals, duos and small unsophisticated groups—commonly family members—have been responsible for orchestrating all stages of the trafficking process, from recruitment to transportation and exploitation. They are not these large, organised criminal gangs.

The Hon. GREG DONNELLY: If you are not going to accept the evidence from the Deputy Commissioner of Police in New South Wales I will move on.

Ms KIM: Can I also note that there is significant legislation in New South Wales, including the Crimes (Criminal Organisations Control) Act 2009, which can revoke the licence of a person found to be a member of a declared organisation or sufficient grounds existing for making a controlled order. Certainly there is legislation preventing motorcycle gangs from infiltrating the sex industry.

The Hon. GREG DONNELLY: I will move on if you do not accept that proposition. In terms of the definition of "trafficking" of persons from overseas, particularly from the south-east Asian arc into Australia—this is not a trick question—what does Scarlet Alliance understand to be the meaning of "trafficking"? What does trafficking mean?

Ms KIM: Certainly when we are talking about trafficking, lack of consent and actual harm are factors which play into that; but obviously when somebody is deceived and there is in terms of trafficking actual exploitation taking place and somebody is deceived as to the work that they are doing.

The Hon. TREVOR KHAN: What about as to the amount of money that they will make compared with what they have to repay, would that fit within the definition of trafficking?

Ms KIM: The quantum and the size of the debt does not reduce, so if somebody has agreed to a certain amount, the debt never ends. Certainly that would come under debt bondage.

The Hon. TREVOR KHAN: It extends beyond a deception as to the work to be undertaken?

Ms KIM: Yes, it does.

The Hon. TREVOR KHAN: Can I just ask in that regard, does that occur or does that not occur within parts of the sex industry and let us keep it specific, in New South Wales?

Ms KIM: It is a really small minority. I am not saying that it does not occur, but the issue that we are talking about is for a small minority of the sex industry would then have these interventions that actually negatively impact on the majority of the sex industry and do not help those victims.

The Hon. TREVOR KHAN: The only problem I have got with that is let us suppose I am one of those who is quite in favour of essentially the current regime—and let us not suppose, I am—but let us also work on the basis that accepting that fact that I do not accept what some other members of this Committee might have as a view on these matters, if what we received as evidence that tries to downplay that there is a problem with what potentially is a small minority, actually does not assist us in coming to our conclusion.

Ms KIM: Right, sure.

The Hon. TREVOR KHAN: If there is a problem, albeit small, then it is useful to know the circumstances in which that small problem exists because for the individuals that are involved, it is probably a very big problem.

Ms KIM: Absolutely, I do not disagree with you there at all and I think that is where it is really important to be able to have funded peer outreach, because when we have spoken to the people that have been on the other side of that, somebody who speaks their language that actually is able to talk to them, because often they are coming from an environment where sex work is heavily criminalised in their home country, so they see the police, they see immigration and they do not see them as people to go to for support. They just see them as people to run away from.

The Hon. TREVOR KHAN: It would not even need to be criminalised in their home country, if they have come here on a student visa and they are working, we will say, in a brothel, they may be concerned about their continuing status to remain in Australia.

Ms KIM: Actually, student visa holders can legitimately work in the sex industry in Australia.

The Hon. TREVOR KHAN: I think we have heard that, but do those workers know that?

Ms KIM: Yes. This is what we try and do, by getting that information out there as to people's rights and responsibilities, so people know what their work rights are. But certainly there is a lot of stigma and discrimination in the sex industry and that is why peer education is so important, because that information coming from bilingual peers is the best way to disseminate that information.

The Hon. TREVOR KHAN: Is this material disseminated in writing?

Ms KIM: Both, verbally and in writing.

The Hon. TREVOR KHAN: In terms of the written material, would that be available for you to provide to us?

Ms KIM: Yes certainly.

The Hon. TREVOR KHAN: Probably the English version would be the easiest, but nevertheless could you provide us with some of the material that you make available to people?

Ms KIM: Yes, we would be very happy to do so.

The CHAIR: In light of your last comment in terms of traffic workers or some sex workers who are afraid of the authorities—whether it be police or border security—you would virtually be self-regulated then in how you handle them? Is that how it works? How do you address those persons because if they do not like authorities—and we noted this about non-government organisation hotlines as opposed to police hotlines—is Scarlett Alliance self-regulated in those terms and in dealing with those traffic issues because of the traffic workers who are unable to go to authorities?

Ms KIM: No, we will provide them with support to go the authorities and also we will provide them with legal advice so that they understand what to expect from the process. It is not a form of we will decide what the law is, because obviously that does not work, but it is just a matter of ensuring that person is informed with all the information to make an evidence-informed decision about their situation.

The CHAIR: Sorry for my ignorance, but do you have a code of conduct or set of guidelines—a constitution—that you work from that binds you, say, to helping them receive legal or police advice or reporting their situation and they can be confident if they come to you that you will obviously be victim centred, be mindful of them, but you will pass that information to the necessary authorities? Are you bound by that?

Ms KIM: Yes, in terms of trafficked people, I think that there is an excellent set of guidelines which Scarlett Alliance have been involved in drafting in the two editions that have come out, and they are the non-

government organisation guidelines for working with trafficked people. That has been developed through the trafficking round table, and they are an excellent set of guidelines in terms of processes to follow.

The CHAIR: When you say trafficking round table, is that Scarlett Alliance?

Ms KIM: No, the national trafficking round table.

The CHAIR: Someone sits on that from Scarlett Alliance?

Ms KIM: I do.

The CHAIR: Can I thank you for your evidence this afternoon. You have taken some questions on notice and there will be a couple of others given your evidence. You have 21 days; Sam and the team will help you out there if you need anything. Thank you for your evidence and your submission, it has been very helpful.

(The witness withdrew)

CAMERON COX, Chief Executive Officer, Sex Workers Outreach Project NSW, affirmed and examined

The CHAIR: Do you have an opening statement that you would like to present?

Mr COX: Yes, I do. Sex Workers Outreach Project, which is commonly known as SWOP, is a community-based peer education and support organisation which is directed, managed and staffed by New South Wales' sex workers for New South Wales' sex workers. SWOP has been in existence for over 30 years, starting out as the NSW Prostitutes Collective in the 1980s. SWOP works mainly from a health basis. Our main funding comes from the New South Wales Department of Health and we adopt a peer education model, which has led to very successful work. As you have heard, New South Wales sex workers have reportedly lower rates of sexually transmitted infections than non-sex workers in New South Wales, rates of condom use for vaginal sex in sex work exceeding 99 per cent and we have no documented case of HIV transmission within the sex work setting in New South Wales since the beginning of the epidemic.

As an organisation, we have a long involvement with New South Wales' sex workers and we also have high levels of engagement with our fellow New South Wales' sex workers and sex worker organisations in other States and also in other countries. In the last 12 months, as well as our engagement with sex worker networks, other non-government organisations, government and research bodies and regulatory authorities, we engaged directly with just under 6,000 of our New South Wales' fellow sex workers.

In that period we also made over 600 visits to New South Wales' sex service premises, made 44 separate visits to regional and rural areas in New South Wales, distributed over 360,000 safe sex items and other 20,000 printed resources, the majority of which were in non-English based languages. We maintain an information-based website and four social media streams, and we made just over 3,000 posts on health and support in the last year. As well as the accumulated knowledge of the organisation within SWOP, we estimate that our staff, who are all sex workers or ex-sex workers, have over 200 years of lived experience of sex work between us.

We are appearing before this inquiry because we believe that of all the organisations in New South Wales we are best placed to offer a realistic, on the ground, practical view of sex work in New South Wales and to speak to the prevalence of trafficking in New South Wales as we see it. Our view is that this prevalence is low, even based on a glance of the Palermo protocol. I also wish to say a few things in answer to what other people have said about the industry. People talk about the New South Wales sex industry as if it is some block and an industry in the industrial sense. We are more like something that is pre-Industrial Revolution. We are a series of little cottage industries—for example, 50 per cent of us work privately. That means we work for ourselves, we do not have a boss, and the other 50 per cent of us who work in sex-service premises, there is no conglomeration of sex-service premises.

The people who own brothels do not even have a business association that they belong to. It is very fragmented and very few people own more than one brothel. Most of the sex-service premises that run in New South Wales are very small establishments. They are basically small family-run businesses. To characterise us as an industry and as a block, as some people have done, I take issue with. I would also like to talk a little bit about a couple of things that was said about the Nordic model before I start.

The Hon. TREVOR KHAN: You were here for that evidence earlier on?

Mr COX: Yes. The Nordic model was characterised as decriminalising sex workers. Sex workers are not criminalised anywhere in Australia, even where sex work is criminalised. We work on the United Kingdom system where everything around sex work is criminalised. That is exactly what the Nordic model does—it takes all the ancillary things, including clients, and criminalises them and leaves the sex worker decriminalised. For us the Nordic model is really a wolf in sheep's clothing, if you follow that. That is all I have to say. Ask me questions, please.

The CHAIR: I am familiar with that, and no-one is exempt from pre-industrialisation either.

Mr COX: It would be lovely.

The CHAIR: On page 7 of your submission you say that a clear definition of "trafficking" would assist everyone. Can you elaborate on that?

Mr COX: An earlier speaker talked about people changing beds at one end of the spectrum and then the very strict Palermo protocol where if I am at all assisted by anybody in moving between countries I can be considered trafficked. So in between that there is a really wide spectrum and it confuses the public, the Parliament, sex workers and lawmakers. It would be nice if we could reach a definition. I think Jules Kim gave a

fairly good definition, assisted by Mr Khan, where you have to have some coercion, exploitation and consent so even not getting your wages or the wages that you had agreed to before you came here I would take as negation of consent.

The Hon. GREG DONNELLY: How do you define exploitation?

Mr COX: Exploitation is a difficult thing to define because if I am coming from a country where wages are low—for example, in Thailand if I was a male Thai sex worker I would get about \$30 for a job, here I get \$250 for a job. A Thai sex worker coming here might be quite happy to work for \$100 but if everybody else is working for \$250 an hour, it is a really difficult question to answer. I think we have had those problems in the bricklaying and other industries, where people have come here and been quite happy to work for a very low wage not realising that they are being exploited because the wages here are higher.

The Hon. GREG DONNELLY: That is exploitation in remuneration payments, but does not exploitation have a broader concept or notion to it?

Mr COX: It can have. Would you like to define it for me and I will comment on it?

The Hon. GREG DONNELLY: No, I am asking you.

Mr COX: It could be longer hours.

The Hon. GREG DONNELLY: There was some toing and froing with the previous witness in trying to understand what it might mean to be trafficked, and exploitation was part of it. I am trying to elucidate what that might mean beyond just remuneration.

Mr COX: A legal definition of "trafficking" is a little bit beyond me. I have discussed with Michael Kirby on a number of occasions the Palermo protocol. It would be someone like him and an expert reference group that I think should decide that.

The Hon. GREG DONNELLY: But there is Commonwealth legislation, at least in part, that deals with the issue of trafficking so it gets picked up by that. I was trying to think of a broad definition.

The Hon. TREVOR KHAN: Do you think if somebody were induced, particularly in the context that we are talking about poor South-East Asian countries, to come here to work in the sex industry for a period of time—even if they knew they were going to be working in the sex industry—when they were not coming from the sex worker background at all, that they are potentially being exploited by being encouraged to come here to work in the industry? I know it is moral position that one is taking but I suspect that is where some might be going so I might as well ask the question.

Mr COX: I am assuming they are being underpaid? To our knowledge, hardly anybody or nobody comes here who has not worked before. If you are being underpaid, you are being exploited.

The Hon. TREVOR KHAN: There is no question.

The Hon. GREG DONNELLY: Except there is no award or no binding legal arrangement as to the rate of pay?

Mr COX: There is not, but with decriminalisation and a fairly level playing field people then have the option. We quite often, in these cases, just advise people to go to another brothel and they do, or to set up work for themselves and work privately. Whereas when sex work is regulated, as in Victoria, that is not always possible.

Dr MEHREEN FARUQI: In your submission you mention the media hysteria about sex trafficking.

Mr COX: Yes.

Dr MEHREEN FARUQI: You say: "SWOP has fielded alarmed calls from members of the general public reporting groups of Thai workers arriving at a brothel with suitcases as trafficking. We don't get the same calls about Anglo sex workers who share cabs, or take suitcases of clothes with them to work." Could you elaborate on this racism or discrimination against Asian sex workers and what can be done about it?

Mr COX: There is a level of racism that exists in Australia and there is a perception—and it is fostered by the media—that Asian sex workers are without agency and that Asian sex workers are meek and mild and do what they are told, and that is again fostered by the media. We do get calls that say, "We see Asian sex workers walking into a brothel carrying suitcases. They come again at night and they all go in the same cab." On investigation it has been found that is because they all live a suburb away in the same premises and the suitcase they are bringing with them is, of course, their work clothes. There are the usual explanations for these sorts of things but the media will then take that as trafficking.

In some brothels people actually stay on the premises for a time, because it is cheaper or the brothel allows that. Some people see that as them being trafficked and compelled, but quite often it is because it is a cheaper arrangement and they are looking to send money home to family or to relatives and they are also looking to save money. In the same way as when I went sex working overseas, I stayed in backpackers and I stayed on the couches of clients. I sex worked my way around Europe and did it as cheaply as possible.

Dr MEHREEN FARUQI: Going back to your earlier comments about the Nordic model, you alluded to the fact that it exists in Australia but not in New South Wales. What do you think would be the effect on sex workers if such a model were to be implemented here?

Mr COX: The first thing the Nordic model does is try to starve us out of existence by criminalising our clients. The next thing it does is it puts the police on our doorsteps because the police are trying to catch clients and what better place to catch clients than on a sex worker's doorstep. It stops our negotiating power with clients because there is no time to negotiate, the client is too nervous to negotiate, wants to have the negotiation and the job done as quickly as possible. It also extends much, much further because in Sweden the Nordic model goes as far as to prevent us from advertising, prevent us from renting—landlords can be prosecuted for renting for a sex worker. Even your bank, I own my own premise and my bank, if we were under the Nordic model, could be prosecuted for giving me a mortgage. So it basically makes our lives almost unliveable.

Dr MEHREEN FARUQI: We have discussed, from previous submissions and this one as well, that sex trafficking does exist and has to be addressed. But there is also a lot of stigma around sex work still, even with a decriminalised model in New South Wales. I am interested in finding out how we address that stigma, how we reduce it so that we can probably focus more on the real issues which are around other areas.

Mr COX: It is something that exercises my mind nearly every hour of the day, because we have achieved decriminalisation here and we have to fight to retain it, but the next thing is stigma and discrimination. We would like legislative backup. As sex workers we have no laws that protect us from stigma and discrimination. For example, I am a same-sex attracted man, I am a gay man; I have laws that protect me from vilification for being gay but nothing protects my sex work status and my sex work status is attacked all the time. I can be chucked out of a motel because people suspect I am sex working. I can be refused a job because people suspect that I have been a sex worker. It is very hard for a sex worker who has left the industry to explain what we call résumé gap, which could be the five or 10 years since you have sex worked, because if you say what you have been doing you can be pretty sure you will not get that job at Coles or Macquarie Bank.

The CHAIR: I see at the bottom of your sheet here "Workplace rights". I would imagine that comes under that. This is one of the issues, and earlier we were speaking about that situation—you were in the room—in St Kilda where she quotes "It's a dangerous job". In terms of workers' rights and gender-based violence, would that be packaged in those same laws?

Mr COX: It would, but in Victoria you have laws that make it dangerous to sex work. Somebody who is sex working in St Kilda is performing an illegal act. The gentleman with the baseball bat knows that.

The CHAIR: So they cannot report it.

Mr COX: He knows that it is unlikely to be reported. Last year we had reports of three different people going around in Victoria and they would hire sex workers who were working from their own homes, which is not legal in Victoria, and they would then not pay them and bash them and possibly attack them sexually again, very confident in the knowledge that those crimes would not be reported. We asked Victorian police to provide some sort of amnesty or indemnity for the sex workers and they refused to do so and those crimes were not reported.

The CHAIR: The same question I asked previously: How many of your sex workers have come to the peak body, the Sex Workers Outreach Project organisation, with complaints of being, say, gender abused or abused in the last 12 months?

Mr COX: In the last 12 months probably 12 to 14.

The CHAIR: What would be your actions in such a case?

Mr COX: We will support them to go to the police—they may have already gone to the police; some will not go to the police and they will not go to the police for reasons of stigma and discrimination because they do not want to have to appear in a court trial, they do not want their real names revealed, others do. Police in New South Wales have been, on the whole, very good and very supportive.

The CHAIR: And reports to the organisation in terms of trafficking?

Mr COX: We have had nothing that has been substantiated. A lot of reports like we were talking about—the taxi and the five people arriving together—we have had two cases of what I would call labour exploitation for migrant workers reported to us and both of those were solved sort of outside the court system. One involved violence and we had the New South Wales police involved and that gentleman is now serving time.

The Hon. NATASHA MACLAREN-JONES: In your opening remarks I think you said that 50 per cent of workers work for themselves, effectively, and others will be working for an employer. You said that you have visited a number of brothels in metropolitan and regional areas. What is the percentage of workers that you are reaching and how do you reach out to those you cannot necessarily get to—or what are the barriers to get to those ones?

Mr COX: The number of people who are actually working is a difficult question because there are a lot of people who only work very much part-time. With male sex workers, some of them only work every month—once or twice maybe—for a little bit of pocket money. The number of full-time workers or people who rely almost completely on their sex work income we estimate as being around about a constant 10,000, and we try and reach over half of those every year.

The Hon. NATASHA MACLAREN-JONES: What are the barriers—and this is more specifically to those who are being either exploited or trafficked—in getting to those people and what recommendations would you make to ensure that your organisation or others can get to them?

Mr COX: First of all, we are agnostic as far as premises go. We look for advertisements, we look for intelligence from other sex workers, and all we are looking for are premises where sex work goes on. When we go to those premises, we go in pairs. If it is a premises where English is not spoken as a first language we try and send workers who speak in that language. Then one of our workers will engage the receptionist or owner in conversation while the other worker will go to the ready room where the workers are waiting for their next job, and that way we try and give people the opportunity to say if something is not going right. After a while, when we have built up trust, occasionally we will get a little bit of intelligence about exploitation or something like that. But it is not something that happens on a very regular basis, and we take it from that that the amount of trafficking that occurs into New South Wales is low.

The Hon. GREG DONNELLY: What about if you do not get past the front desk; they do not let you in?

Mr COX: That happens in about 2 per cent of cases, and usually on our second or third visit we get in. We usually mention that it is a clause in their council DA or their plan of management that they have to let us in, which it usually is, and when that gets through to the owner we usually get into the premises.

The Hon. GREG DONNELLY: So the 40 brothels in New South Wales run by outlaw motorcycle gangs, they let you in to speak to their employees?

Mr COX: My first comment on that was I think the commissioner was jumping the gun a little bit on that one. Especially around Newcastle and further up, we were starting to see some infiltration of motorcycle gangs into the ownership of brothels. That since seems to have dissipated.

The Hon. GREG DONNELLY: So you contest the assistant commissioner's evidence?

Mr COX: I would contest his evidence, yes. Just because there is an outlaw motorcycle gang running your brothel does not necessarily mean it is exploited. Before decriminalisation I worked for Abe Saffron at a distance and we had very good working conditions. I also worked in a brothel that was run by the New South Wales police and we had very bad working conditions.

The Hon. GREG DONNELLY: Make what you will of that.

Mr COX: That is right.

The CHAIR: That concludes our time for evidence. Thank you for presenting this afternoon and for your submission. We may have some questions on notice. The secretariat will help you with that, and you have 21 days to answer them. Once again, thank you for your presentation this afternoon.

(The witness withdrew)

KATI ANTHONY-BENSON, Manager Client Services, Child and Family District Unit, Sydney, South East Sydney and Northern Sydney, Department of Family and Community Services, affirmed and examined

The CHAIR: Do you have an opening statement that you would like to present?

Ms ANTHONY-BENSON: I do. I would like to start by acknowledging the traditional custodians of the land on which this inquiry is being held, the Gadigal people of the Eora nation, and pay my respects to elders past and present. I would also like to acknowledge any Aboriginal people who may be in the room with us today. I would like to thank the Committee for the opportunity to give evidence here today, to provide you with an understanding of Family and Community Services [FACS] does and what it does to protect children, which sometimes involves reports of underage forced marriage.

I will try to provide you with an understanding of the challenges associated with underage forced marriage and some thoughts about how we can work to enhance prevention and improve the response to children and young people who are affected by forced marriage. I have a bachelor of arts in psychology and a graduate diploma in psychology. I have been working for the department for about eight years, initially as a child protection practitioner and then as a manager caseworker for various child protection and out-of-home-care teams.

Prior to my current role as Manager Client Services with the Child and Family District Unit, I was managing the Lakemba Community Services Centre where I had some involvement in a number of cases where there were concerns about underage forced marriage. I have been really privileged in my role to work alongside families and communities with incredible strength and resilience. I firmly believe that all families can experience hard times; they can make big mistakes and bad decisions but with the right support they can thrive through adversity.

I enjoy supporting staff to build their practice to improve outcomes for vulnerable children and their families. I believe it is important that we consistently and continually reflect on our practice with children and families and look for areas of improvement. Underage forced marriage is a sensitive issue, one where there is a complex dynamic of cultural, social and economic factors. The impact on victims of forced marriage can include isolation from family and community, disruption to education, homelessness for those trying to escape, and economic and psychological hardship.

In my experience, every case is different and requires a response that is unique to the needs of that child or young person. Responses to forced marriage should aim to minimise stigmatisation and avoid isolating children and young people who are affected by this issue. My staff have met families where parents genuinely believe that they are doing the right thing for their children. Some young people also feel that marriage is an opportunity for a new life. We have worked on cases where it has been really hard to ascertain whether a forced marriage is being planned or has occurred and from my experience I believe that the best way to work on a complex issue like this is to work with communities and the many organisations which have a critical role in supporting these victims—organisations such as the Red Cross, the Salvation Army, the Australian Federal Police and Anti-Slavery Australia.

I believe these will help us better understand the factors leading to underage forced marriage and identify how we can all work together to prevent it occurring. FACS has a statutory child protection role and we respond to reported concerns about a potential underage forced marriage in the same way that we respond to concerns about any other child or young person. This involves assessing the safety and the risk of that child and then determining what sort of support or intervention might be needed. We provide and facilitate intervention and support to ensure their safety and their wellbeing and work closely with families and communities through this process.

In order to improve outcomes for children and young people affected by underage forced marriage, I believe there needs to be greater emphasis on culturally and age-appropriate services for potential victims, education on the issue and enhancement of the community's role to prevent it from occurring. I hope that my time this afternoon will be of benefit to the inquiry and that the importance of working in partnership with communities to build their trust and understanding is identified as the best way that we can move forward to ensure that young people and children affected by underage forced marriage have the best possible lives.

The CHAIR: Can you elucidate the role that education can play?

Ms ANTHONY-BENSON: Absolutely. What I was referring to with education was getting to a grassroots level of working within the communities so that they not only understand things like the legislation that governs this area in that it is absolutely against the law for a child to be married but also understand a little

more clearly why this is such a worry for us; why we say that children should not be married. It is education from a number of different approaches.

The CHAIR: Is any of that concept included in the school curriculum?

Ms ANTHONY-BENSON: Absolutely. We know that the primary reporter of potential underage forced marriage is the education department. We know that that happens for a number of reasons. One of those reasons is that it takes immense courage and strength for young person to talk about this issue, with the many worries that accompany it. People in the educational field often have those relationships so it is vital that they have the educational resources to help them understand some of the early warning signs and to know how to best respond when they are faced with situations of a young person talking about a worry such as this.

The CHAIR: Do you know if that system is part of a teacher's orientation program when they teach in areas that have a heightened cultural expectation?

Ms ANTHONY-BENSON: I am not sure.

Dr MEHREEN FARUQI: Thank you very much for coming in and for your excellent introductory statement. I would like to know more about which agencies and groups you work with to try to identify and prevent underage forced marriage?

Ms ANTHONY-BENSON: Again, it depends on the specific situation. For example, it might be that it is the school or an educational professional who is reporting the issue. In that situation it might be that that is a great place to start, especially if they have that established relationship with the child. Generally we work very closely with the AFP and the Red Cross and often look to joint case planning around best supporting the child in any number of different domains—it depends on their circumstances—but in best supporting them.

Dr MEHREEN FARUQI: You emphasised earlier the role of building trust with communities, engagement and education. I am interested to know how specifically you do that. How do you go about building trust or engaging communities?

Ms ANTHONY-BENSON: It is an area that we are still working on but I can talk a little bit more generally as to how we would do that—

Dr MEHREEN FARUQI: Sure.

Ms ANTHONY-BENSON: —and how I have seen that done, say, in my work in Lakemba. I think building trust is a tricky thing, especially with a community group that might feel worried and fear with an organisation such as FACS. It is about being present—that is one of the things—and then seeing continued actions over time of you being someone they can work with and find to be a valuable resource. Sometimes it is about helping them when they need assistance in understanding certain issues they might be up against.

Dr MEHREEN FARUQI: When you say "them", is it specific communities you target to work with or is it particular community groups that you work with?

Ms ANTHONY-BENSON: We know that underage forced marriage occurs within many different communities and cultures so when I talk about building trust, it was more generally what we would do.

Dr MEHREEN FARUQI: Do you work with Multicultural NSW in any way?

Ms ANTHONY-BENSON: We absolutely do. One of the great things about being involved in a large organisation like FACS is that alongside having Multicultural NSW and other fantastic services that can work alongside us, internally we also have a lot of resources that we can draw on. Any child protection worker across the State is able to access a caseworker specialist, which is a guru in terms of good practice and they are well versed in things like underage forced marriage and many others, but we are also able to access Multicultural NSW casework. It is a fantastic thing to do, if it so happens that the case that you are working on involves a specific cultural group and you need advice and understanding.

Dr MEHREEN FARUQI: Underage forced marriages receive a lot of media attention and it should be condemned, but I am interested to know what proportion of your work is on the issue of underage marriages compared to other child abuse issues?

Ms ANTHONY-BENSON: I can tell you that between December 2014 and January 2017, we received 60 reports involving 57 children where the allegations were about underage forced marriage. More broadly, so far as the other issues that we face, we receive tens of thousands of significant harm reports a year so, to be honest, it is a small proportion of the work that we do.

Dr MEHREEN FARUQI: You note in your submission that in March 2015 Anti Slavery Australia launched the first free online training program for frontline workers dealing with human trafficking, slavery and slavery-like practices, including human labour and forced marriages. How many FACS staff in your unit have gone through this training or similar kinds of training?

Ms ANTHONY-BENSON: First, I do not think that was in my opening statement.

Dr MEHREEN FARUQI: In your submission, not your opening statement.

Ms ANTHONY-BENSON: I would love to talk to you about some of the training that our staff receive and talk to that. There are a number of things. All of our new caseworkers go through a casework development program, and that is absolutely mandatory. Through that program they are exposed to and trained about a number of different things. As I said before, they are really encouraged to look at children who are facing different risk issues on a case-by-case basis, drawing on all of the expertise that we have in the department in respect of those specialist roles. We ran five forced marriage master classes. That was helpful in explaining the cultural, social and economic factors that lead to underage forced marriage. It also gave the opportunity for staff to develop the real intense understanding of what some of the other partner agencies are doing, such as the Red Cross, the AFP, and some of the great resources that are there to support us, for example, the My Blue Sky website. There were five master classes and, following that, there has been some work done by the people who attended those master classes to build on the learnings.

Dr MEHREEN FARUQI: Thank you.

The Hon. TREVOR KHAN: I am sorry I missed your opening, but in terms of kids making disclosures of matters important to them, I went to a report entitled "Writing Themselves in" that dealt with what I will loosely describe as kids who were same sex attracted. That report found that disclosure to friends was the most common source of disclosure, but if we look at disclosure to professionals, the group with the highest disclosure rate is teachers, which is much higher than doctors and other groups. In terms of what you do, I wonder whether you have any ideas how we can encourage the friends of a child who may make a disclosure to then pass on that pearl or nugget of information about the kid who is in a difficult position.

Ms ANTHONY-BENSON: A lot of that comes down to community education. As various organisations start to work more with the communities on that grassroots level, the flow-on effect will be that everybody from the children who are going to school with kids who might be making disclosures, to parents, to the wider community will have a greater understanding of not only the legislation that governs what we know is absolutely not okay, but also some of the reasons why. If that grows, perhaps in the example you gave, the friends of the children affected might be more likely to have those alarm bells ring and think, "This is something that is not okay. I have heard this being talked about and people are really worried about this. Maybe I will tell a teacher, maybe I will talk to my mum and dad about this, because this is not feeling right." I think that would be the biggest part of what you are referring to.

The Hon. TREVOR KHAN: I could envisage a circumstance where almost the Chinese whispers start within a class. A child makes a disclosure to a close friend and the close friend then discloses to his or her friends, and then it actually ends up not with a parent but with one of those kids then disclosing to a teacher. I would have thought that would be a very common route of information hitting hard ground, in a sense?

Ms ANTHONY-BENSON: I have certainly seen that occur.

The Hon. TREVOR KHAN: It happens in many instances involving sexual assaults by people on children. It is a circuitous route, but it ends up with the teacher most commonly than anyone else in that sort of environment?

Ms ANTHONY-BENSON: I can talk to my experience and that is certainly something that I have seen, that a child has disclosed to another child and there has been some chatter, and it has gone to a teacher who has given us a call and said, "I am a bit worried because of what I have heard."

The Hon. TREVOR KHAN: It is a genuine concern and the students as a group become concerned about the wellbeing of their friend.

Ms ANTHONY-BENSON: Yes.

The Hon. TREVOR KHAN: And the teacher is the easiest person or, in a sense, the most reliable person to make that disclosure to.

Ms ANTHONY-BENSON: Yes, I have seen that.

The Hon. TREVOR KHAN: Arming the teacher with the appropriate resources is—I am leading you through—the most profoundly important.

The CHAIR: Orientation programs so that teachers would be aware of that.

The Hon. NATASHA MACLAREN-JONES: You mentioned earlier that between 2014 to 2017 there were 57 cases of forced marriage where you intervened.

Ms ANTHONY-BENSON: Not necessarily. I said there were 60 reports concerning 57 children, but not necessarily where we intervened. I am talking more about how many reports were received.

The Hon. NATASHA MACLAREN-JONES: Of those, how many were instances where you needed to intervene or you prevented a child—

Ms ANTHONY-BENSON: I could not tell you the exact figure, but I can take that on notice to get the information.

The Hon. TREVOR KHAN: Why would you not intervene?

Ms ANTHONY-BENSON: There are a number of reasons. In some cases that I have personally seen, we have made phone calls and there has been a misinterpretation—for example, a Chinese whisper that has not been founded.

The Hon. TREVOR KHAN: That is fair.

Ms ANTHONY-BENSON: There are a number of reasons why we might not be able to get to that matter. At a child protection community services centre, any day you could receive any number of reports about children with varying levels of vulnerabilities and differing risk issues. One of the things that the community service centre then has to do is make a decision about which children receive a face-to-face response. If you have imminent concerns, you would hope it would be a case that you were able to make some assessment, but I could not comment that that is always the case.

The Hon. NATASHA MACLAREN-JONES: What about the protocols of referring it on to Federal agencies such as Immigration if there is a risk the child has been taken out, or you are aware that a child might be being brought in?

Ms ANTHONY-BENSON: When the reports are received at the community services centre, generally the Australian Federal Police will be called upon. Would it be helpful for me to run through a typical scenario?

The Hon. NATASHA MACLAREN-JONES: Yes.

The CHAIR: Yes, that would be great.

Ms ANTHONY-BENSON: About two years ago when I was managing the Lakemba Community Services Centre, we received a report about two teenage girls. The report was a little bit vague in nature, but basically there was a rumour in the school community that one of the girls had told another student that she was worried that an upcoming trip that was being planned might involve her being married to someone overseas.

We received the report. The first thing that I and my staff did was to make a phone call to the Australian Federal Police—we have a good working relationship with them—and to talk through the matter. Firstly, seeing if it was on their radar. In this case it was not, and then drawing on their expertise and the expertise of the specialists within our unit as to what would be the best way to move forward. We had a briefing within the unit and what was decided was that contact was going to be made with the reporter, because the reporter had a relationship with that young person. Again, we assessed it on a case-by-case basis, but the best thing in that situation was for us to attend the school, and we did that. We asked to meet with the young person who was, I believe, 14 or 15. I cannot remember the exact age. We did that in the presence of the reporter who had that relationship.

In talking to her, again, the information was somewhat vague. She had an inkling that something might happen overseas, but she was not 100 per cent clear. What we did with her at that point, and drawing on resources from the My Blue Sky website, and some of the learnings from the Red Cross, who have been a fantastic support with cases such as this, we did safety planning with her. It looked at a number of different things, but in terms of the here and now: Who was she going to contact, what was she going to do if she got more concrete information that suggested the overseas trip was going to involve some sort of arranged marriage. The other thing that was really important was contingency planning around worst-case scenario. What happens is everything is feeling okay but then she gets to the airport and she gets an inkling there; who can she talk to and what would that look like?

Or, again, worst-case scenario, she gets overseas and all of a sudden these plans are being made and she is feeling vulnerable and scared, how does she contact the relevant authorities? For example, phone numbers stored on her phone. What is she doing in terms of clearing her browser history if she is worried people are looking—all those sorts of things. The caseworkers I supported then sat down with her to talk about the fact that what we really wanted to do is talk to her parents. We talked through her worries about that. We got to a point where she was quite comfortable and said, "I would like you to do that but with a few conditions that would make me feel okay about it".

We spoke to the parents and had a genuine feel this was not something on their radar. We were clear with them around the legalities in Australia but perhaps just as important was the conversation that followed that around the education, such as, "This is why we are so worried". We did a bit of a "what if". They were flat out, "There is nothing happening". We responded, "You are saying nothing is happening but just so you know this is why it would worry us". This is the potential impact we see on children when subject to these arrangements. Further to that, "These are some of the wonderful opportunities that your child could have in Australia if they were to continue their education."

We ended up doing a little safety planning with the parents as well around the fact that, "You are saying this is not going to happen but it is something that has been brought to us as a worry and we need to be clear that it is not going to happen". We worked with them for a number of months. They had the overseas holiday and she came back with no concerns and we developed a strong ongoing relationship with her. It was an enduring relationship that meant when we exited her life—and it is fantastic when we can, you do not want a statutory child protection agency involved in your life longer than you have to—we felt confident that if this concern was raised in the future and she had any worries she would know exactly who to talk to and how to do that in a safe way.

The Hon. NATASHA MACLAREN-JONES: You are dealing with families that are aware it is illegal in this country but come from a culture where this is acceptable practice and they could lie to you. If a child leaves the country what is the check that the child has come back or do they come back knowing that in three years times they will be going somewhere else? What are the checks and balances?

Ms ANTHONY-BENSON: It is a tricky question and dependent on the individual circumstance. In the case I gave, we know she came back as we had active involvement. If we are not aware that it is a concern we will not know.

The Hon. NATASHA MACLAREN-JONES: There is no check from immigration to show we have X amount of children going out but not the same amount coming back in?

Ms ANTHONY-BENSON: I am not sure.

The Hon. NATASHA MACLAREN-JONES: Following on from comments asked about education within schools, you said a lot of your work is education within the community. You commented that you can identify thousands of children at risk and you can narrow that down to regions and schools. Should there be a proactive approach, a targeted program, of students in year seven at particular schools in New South Wales?

Ms ANTHONY-BENSON: In terms of the work I am talking about within the communities, I think that is something we can build on. I have personally seen it occurring in pockets but it is something that needs to grow and improve as we go along. It makes absolute sense to have the focus of the education department and to skill them up even further to do the work they do and understand and recognise some of the risks and things they may be seeing to indicate it may be happening. It is hard to say that is where the number one focus should be. It needs to sit on a range of different things.

The Hon. NATASHA MACLAREN-JONES: Could there be interagency or interdepartmental communication where you could identify, using data, potential areas of target that Department of Education could then use to upskill teachers, rather than a blanket one size fits all?

Ms ANTHONY-BENSON: Possibly. I think that it might be problematic in that it might get missed in other areas. There might be areas where it may be more frequent, it is a problem that occurs across different cultures and communities. It is not my area of expertise in education I think it needs to be a broad-ranging area we look to.

The Hon. GREG DONNELLY: In terms of dealing with and working with communities, does that involve instances and occasions where you are working, talking and discussing the matters with religious leaders?

Ms ANTHONY-BENSON: It could do.

The Hon. GREG DONNELLY: Has it in the past?

Ms ANTHONY-BENSON: In relation to underage forced marriage?

The Hon. GREG DONNELLY: Yes.

Ms ANTHONY-BENSON: I am not sure. I have not been involved in that. I am not sure if that has occurred in other areas.

The Hon. GREG DONNELLY: I am speaking specifically in the context of underage marriages and speaking to religious leaders; has that happened in the past?

Ms ANTHONY-BENSON: I am not sure. I am not aware.

The Hon. GREG DONNELLY: Can you take that on notice?

Ms ANTHONY-BENSON: Yes.

The Hon. GREG DONNELLY: On page 6 of your submission you have quoted numbers. Today you have given us updated numbers to what is there. That is to the helpline. Is there cooperation, an understanding, or a heads of agreement between the various government departments in New South Wales that any instances that come to their attention will be channelled to Family and Community Services. If an instance is raised with the NSW Police Force, would that make its way to you or not?

Ms ANTHONY-BENSON: Members of the NSW Police Force would be mandatory reporters. All mandatory reporters that have concerns about the safety, welfare and wellbeing of a child have to follow a process. One of those processes is applying the mandatory reporter guide, which leads them down a path as to what they should do with the information. If the information was that there were concerns around underage forced marriage the advice would be to contact the helpline straightaway.

The Hon. GREG DONNELLY: Ultimately, with respect to the numbers given today—which are an update on the ones in your submission—are they the best figures for New South Wales? Everything would get channelled back to the helpline? Hypothetically, if there were three instances reported to the NSW Police Force in a 12-month period, having mandatory reporting obligations those instances would make their way back to that helpline, is that right?

Ms ANTHONY-BENSON: I would hope so. I could not say with 100 per cent certainty.

The Hon. GREG DONNELLY: I am sorry, I am not saying that you can speak on their behalf necessarily but that is the way the system should work. Is that correct?

Ms ANTHONY-BENSON: Will you repeat the question?

The Hon. GREG DONNELLY: The numbers you have given us are the reports to the Helpline?

Ms ANTHONY-BENSON: Yes.

The Hon. GREG DONNELLY: With respect to government agencies or bodies beyond FACS, if there is any reportage of underage marriages, is that information, if it occurs, making its way back to FACS and is it caught within the aggregate number you have provided? In other words, these are FACS Helpline numbers but there could be others that are being reported but because there is no linkage back to FACS it is ultimately a depreciated figure?

Ms ANTHONY-BENSON: It is a really difficult question to answer. Again it is mandatory for people who work with children to report and should be, and are meant to be, reporting concerns about children to the Child Protection Helpline. It is very difficult for me to answer as to whether that occurs every time, or whether it does not.

The Hon. TREVOR KHAN: That is very concerning on this subject. I am concerned but I do not know about the other members. If a report of forced marriage—essentially, in most cases I would have thought, the taking of a child out of a country—is not being reported to FACS because of some failure of protocol or the like then that is a real concern.

The Hon. GREG DONNELLY: We are not criticising you and the great work of the department, because we have been caught with this in various other inquiries about the so-called silo approach to policy implementation and application where you have such a large State and disparate organisations and structures, there is that potential for information not to get to a particular central point where a holistic analysis can take place because this is the picture, because this organisation is not talking to this one. I am trying to tease it out.

Ms ANTHONY-BENSON: Maybe it would be helpful for me to talk from my experience. On each occasion that I have become aware of an under-aged forced marriage being planned or alleged it has been because the report has been made to Family and Community Services and they have come through. I personally have not been made aware of an alleged under-aged forced marriage through any other means. So it is not like we are hearing about it in the community or in education and it is not being reported. The cases I have seen have been reported.

The Hon. TREVOR KHAN: I will tease that out just a fraction. Have you come across any instances where there has been a report made to you but in the course of your inquiries you find that reports have been made to other people and not come in earlier to you?

Ms ANTHONY-BENSON: I have not had that experience, no.

Dr MEHREEN FARUQI: I presume protocols are in place for mandatory reporting?

The Hon. TREVOR KHAN: It is the law.

Dr MEHREEN FARUQI: Yes. I am not quite sure—

The Hon. TREVOR KHAN: Why there should be any uncertainty?

Dr MEHREEN FARUQI: Yes. I guess you cannot guarantee it, obviously. You assume that the protocols are being followed and it is happening through the reporting line?

Ms ANTHONY-BENSON: Exactly, as you say I just cannot comment for other individuals in the departments.

The Hon. GREG DONNELLY: In terms of annual reporting numbers, how far can we go back to actually say this is the first year in which we have started to collect information on forced marriages? Is there a starting point when the department started to collect it?

Ms ANTHONY-BENSON: I will have to take that question on notice. I am not sure.

The Hon. TREVOR KHAN: The Committee has been provided with a wonderful document "Trafficking in Persons: the Australian Government Response: 1 July 2015 – 30 June 2016". Have you seen that?

Ms ANTHONY-BENSON: Very briefly. I have not read the entire contents.

The Hon. TREVOR KHAN: You are not alone. On page 20 it outlines the type of AFP investigation by year. There are only three years: 2013-14, 2015-15 and 2015-16. The figures for those years are: forced marriage 11 and 33 and 69 respectively. The AFP has reported a tripling between the first and second years and more than a doubling between the second and third years. I am concerned that smacks of gross under-reporting certainly in the first year as compared with the third year and it gives me a feeling of insecurity that the third year figure of 69 is reflective of what the position is as well. I am not trying to be alarmist but when figures are inflating so quickly over such a short period of time it suggests that something is going on, and it is not that there are more forced marriages occurring in the third year compared to the first year but we are just not picking up the extent of the problem.

The CHAIR: The first year is when the offence came in.

The Hon. TREVOR KHAN: Absolutely, I agree with that.

Ms ANTHONY-BENSON: In terms of numbers, and I hear your worry around the growth that you have talked about with what you have read, I can say in terms of allegations of under-age forced marriage, and the reports made to the child protection Helpline, these numbers have been relatively steady at around two to four reports per month over the past two years.

The CHAIR: How many prosecutions?

Ms ANTHONY-BENSON: I am not sure. That is outside my area of expertise.

The CHAIR: When I was travelling in the United States examining the subject of human trafficking they talked about out-of-home care kids, 80 per cent of whom ended up on the street and in trafficking.

The Hon. TREVOR KHAN: Is that the right phrase, "ended up in trafficking"?

The CHAIR: Up to 80 per cent of those kids in out-of-home care—

The Hon. GREG DONNELLY: That is not the question.

The Hon. TREVOR KHAN: Are you suggesting they ended up in trafficking or they ended up, something else? I am not sure what the term "trafficking" means?

The CHAIR: I am mindful of your definition because it could mean a lot of things. My understanding is that quite a lot of them ended up in sex trafficking in order to survive. What is the New South Wales Government doing to track those kids that jump out of their foster care or the care of the government and end up on street? How does the Government take account of where those kids are and what they are up to?

Ms ANTHONY-BENSON: I would have to take that question on notice.

The CHAIR: That would be wonderful. I was concerned when I heard the statistics in America. I want to know where our kids are when the government is in charge of their care.

Ms ANTHONY-BENSON: The figure you referred to is not something that I am aware of.

The CHAIR: That is okay. You can take it on notice.

Dr MEHREEN FARUQI: It is from the United Kingdom as well that you would like to clarify. Is that right?

The CHAIR: No, in this situation it was a comment in Washington DC, I think at the time. I want to know where our kids are in New South Wales, especially the ones that end up on the street which, sadly, is quite a lot of them that couch surf and do whatever they do to survive.

Ms ANTHONY-BENSON: In terms of that, I can talk more generally, that we know that the children in out-of-home care are extremely vulnerable to a whole range of things. It is certainly something that we continue to learn and grow in and continue to provide ongoing support and assistance for our caseworkers in building their skills in this area. Absolutely.

The CHAIR: I am talking specifically about the ones that jump out of those and end up on the street. It is really hard to know where they are up to and what they are doing. I would like to know the New South Wales Government's strategy for those children. I thank you for your evidence. This is becoming a bigger and bigger concern for our multicultural nation. You will have 21 days to answer any questions taken on notice. The secretariat will help you with that. Thank you again.

(The witness withdrew)

(The Committee adjourned at 15:28)