REPORT OF PROCEEDINGS BEFORE

GENERAL PURPOSE STANDING COMMITTEE No. 2

INQUIRY INTO DISABILITY ADVOCACY FUNDING

At Sydney on Tuesday 12 June 2001

The Committee met at 10.00 a.m.

PRESENT

The Hon. Dr B. P. V. Pezzutti (Chair)

Hon. Dr Arthur Chesterfield-Evans
The Hon. R. D. Dyer
The Hon. Amanda Fazio
The Hon. D. F. Moppett
The Hon. H. S. Tsang

BELINDA RUTH EPSTEIN-FRISCH, Advocate, New South Wales Disability Safeguards Coalition, 28 Rivers Street, Bellevue Hill,

DOUGLAS DUGAN HERD, Executive Officer, Physical Disability Council of New South Wales, 184 Glebe Point Road, Glebe, and

CHRISTINE ANNE REGAN, Senior Policy Officer, New South Wales Council of Social Service, 66 Albion Street, Surry Hills, and

HELENA BRIDGET O'CONNELL, Executive Officer, New South Wales Council on Intellectual Disability, 22-36 Mountain Street, Broadway, affirmed and examined:

PHILLIP JOHN FRENCH, Executive Officer, People with Disabilities New South Wales (Inc.), 52 Pitt Street, Redfern, sworn and examined:

CHAIR: I declare open this hearing of General Purpose Standing Committee No. 2 into disability advocacy. According to a resolution of the Legislative Council of 11 October 1994, sound broadcasting of the proceedings of the House is authorised to be done and to be reported upon as long as the people doing so take responsibility for the quotes that they use and the inferences that they draw. This is a public hearing. If you should consider at any stage during your evidence that in the public interest certain evidence or documents you may wish to present should be heard or seen only by the Committee, the Committee would be willing to accede to such a request and resolve into confidential session, but I should warn you that the Parliament may override the decision at any time and make your evidence public. Did you each receive a summons issued under my hand in accordance with the provisions of the Parliamentary Evidence Act 1901?

Ms EPSTEIN-FRISCH: Yes.

Mr FRENCH: I have.

Mr HERD: Yes, I did.

Ms REGAN: I did.

Ms O'CONNELL: Yes, I did.

CHAIR: Are you conversant with the terms of reference of this inquiry?

Ms EPSTEIN-FRISCH: Yes, I am.

Mr FRENCH: Yes, I am.

Mr HERD: Yes, I am.

Ms REGAN: I am.

Ms O'CONNELL: Yes, I am.

CHAIR: Christine, would you like to make an opening statement on behalf of the group, and anyone who wants to jump in at any stage to clarify something may do so. At the end I will ask each of you whether you have anything to add.

Ms REGAN: This affects the 36 disability advocacy and information organisations. NCOSS has received many pleas of concern and reports from the 36 organisations affected by those disability information and advocacy organisations. They include other disability services, home and community care services, and older people's services. Also, what is happening to those services has wider implications into the human services sector. It has been looked at by the forum of non-government agencies, which is an organisation or an alliance of peak representation bodies from the human services sector. They are looking at the treatment of the advocacy from a systemic and individual viewpoint, and its activities as well as the particular services concerned. This is the first arrangement for competitive tendering of existing funding of services.

A couple of our major points in an opening statement would be that representatives feel that there is a potential deterioration of the representative process. People with disabilities have every right to participation in the public policy process. This is a basic premise of citizenship as well as a basic human right. Many of the human rights conventions would assume this as an underlying principle. We feel that in the process and the treatment of the disability advocacy and information services and program this human right has been taken not clearly. We feel that the outcome of the process will provide a potential deterioration of any representation and participation in any public policy as it is developed. We would point you to a pre-election platform of the Labor Party in 1995 in which there was an undertaking to develop a long-term advocacy development plan.

It was proposed that the development would consist of a cohesive set of principles and guidelines. We would point you to the fact that the treatment of disability advocacy and information programs and the 36 directly affected services has been driven by no overriding disability policy framework developed by the department or developed since 1995 affecting State services. There is a parallel with the national policy plan. It is true there was a process of consultation, development, further consultation and negotiation and debate. This was a spirited process, but we would believe that such a spirited process would develop better outcomes for people with disabilities and also joined and collaborative ownership of the outcomes.

We would say that such a process would arguably lead to better outcomes with a more broadly supportive process—not the closed process, the lack of transparency and the inability to engage that the department has taken on for disability information and advocacy services. The Commonwealth-State Disability Agreement points to a joint responsibility for advocacy for the Commonwealth and the State. The other joint responsibility is research and development. The Commonwealth-State Disability Agreement, part 6, states that the Commonwealth and the State should have a joint planning responsibilities.

The Commonwealth arguably has undertaken a planning responsibility for advocacy, but the State has not. The process that has been undertaken for the disability advocacy and information program does not constitute a planning process under the Commonwealth-State Disability Agreement. We have noticed that the State has placed selective emphasis on recommendation 10 of the national advocacy policy recommendations, saying that there should be some activities of systemic advocacy at local and regional level. We would agree that there should be some local systemic advocacy activities at local and regional level. However, there has been no attention to recommendation 11, which says that there should be a funded system of statewide peaks and infrastructure providing systemic advocacy at a statewide level. Little or no attention has been given to that particular recommendation, while unbalanced and selective attention has been given to the previous recommendation.

We believe that the treatment of disability information and advocacy program, and the services therein, have constituted some instances of bad faith. One of those instances of bad faith has been that the letter of 10 January that was provided to the 36 organisations—selectively only to the 36 organisations—did not disclose any future strategy, but appointed only to an improvement process. Further, on 6 February, when services turned up for their meeting with the department, there was no disclosure at that time that the existing funding to organisations was in any way affected. People felt that they were unfairly drawn into a process describing the criteria for future funding without realising, or later realising it, that it applied to their own organisations. There was no prior notice of any major change in policy, just as there was no prior notice of the development of a program at all. This was the first time that the 36 organisations had been co-operatively all together described as a program.

CHAIR: Is it correct that when the 36 organisations arrived for the consultation they had no idea that the individual advocacy funding would replace the funding for systemic advocacy?

Ms O'CONNELL: That is right. NCOSS was not at that meeting but we received many and various reports about what happened at the meeting. Systemic advocacy was specifically not talked about, despite particular questions. Other people on the panel could answer questions much more expertly that I. We would also argue that this is not a review process. The process of immediate application of competitive tendering to the existing funding of community organisations is a first-time process and does not constitute usual practice in the process of any kind of review or restructuring. Further, the panel would put before the Committee several recommendations that are laid out particularly in various of the submissions you would have received.

The recommendations include the fact that the Government must now deal with the government-created problems; and the fact that we believe upwards of 100 expressions of interest have now been received by the department, possibly—this is an NCOSS guesstimate—amounting to $20 million, and with an amount of $4.7 million available funding. We would say that if it was the department's or the Government's initial intention to call for expressions of interest only for the $10 million growth, why would they include all services in that and all the funding of the existing services? A recommendation has been put forward that the disability advocacy should be taken away from the responsibility or jurisdiction of the department and put under a more holistic jurisdiction.

The Hon. RON DYER: Who put forward that proposal?

Ms O'CONNELL: I think that has come from the people with disabilities. We would also say—and various of the submissions recommend—in regard to the improper conduct that has been alluded to in some of the submissions, that a full investigation should be undertaken. The process describes no formal complaints mechanism and no possibility of engaging around appeals for decisions. Further, despite assurances to NCOSS, there will not be independent advice from the panel that makes recommendations or makes commentary to the Minister on the decision-making process. There have been recommendations amongst this panel that there is constituted an independent panel comprising the Anti-Discrimination Board and the Community Services Commission to read the expressions of interest and make proper recommendations to the Minister; and that there be some accountability for ministerial decisions. That brings to a close my opening statement but, building on the recommendations and submissions that the Committee will have received, there has been much greater detail submitted for your consideration.

CHAIR: Does anyone have anything to add to that?

Ms EPSTEIN-FRISCH: I might add just a couple of comments. The New South Wales Disability Safeguards Coalition is the one organisation present here today that does not receive funding and is not seeking funding in this process. Organisations that are forced to submit themselves to a competitive tendering process are that much more vulnerable in being able to speak up about what we believe to be the misguided processes of government. The Disability Safeguards Coalition supports the comments of Christine Regan but, to put them perhaps even a little more bluntly, the Disability Safeguards Coalition believes that the rationale for the whole process is very misguided. The documents that the Government has put into the public arena for tendering referred to a number of reports by the Audit Office and Community Services Commission as the recommendations on which it is based, recommendations about increased individual advocacy.

We believe that they are a very strong misreading of the recommendations of those reports, because those reports call government to account for a whole range of neglect that had occurred to the most vulnerable people who live in institutions and government-funded services. Although those reports exhorted the Government to provide additional, individual advocacy it was not at the expense of the voice of people with disability at the systemic level. We feel that this has been a misuse of the initial reports, without being prepared to recognise that advocacy is always in tension of government because advocacy stands by and speaks out on behalf of vulnerable people.

Governments, as the main service-providing structure in our society, will always provide structures and processes that need to be pushed to enable people with disability to live as citizens. We are concerned in Safeguards that the real aim of government was to silence, or at least to manage, the voice of people with disability at the systemic level, and to provide individual advocacy only when people were participating in government processes, such as in devolution and the move of people from DOCS group homes into the non-government sector.

CHAIR: Does anyone else want to make an opening statement?

Mr HERD: Thank you for the opportunity to make these comments and answer your questions later. To add to what my colleague said, for you, as members of the Legislative Council, this is your daily business. For us, however, as a peak body presenting people with disability, appearing in Parliament and speaking to you about these issues is quite a big deal. It is not an everyday occurrence. From our point of view as a systemic advocacy organisation it is deeply regrettable that the one thing we get the opportunity to speak to you about is, what seems to us, a complete and total waste of everybody's time. We are not here talking to you about the hundreds of things that we ought to be able to say to you as parliamentarians about the life experiences of people with a disability, which we all know about: the disadvantage and discrimination that people with disability face on a daily basis.

We are here because, if you will pardon the absence of parliamentary expression, to some extent we believe our arses are in slings. It is absurd, to be perfectly honest, that we have to, in some sense, justify our reason for being and criticise a government department for ineptitude, incompetence and an inability to do what government departments are supposed to do. What seems even more bizarre to the Physical Disability Council of New South Wales is that we, by and large, support the objectives as we understand them of things government has been saying. We have been saying for years, as a disability advocacy organisation, that people with disability need more advocacy support individually, as members of a group, locally, regionally and at a statewide level. We have said in our submission, and we will say again, the amount of time my organisation and, I suspect, the amount of time other organisations have spent dealing with this process is almost unquantifiable, but you can guess that it is a very large amount of time.

We know that, as a consequence of the amount of time we have had to give to this process, people with disability have not had as strong an advocacy voice at their disposal as otherwise might have been the case. The process has been characterised by an absence of information, mistakes, misrepresentations and a set of shifting priorities and shifting sand that, by and large, represent incompetence, that at times staggers belief, with which none of us should have had to deal over the course of the past five months, but with which all of us have struggled. Apart from being downright unacceptable to anybody in a democracy that we should have to deal with this, it is unfortunate, as I say, that the one opportunity our organisation has to say anything to you over the course of the 18 months I have been an executive officer is over this process, rather than the things that truly are important to all of us. I hope that, whatever the outcome of this process, our dialogue is more constructive in the future, because this has been a terrible way to run our business. It should not be endorsed by anybody.

CHAIR: I have two brief opening questions. Many years ago, when Jim Longley was Minister for Community Services, he instituted a process of consultation on how to consult. I thought it was the most hysterical thing I had ever heard in my life. But it was very much welcomed, and it turned into a proper mechanism for consultation. Is that process still alive and well?

Mr FRENCH: Just to elaborate on one of Christine Regan's statements, we have a Labor Party policy dating to 1995 that said that a Labor Government would introduce an advocacy development plan. That is the first thing we would say. But there are also a range of other commitments that have been made by the current Labor Government in relation to consultation. You might be aware that the New South Wales Social Justice Directions Statement makes it clear that government departments are supposed to consult with persons affected by decisions prior to those decisions being taken. Similarly, the Cabinet Office has issued a discussion paper. The Public Sector Management Office has also issued a paper "Directions for Public Sector Reform in New South Wales". All of these papers say that government departments must consult.

It is certainly true that the previous Government had developed consultation protocols. It is fair to say that they were largely abandoned by the current Government, but the current Government, nevertheless, has introduced a whole range of policies at different strata of the public sector, which require consultation, all of which have been ignored in this process. Over the past 18 months we have seen consultation with people with disability and their families in New South Wales hit rock bottom. There is an intensely negative culture within what was then the Ageing and Disability Department, now the Department of Ageing, Disability and Home Care, in relation to consultation. The other thing I would point to is that we have an Act of Parliament, the Disability Services Act, which requires in schedule 1, section 2 O, that government consult. Both major parties and all crossbenchers voted for this legislation, and they said that they would consult with people with disability and their families about major program and policy changes.

Clearly, this is a major program and policy change, and there has been no consultation about it. That is all prior to the decision, but those remarks also pertain to much that has occurred after the decision. But there was the illusion of the consultation process commenced following the announcement of the competitive tender around the State. We are a major peak representative organisation with members right across New South Wales. It is our responsibility to ensure that our members have information that would allow them to attend these sorts of consultations. Even up until Thursday before the first consultation the department was not able to advise where the consultations would be held, other than in which city they would be held, or what the access features were for the venues.

This is the Ageing and Disability Department, and many of the venues that were hired were physically inaccessible to people with disability, or they did not have other accommodations, such as assistive technology like hearing loops and so forth. The result was that very few people with disability in their families could get along to these consultation processes. They were dominated largely by service providers and other interests. We have a very negative view of what has occurred as a result of this policy.

Ms O'CONNELL: I would not have called those sessions consultation sessions. The purpose of them was to provide information about the expression of interest process. Had we, as representative organisations, not provided the information to our members there would have been no people with disabilities there. As it was, as Phillip says, very few were able to attend. The purpose of the afternoon session was to discuss the systemic advocacy paper, but it was not a consultation. There was no prior consultation on the paper, it was presented to us as a discussion paper. I have trouble calling that a consultation. They were just information sessions.

Mr FRENCH: Can I make just three further points in relation to the consultation that it is important to recognise. The first is that the consultation process commenced concurrent with the call for competitive tenders. So, immediately the consultations are occurring in an atmosphere that can only be called intimidation and threat. You cannot have a genuine discussion with anybody while you are being threatened and intimidated. The second thing is that the 36 organisations are facing this dilemma: they either participate in the consultation process or they tend to get their expressions of interest ready for submission. We are not talking about large organisations with hundreds of staff, where management and administration staff can be devoted to preparing the competitive tender and policy staff can write submissions in relation to the consultation process.

We are talking about very small organisations, some of which have one staff member or part of one staff member. How do organisations like that meet those two objectives while at the same time try to maintain a reasonable level of client service delivery, which is our first priority? The third point is that the consultation related only to the systemic advocacy competitive tender but the expression of interest process had been commenced. How can you observe reasonable standards of probity if you intend to incorporate outcomes from a consultation process into a competitive tender process that has already commenced?

CHAIR: I thank you very much for the quality and detail in your submission, which is an added burden in this very difficult period. We very much thank you for that.

The Hon. RON DYER: Can I ask you first of all, Ms Regan, leaving aside for a moment the form any review might take, would you agree with me that at appropriate times governments are entitled to review funding programs?

Ms REGAN: Thank you for that question, because it gives me the opportunity to say the points I was bursting to say. Absolutely. NCOSS has been vigorously taking part in this campaign despite the fact that our organisation is not one of the 36 affected organisations in this instance. On 9 April the Australian Services Union and NCOSS jointly sponsored a community summit to discuss exactly the types of issues that we felt should have been discussed before any process was instituted. We spoke with 70 community participants and we had support much more broadly within the community. It was resoundingly reported to us that both the 36 organisations and other disability organisations were willing to be part of improvement strategies and reviews towards better services for people with disabilities. That was absolutely unqualified.

However, we would argue that the direct implementation of the competitive tendering process does not constitute a review; nor does it restructure a program or industry in a way that the industry would collaborate with or would deliver best outcomes. Also, I would point you to the fact that there is expertise under this Minister's portfolio around consultation processes. Within the home and community care [HACC] program there is an identified process—probably needing improvement—for consultations as well as a recognised system of improvement and growth within the program. Timetables are largely, if nominally, understood. People usually receive a funding or purchasing plan well in advance so that organisations have an opportunity to prepare and also to talk about the best provision of services for people under the HACC program.

I also point you to a consultation process that is now under way under the community services grants program, again under the same Minister. It is a round table process. We would be saying, in the process of a community services grants program that has arguably been through four processes of review over the past six years, why would a community services grants program round table that brings some of the leaders within that industry together to talk about negotiate processes of change and improvement, be applied to a community services grants programs and not a similar process to the disability information and advocacy program that would then elicit spirited debate but better outcomes, and also a joint ownership of those outcomes towards better processes.

The Hon. RON DYER: Would it be a fair summary of what you have just said that you regard it as legitimate for governments to review in proper form funding programs but your quarrel is with the form that this review has taken?

Ms REGAN: Very much so, yes.

The Hon. RON DYER: So, you have a grievance regarding the process?

Ms REGAN: Certainly the process, yes. As I said, we have had resounding offers of support, willingness and co-operation towards a review for improvement for people with disabilities. That has been unqualified.

The Hon. DOUG MOPPETT: It just seems to me, emerging out of this, that there are two paradigms. There are organisations in our community, thank heavens, who are providing all sorts of services for people and would be perfectly happy to take on the role of individual advocacy to find better accommodation, to make sure their pensions were right, and do whatever is necessary. There are organisations set to do that. They are used to the idea of tendering to get work, because they provide accommodation and all sorts of things. But you people represent a completely different paradigm. You represent stable organisations that develop policy, and it seems to me that the idea of competitive tendering for work you are doing is like saying each government department—the Department of Social Security, for example—ought to be competitively tendered. You have a job to do and, while I agree with the Hon. Ron Dyer that it is possible to look at your funding, it is a completely different paradigm of people who are out there. What happens if you are defunded? Who takes your place?

Ms REGAN: That is right, and could I also point out that while I absolutely agree in essence with what you are saying, one thing that has become very clear in this process is the confusion of direct service provision and advocacy services. The representative organisations on this panel clearly represent advocacy only organisations. While direct service providers of respite, accommodation services and those kinds of support services that people with disabilities need would undertake some form of working with a person with a disability to achieve the best outcomes, it is very different from having independent advocacy, where the interest is only for the person with the disability and where the person can have some support to exercise his or her rights under a number of banners, not just service provision.

Within the NCOSS submission I would point you to several paragraphs that identify where the Minister has clearly said she is interested in a complete separation between direct service provision and advocacy services, and that was clearly supported by Justice Marcus Einfeld in his speech. But the department has been saying that services need only identify the separation of management between advocacy and direct service provision. In the case of people with disabilities NCOSS would argue that that would be a conflict of interest and would not deliver the best advocacy services for people involved.

The Hon. RON DYER: It seems to me that there is a direct conflict between the community sector on the one hand and the Department of Ageing, Disability and HomeCare on the other, regarding the concept of expression of interest on the one hand and competitive tendering on the other. You are describing constantly, if I may say so, the process as competitive tendering. I notice the department's submission says it does not accept this process represents competitive tendering. It says, on the other hand, that it is an expression of interest process only. What do you have to say to that? Why do you rely so heavily on describing this as a competitive tendering process?

Ms O'CONNELL: I think we have made a very strong case to say that this is a tender process and not an expression of interest process. Some of the points that we have made include that if this was an information-only gathering process that was part of developing a purchasing plan, that would then be consulted and then would be part of an ongoing process. We would say: Why is funding at risk on 31 July? If it was really information gathering, there would be no funding at risk at this stage; it would be merely information gathering. Other evidence to say that this supports competitive tendering is that the tender documents that services have to fill out are exactly the same as competitive documents in place and in use by all other tender processes within the department. Also the employment of the probity auditor and the processes around the probity auditor clearly show that this is operating within the competitive environment. That competitive environment clearly points to a tender.

Other questions would be: What happens to the information once it has been locked into the expression of interest box? If it was information only, for one, as I said, there would be no funding change at the end of it because it would be clearly information. There has been a lot of confidence within the sector and this has been clearly described to me through HACC people and they are concerned for its application to disability information and advocacy groups. If this was information, the submissions that go in are describing ways in which individual and systemic advocacy can be provided with detailed budgets and project plans attached. If it was for information, NCOSS would contend that we would have indicative budgets and broad outlines of types of services and various approaches that could be made that could then be negotiated after the process.

In this case, however, it has to be nailed down. Services are asked what they are doing now; what they intend to do in the future; what the difference in budget is; how much each staff member will cost; what the rent is—right down to the absolute last detail. That is clearly a tender document. As I said, the process allows the opening and treatment of the information for the submissions and that is clearly a tender process. The other thing is that we would be very concerned that the department is developing its purchasing plan arising from having read expressions of interest that have already gone in. There has been no guarantee from the department that developing of the ideas and a purchasing plan could be separate from the identification of preferred providers. What I am trying to describe now is that if one organisation puts in a detailed tender for one service type and it is then not identified as the preferred provider by the panel, does that submission and that good idea get identified or passed on to a preferred provider? Where are the commercial-in-confidence processes that surround a competitive tender of that nature?

The Hon. RON DYER: The department's submission states, "Service providers are not being asked to compete with one another purely on a unit cost basis. Four of the six selection criteria against which applications will be assessed relate to the appropriateness of service models and the effectiveness of service delivery." May I put that to you for comment?

Ms O'CONNELL: NCOSS has decided to make an argument for the first time that this is a process which is price competitive and we were told by the Minister's office that price competitive processes would never apply to human services. We would say that because we believe that this is a tender process—and believe that we have made a very strong argument for the fact that it is a tender process rather than an information-gathering exercise—and we would say that under all such other tender processes where funding is up for grabs and where at the end you receive, or you do not receive, funding for future services provision—sorry, I have just lost my track.

The Hon. RON DYER: Never mind. I think Mr French wanted to say something.

Mr FRENCH: I just wanted to add something to what Chris has said. I want to quote from the department's overheads that were presented on 6 February. If you do not have a copy of those, I would be happy to provide them to you. The overheads state:

> The change strategy will be implemented through a bidding process.

That is the strategy that the department outlined and that is a direct quote. To quote from some of the dot points that follow that quote—

The Hon. RON DYER: May I just stop you there. Bidding does not, of necessity, relate to money, does it? Bidding can relate to the provision of services?

Mr FRENCH: It can, but the prior point that had been made by Megan Mitchell, who was then the director of policy and planning, was that there is $3.7 million worth of funding in existing grants to organisations. Added to that $3.7 million would be a further $1 million, then bids would be called in relation to that $4.7 million. In context there is no doubt that the department intended to allocate that $4.7 million through a bidding process related to money. Just to pick up the points that follow my previous quote, these are direct quotes from the overhead:

> ADD would call by 3 March for bids to provide individual advocacy services across New South Wales. Organisations interested in providing individual advocacy have to submit their bids by 27 April. Service providers will be notified of the outcomes of the bids by 30 June.

The overhead goes on with that, but it is very clear from what the department outlined that day that in substance, if not in form—although I have to say that it was in form on that day also—it was a competitive tender. Since that time you are right to say that the department has tried to say that the process is more akin to an expression of interest, but in substance, as Chris has outlined, it remains a competitive tender.

Mr HERD: If I may add, in answer to your question, that our submission referred to the point that Phillip has referred to in sections 4.19, 4.20 and 4.21. We struggled with this question. I am not being disingenuous in this but if the department could show me this is not a competitive bidding process, I would understand it better. I just cannot see it. We invited Megan Mitchell, who was then the director of strategy and policy, and we also invited the acting manager for policy and data analysis to attend a management committee meeting which was held on 19 February. We specifically asked them both to tell us whether or not this was a competitive tendering process. They declined to answer that question directly.

We asked this question in a different way, saying: Would it be possible for our organisation to continue as a funded organisation if we did not submit an expression of interest? They told us unambiguously that if we wished to be funded from 1 July this year, we would have to submit an expression of interest. The department has made a clear and unambiguous link between the expression of interest and funding for the next financial year. It becomes competitive, of course, when, as has to happen, you invite the current 3,600 organisations to bid and you invite new players to bid also. It is impossible for all of those bids to be contained within the $3.6 million that is currently spent or the $4.7 million that will be spent next financial year. There therefore must be an assessment made of the amount of money that is available to any organisation that bids.

CHAIR: Christine, you indicated earlier and identified $16 million in unmet needs in terms of individual advocacy. Is that a conservative estimate, or is that just a wish list?

Ms REGAN: No. NCOSS was trying to list, having spoken to many of the groups which had been asked to provide information not only on what they provide now but on what they feel they can provide to enhance, whether there are 50, 60 or 100 submissions. We would argue that the bids could add up to $20 million, and that is the amount of bids, not the amount of money.

CHAIR: That is individual advocacy alone?

Ms REGAN: No. That would be individual advocacy and systemic advocacy.

CHAIR: Of the $20 million, how much do you think is unmet need in terms of systemic advocacy and how much is individual? I just want to get a picture of the size of the whole funding required.

Ms REGAN: I do not know if we could identify that. Because of the nature of systemic advocacy, it would be very difficult to quantify, just as the nature of systemic advocacy as well as individual advocacy is ill-defined within departmental processes at the moment. However, in recent years both many of the pre-budget submissions and submissions from NCOSS have been asking for increases to individual advocacy in the nature of millions of dollars for at least four years that I am aware of. Possibly we could research that history.

The Hon. RON DYER: Mr Herd, in your initial remarks you made some reference to what you described as an absence of information.

Mr HERD: Yes.

The Hon. RON DYER: May I say that, looking at it from my perspective, there has been a lot of paper flying around from the department to you and no doubt in the other direction as well. There have been information sessions, as I think they have been called, held at various places around the State. Can you state with some particularity against that background why you believe there is an absence of information?

Mr HERD: Almost all of the information that has been given to us—and I believe given to others—following 10 January has been generated as a direct consequence of the pressure that we have placed upon the department. Almost none of it has been volunteered; almost all of it has been squeezed out of the department by individuals and organisations demanding more information out of the department. Fairly straightforwardly, I am one of the people who asked questions at the seminar on 6 February about the consequences of the proposals described on that day for systemic advocacy organisations and peak body organisations. The director of strategy for the department at that stage simply could not or would not answer our questions, saying that she would have to go back and get further information from the department to answer our question: What are the consequences for us of the strategy you are now describing?

The Hon. RON DYER: You seem to be indicating that as part of such structure as was set up when grievances are raised some sort of response has been given.

Mr HERD: Some sort of response has been given, yes, whether or not that has ever been an adequate response. The difficulty I think we have is that if this was intended to be a process governed by policy, then to some extent those answers should have been available from the outset. If the process is designed to be consultative as we were described it would be, then it should be a process that is not filled with mystery and uncertainty, and did not require us to appear here or to write letters to members of Parliament and to members of the Cabinet just to secure answers such as where is this policy coming from. In the course of the past five months, to be honest, it has been like getting blood out of a stone to get answers out of the department at times, and it should not be like that. This is not a mystery. There is no rocket science involved here. There is a lack of consistency.

For instance, on 10 January when we received a letter from the department telling us that this process will begin there are four objectives; some six weeks later there are five objectives. If something is as fairly fundamental as the objectives of government policy, six weeks should not make a difference here, and four or five should be pretty clear to the people who are telling us what will happen. To be honest, I think the department has been making this up as it goes along. I think it has been covering its back as it goes along. I think it has been responding to an advocacy sector that is genuinely puzzled as to why it is doing this because there is no clarity in the information given. There is contradiction between one statement and another over time and that is what leads us to this position. I think it is disingenuous indeed for the department to claim that it is in control of the dissemination of fairly thought-out information. It is not.

The Hon. RON DYER: If there is any willingness to listen, though, surely as the process unfolds it will not stay static; it will evolve over time.

Mr HERD: I think it will evolve over time. But I make this point from our point of view. At the point at which this policy was launched—and I do not know exactly when it was launched, but I became aware of it when I received a letter from the director-general of the department on 10 January—the organisation I work for was not even eligible to bid in the process on that date. That seems to indicate that either we were intentionally excluded or we had been forgotten. Whichever of those possibilities applies, it seems that they are both unacceptable.

Ms EPSTEIN-FRISCH: Can I just add some additional points? First, in terms of the lack of information, organisations were asked to bid on the provision of systemic advocacy services without any parameters being provided by government, and that is a clear absence of information that remains to today. Second, in terms of information that was clarified, it was only ever as a result of representations being made by these groups and others to the probity auditor. Once the probity auditor became involved there was a relatively speedy response from the administration and that is what has led, we understand, to the extension of time. At the information sessions that were held across the State relatively early in the process, it was indicated that when there was additional information that became apparent or clarity that needed to be sought, that information would be sent out. In the end that information was sent out by the Government only two days before the close of the tendering process. So there are further examples of a lack of information.

Ms O'CONNELL: The information coming from the department in some cases was contradicted by the information coming from the Minister's office as well. Again, just to reiterate what the others said, there did not appear to be, and there is not, a clear policy framework for this so it did appear that the information was just in response to what we said. The whole process appeared to be just made up as it went along.

Mr FRENCH: We being people with disabilities facilitated 20 of the affected groups—approximately that—writing a lengthy letter to the Minister and the department in which we raised 15 or 16 major policy issues that we believed required some clarification or information. From memory, that was about 7 March. To my knowledge that letter has not been acknowledged and certainly there has been no reply to it. We have sent it again to the new director-general but again it has not been acknowledged or replied to. So we are not getting any information at all about those major issues and that is a great pity. Another thing I will say, because I think it is important to say it, is that the area of disability services is a very difficult one, and it has historically been so. That has led to a great deal of, I suppose, conflict and spirited discussion within the sector. However, the last two State budgets have resulted in quite substantial enhancements for disability services as a result of those efforts and efforts of various other players in the system.

It is incredible to me that at a time when the sector should be able to pull together and work co-operatively to meet some major objectives in relation to unmet need, sector reform and so on, this kind of conduct is coming from the department that is charged with the responsibility for disability services. If anything, now is the time to build social capital and to get all the major players together to achieve these sorts of outcomes. Instead, we seem to have this atmosphere of open warfare coming from the department, which is just beyond belief.

CHAIR: Can I clarify that? One question that the secretariat has asked me to ask you is: How have the services that you have been offering to date been monitored? I mean, the Minister is saying that she has no idea how you spend the money and so on. How have you been accounting for the funding you have received to date?

Mr HERD: From our point of view, part of the puzzlement we have with this is because the department has told us that it does not know what we do. I genuinely do not understand how the department can claim that it does not know what we do. We submit an annual report. We submit our audited accounts. We submit our end-of-year statement.

CHAIR: That is to the Commonwealth and that State Government.

Mr HERD: To be honest, you all know because we send to your office as much information as we possibly can—

CHAIR: And I read it.

Mr HERD: —because we have no other purpose in life but to tell people what it is we do and why we do it. We give you information but because we are funded by the department we operate within the reporting regime that the department lays down. We meet the department's objectives to fulfil our reporting requirements to the department. We give the department every piece of information it asks for. Sometimes we are required to give it to the department in triplicate. We give it to more than one section inside the department. We give it to the department whenever it asks for it in whatever form it asks for it, and we have done that since we were created six years ago. There are files and files and files of information from our organisation telling the department what we do, why we do it and how much money we spend against the targets that it sets for us. All 36 organisations that receive any money from the department have done that in every year that they have been funded.

To be honest, it is staggering beyond belief to hear from departmental officials that they do not know what we do. We say almost as a joke—but I assure you that we feel every form of frustration imaginable—"Why don't you just open your filing cabinets, departmental officials, and read the information we have been giving to you for years?" Apart from the personal frustration one might feel at spending hours over and above one's contractual obligations fulfilling these reporting mechanisms to government and providing them by the dates required, it is deeply concerning as a taxpayer to discover that officials who are paid their wages out of my taxes and your taxes do not even know what they have in their own filing cabinets and have not read that information. They seem to be telling us that they do not bother reading the information that we send them—and that is about as unacceptable as one can imagine, given that they are charged with understanding the information that we give them.

The Hon. HENRY TSANG: In its submission the Department of Ageing, Disability and HomeCare seems to have concluded—I do not know whether this conclusion is correct—that the central objective of the Government in calling for expressions of interest is not just to improve services. It says that there is a concern and perceived or real conflict of interest when disability service providers are represented on the boards or committees of advocacy services. It also says that improving outcome and strengthening representative quality goes to minimising conflict of interest and promoting, protecting and defending the welfare of and justice for people with a disability. The department is concerned about perceived or real conflict of interest. Do you think there is any such conflict of interest?

Ms EPSTEIN-FRISCH: Of the 36 organisations that receive funding, some provide direct services as well as advocacy. They have secured funding by submitting bids to government. The way in which funding has occurred and the inequities that exist geographically across New South Wales are a result of previous poor planning and funding processes. The New South Wales Safeguards Coalition agrees with the minimisation of conflict of interest and the separation of service provision from advocacy. We propose that there be a negotiated process with the organisations to assist them to separate service provision from advocacy as part of a planned process of improving advocacy for people with disabilities. Yes, there is some conflict of interest, but there are different ways of dealing with it and it was the Government that got funding service providers to provide advocacy because of its own lack of clarity about what was advocacy and what were the legitimate activities of advocacy. Let us move forward with those organisations in a negotiated process.

Ms O'CONNELL: There is no advocacy policy or plan. That did not happen under those circumstances.

The Hon. AMANDA FAZIO: I have a question for Mr Herd regarding his answer about reporting. I understand that your organisation has been funded for six years to provide systemic advocacy. When you provide annual reports to the department do you return to the original issues that you were funded to address and do you report every year on your achievements in reaching those goals?

Mr HERD: Yes, we do. In our funding submission that we put to the department we make a point of saying, "This is what we said we would do last year; this is what we have been able to do; and this is what we would like to do next year"—almost invariably, we ask for more money to do that, because that is the nature of the relationship. That is why we are astonished to hear the Acting Manager of Planning and Data Analysis—I cite him as an individual given that that is his title—say on behalf of the department that he does not know what our organisation does and the department as a whole does not know what we do because that is the nature of our reporting to the department. I assume—I cannot speak for the other organisations—that they do something broadly similar to us. We can bring in the letters, annual reports and accounts that we have sent to the department over the years, with a quite clear explanation of what we do and why we do it. As I said before, we do not do anything but this.

CHAIR: The accounting procedures are set by the Commonwealth-State agreement, are they not?

Ms O'CONNELL: Yes.

CHAIR: When I gave money to various organisations—for example, Christmas money to the Smith Family—they were required to report their expenditure under the Commonwealth guidelines.

Ms O'CONNELL: All organisations funded under the State disability services program are monitored regularly. We have a monitoring visit and from there we develop an action plan. The Council on Intellectual Disability meets reasonably regularly with our service support development officer to discuss that and other areas of our policy that we can adjust. I do not know about the other organisations, but I think everybody has undergone that process. There are areas of the department that must know what we do.

The Hon. DOUG MOPPETT: I am sorry, I am probably the bushie around here, but having been through the tendering process for the group homes, I would like to try to—

CHAIR: Doug served on the Standing Committee on Social Issues. This Committee was going to examine that issue, but we decided that it would be better for the Social Issues Committee to do that.

The Hon. DOUG MOPPETT: I would like to separate the processes that have taken place since from the initial decision. It seems to me that we all agree with the idea that, given the wider variety of services available to people, there is a need for more direct personal advocacy. The problem is that, although there appears to have been 30 per cent extra funds, 60 per cent more output is desired in the individual sector. If you give only 30 per cent extra money, the inevitable consequence is a cut in the peak funding advocacy. It seems to me that that is where the decision was made, and the war of words after that is designed simply to justify that decision to shift the emphasis from money and not maintain your funding or give new, separate funding for these people. There will be a pool of money and more will go to one paradigm and less to your paradigm. Do you agree with that assessment?

Mr HERD: That is absolutely correct. The director-general's letter of 10 January makes it unambiguously clear that, from that date, systemic advocacy will form no part whatsoever of the program. It is not an objective. We can only take at face value the letter from the director-general of the Department of Ageing, Disability and HomeCare. That is why we expressed puzzlement on 6 February and it is why we wrote innumerable letters to the department seeking clarification of this matter. Until some date in March or April, there was no suggestion that systemic advocacy would be funded. It was only when it became the fifth objective of the program that it was described as a "systemic advocacy project". I understand that that has changed subsequently. I was told in an email from a colleague that perhaps 30 per cent of the current budget may be allocated to systemic advocacy. I wish that I could sit here and tell you that I know where that comes from, but part of the problem I am dealing with is that it is just not clear where anything comes from.

Ms REGAN: The misinformation and lack of information is clearly exemplified by some of the representations regarding this program. The New South Wales Council of Social Services has met directly with the Minister's adviser and the department. Subsequently it has reported to the sector on the outcome of those measures. Therefore, we have been able to make sure that the information flows back. Unfortunately, those have not been written assurances by the department, and when seeking written assurances we have not received them. One of the issues about that has been around in systemic advocacy. The last written advice from the department is that the department is interested in building on improved individual advocacy, which no-one disputes and we have been asking for, and better geographical coverage, into a series of biannual forums that would develop a system of systemic advocacy projects that the Government would choose to fund.

There are whole pile of reasons why—while that might be one good strategy—it is not the only strategy, but it is the only strategy identified within this process in writing so far. In our last meeting with the Minister's office at the end of April, there was an undertaking given to representatives of NCOSS and the union that systemic advocacy infrastructure would be funded under this process. We were also asked at that meeting would we please submit a series of questions that NCOSS has most been asked around this process for clarification by the department direct to the services and to anyone who has applied for an expression of interest process. We have not received that. We did submit to those questions. The answers to any of those questions were not included in the supplementary information, nor has it been written down that there will be a commitment to funding systemic advocacy infrastructure. It is one of the issues where you need a separation of advocacy in order to provide just that; the very good advocacy itself. If that advocacy is predetermined by government, it is actually defeating the process, and there are quotes in the speech of Marcus Einfeld that describes that better than I can now.

The Hon. RON DYER: Arising from that, Mr Herd on the one hand appeared to be saying that he was relying on something from a third-hand source, so to speak—an email from a colleague about what the Government's position might be on systemic advocacy. Ms Regan has now been saying that in some form an indication was given that there would be a commitment to biannual forums regarding systemic advocacy. Would you source that?

CHAIR: Systemic advocacy projects.

Ms REGAN: The written information still talks about systemic advocacy projects. The absolute clear assurance from the meeting that NCOSS and the union had with the Minister's office said there will be funding to systemic advocacy infrastructure. But that was verbal; it was not written.

The Hon. RON DYER: I thought I heard you use the expression "biannual forums".

Ms REGAN: Biannual forums?

The Hon. RON DYER: Yes.

Ms REGAN: That was part of the developing of systemic advocacy projects.

The Hon. RON DYER: That is a mechanism to work it up?

Ms REGAN: It is one of the mooted mechanisms within the systemic advocacy discussion paper, but it is the only one. There are no other mechanisms for systemic advocacy canvassed in the systemic advocacy discussion paper with any detail.

CHAIR: When and how did the services become aware of the decision to change the disability advocacy arrangements? I think you have covered that briefly but what was the date of the decision to change the advocacy funding arrangements?

Ms EPSTEIN-FRISCH: It was 6 February.

Mr HERD: No, that is not quite right for me. We were told that the policy had changed when we received a letter on 10 January. My argument must therefore be that the decision was taken before then.

CHAIR: You became aware of the decision on 10 January and that was clarified further on 6 February?

Mr HERD: Yes.

CHAIR: What level of consultation did services have with the department both preceding and following the announcement of the changes?

Mr HERD: We were not consulted in anyway, shape, size or form about any of this before 10 January, and certainly not before 6 February?

CHAIR: How does the expression of interest process impact on services that you provide to your clients?

Mr FRENCH: If I could speak from our point of view initially. We provide a number of different functions—

The Hon. RON DYER: In relation to systemic advocacy discussion paper, I have not heard previous reference made to that this morning at least. Do we have that? Where is it? What is the date?

Ms O'CONNELL: We dealt with the expression of interest—

Mr HERD: On 27 March.

Ms O'CONNELL: We got it early April actually.

CHAIR: That discussion paper on advocacy came later?

Ms REGAN: It was advertised on the day of the expression of interest but it was not available immediately.

Mr HERD: My understanding is that not until the sector itself argued vociferously that systemic advocacy had been omitted from the objectives, had there been any intention ever to produce a discussion paper on systemic advocacy.

CHAIR: This is the catch up?

Mr HERD: Absolutely.

CHAIR: How does the expression of interest process impact on services to clients?

Mr FRENCH: The point I was going to make is that we are all small organisations by any standards. We do not have separate management administration staff that can be totally devoted towards comparing tender bids and so forth. The first effect is that there is a diversion away from direct service delivery. In our case we also provide individual advocacy and information to people. It meant that the quality of our services during this period has been—

CHAIR: What sort of service delivery do you do?

Mr FRENCH: We provide information to people with disability and their associates, family members, advocates, members of the public and so forth. We provide education and training to people with disability and their families, to government departments, to university students and so forth.

CHAIR: It is more of an information awareness heightening, you are not in there putting on things, showers and things like that?

Mr FRENCH: No, they are all advocacy strategies. We undertake systemic advocacy and we provide under a Commonwealth grant a large proportion of individual advocacy. We are a small organisation so everybody does bits of all of that. The effect of the process has been to divert our attention away from that, and our clients have suffered enormously during this period.

CHAIR: We have added to that burden, I am sorry.

Mr FRENCH: We have asked the Committee to look into that so we are not criticising the Committee for acceding to that request. The other effect is on organisational stability and morale. Until very late in the process no assurances were given about funding beyond 30 June. That is a very worrying thing for voluntary directors sitting on boards who, in our case, were undergoing lease negotiations. The dilemma that they faced was do we destabilise the entire organisation by not entering this lease and possibly losing our premises, or do we enter into a lease arrangement which creates contingent liabilities and the possibility of insolvent trading? All of those things are very real for voluntary directors of organisations.

CHAIR: What is the total budget in your organisation and the number of people involved in terms of effective numbers of full-timers?

Mr FRENCH: Seven effective full-timers spread across 10 people. A number of people with disability work at our organisation and part-time work is one of the ways that we accommodate that sort of employment arrangement. Our budget in the next financial year is from the Commonwealth Government we will receive $360,000 for individual advocacy. At the moment we receive $290,000 from the State Government for peak body systemic advocacy, education and information functions. We receive project grants on top of that.

CHAIR: Would that $600,000 and seven effective employees with the other add-on costs of travel and so on be reflected in the other organisations?

Mr HERD: Some of the irony for us is that some local organisations feel isolated by this process and refer to us as one of the big statewide organisations. From the Ageing and Disability Department we get a grant of $189,000 a year which employs two full-time members of staff. On the day we received this letter saying that our funding department was initiating a review of disability advocacy information services one of our staff members had left and there was only me. That puts this in some sort of perspective. Nothing came higher in our list of priorities than this review that came out of the blue on 10 January.

CHAIR: Behind you there would be a series of people who would do work for nothing?

Mr HERD: Depending on the work we do to provide them with a platform so that they can do their work, there is a voluntary management committee of 21 people in our organisation who give a huge amount of time. Again, somewhat ironically, they give their time in a collaborative way, most of the time working with other government departments. For instance, our chairperson and president, John Moxon, spends a large amount of his voluntary time supporting the work of the Department of Health and the statewide advisory committee on the program of appliances for disabled people. As a consequence of the two years advocacy work within that committee, the Department of Health initiated a new policy for a Program of Appliances for Disabled People [PADP] that came into force on 1 January.

That is the reality of the systemic work with advocacy that we do. It is a small office supporting the voluntary work of people, which if you costed it on the basis of a consultancy service, would cost the Government very much more than it gives us in the way of a grant. The change of government policy is then implemented after a process of discussion, debate, analysis and then finally implementation, signed off by the Minister, who believes it is the right thing to do. In this case it is signed off by the Minister for Health. We are in a position where since 10 January our capacity to do work on behalf of our client group has been severely damaged by the department's review of advocacy. To be honest, we are just hoping that it will end so that we can get back to our core business.

(Short adjournment)

CHAIR: Do you have any comments to make on how the process has impacted on services to clients? I assume that would apply to the other groups as well as to yourself. I ask you to think about this question and I will ask you about it shortly. What services would you like to see come out of this Committee's inquiry? In other words, what sort of recommendations should the Committee make?

The Hon. RON DYER: Prior to the break some reference was made to the systemic advocacy discussion paper. I have now found it. It is actually an appendix to the department's submission to this Committee. Time does not permit me to go into it in detail, but I notice that on the cover page it states, "ADD recognises the historic role that systemic advocacy has played in contributing to the formation of disability services in New South Wales. ADD and the Disability Council of New South Wales have developed this paper to inform and promote discussion about the future role of systemic advocacy in New South Wales." I put it to you that the language that is used there is hardly consistent with an intention on the part of the Government to defund systemic advocacy services wholesale?

CHAIR: When was that discussion paper released? That is the issue raised by the people here. Was it an afterthought or was it to cover the existing problem? Was that put out in response to the scream and cry?

Ms O'CONNELL: There were objections to that and it went out on 10 January.

The Hon. RON DYER: Obviously, I do not know when it went out but would you agree with me that the fact that it exists seems to indicate what I have just suggested?

Mr FRENCH: If you go to the top of page 3 of the discussion paper, the only option put forward is the proposal that the Disability Council of New South Wales has its role expanded to undertake systemic advocacy. Things have changed across the course of this implementation. At the beginning there was no statewide systemic advocacy being discussed. Then, at a point in the process, systemic advocacy projects were being discussed, and approximately at the same time this discussion paper was issued. So, the version that had currency then was that the Disability Council of New South Wales would convene annual or biannual forums where systemic advocacy projects would be identified, which would then be funded on a project basis, and that seems to have found its way into this discussion paper.

The Hon. RON DYER: At the top of page 3 it says, "One structure for drawing together systemic issues is through the Disability Council of New South Wales", which is the official disability adviser to the New South Wales Government. However, the discussion paper is much more general in its scope than that. There is no statement here that it is intended that the Disability Council be the only channel, so to speak, for systemic funding.

Mr FRENCH: But that is the view that was being put at the time of the release of the paper. So it needs to be considered in its context. Even if we take the best view of that paper, it still does not deal with the issue of peak bodies. Peak bodies may do systemic advocacy, but they are not systemic advocacy in themselves. The issue of the representative structures that are available to people in New South Wales with disability in their families is still not addressed at all in that discussion paper. When I say peak bodies, I mean membership-based organisations that are responsible back to a constituency of interest. They might undertake systematic advocacy as part of their role, but they are fundamentally accountable to their members and are to reflect their members' priorities within the public policy process, and that is still not addressed here.

It is well established within the Australian political system that marginalised and vulnerable—if I could use that word just in this context—groups of people ought to be supported to have access to the public policy process, and one sees that across a whole range of constituency groups. Why would people with disability be excepted from that? Certainly the view we would put to you is that they are among the most disadvantaged people within the community, and they face enormous structural disadvantage and maldistribution of social resources. Why would they be excepted from that?

Additionally, one of be curiosities of all this is that the Department of Ageing and Disability funds a peak body industry group, that is, a representative of service providers. Service providers are funded in their own right, and some of them receive very substantial public funding to provide services. But in addition to that, the department funds an industry body to act as the peak body. So we have this imbalance where there is no mention at all as to whether people with disability in their families will continue to have representative structures but service providers do. Clearly, that is just lacking in symmetry.

CHAIR: If a service provider identifies a need, does the service provider give that information to the peak groups, or does the service provider give the information straight to government and ask for funding to meet the need?

Mr FRENCH: I think both is true.

The Hon. HENRY TSANG: I refer to the department's submission and the $1 million extra funding for advocacy. The submission states that the department is concerned about marginalised groups. I am interested to know whether the extra $1 million would cover groups such as Aborigines and Torres Strait Islanders, people of culturally and linguistically diverse backgrounds, and people who live in remote locations who may not have equitable access to mainstream disability services. How does your group as a whole look at the specific needs of such people?

Ms REGAN: I would like to answer that with two comments, the first being that the way in which services funded under the disability information and advocacy program was evolved came from an identified need at either State or local level. They developed whatever the process needed to be at the local level—with all the local information groups or local advocacy groups getting together to develop their peak organisations, which sit before you now. We have never actually disagreed that there has been a patchy coverage of services across the board. In fact, systemic advocacy and local advocacy organisations have been telling government that there are huge areas of need, and that the areas of need specifically are in geographical localities. They are for people from culturally and linguistically diverse backgrounds, they are within the Aboriginal and Torres Strait Islander community, and they are for people who are in remote locations or other isolated situations.

We have been saying that advocacy needs to be spread. But do we throw the cards up? Do we throw out the good work that has already been done and start again, thereby losing the infrastructure that has been dedicated and well known over a number of years, or do we build on that in a staged process of implementation? NCOSS has had discussions with the department, saying that $4.7 million will not do the job. It will be the first stage in a process of change that will create much better equity in advocacy, but that amount of money cannot provide statewide coverage and it cannot provide specific services to specific target groups. There have been several documents—including the group homes documents and the audit process—that have been saying advocacy needs an injection of funds to meet identified needs, and $1 million extra will not do it.

The other point that I need to make is about the systemic advocacy paper. The only way that a person with a disability could get hold of the systemic advocacy paper was to apply for an expression of interest package; in other words, the advertisements that went out advertising the systemic advocacy discussion paper were aimed at service providers. Those service providers, as part of their EOI package, received the systemic advocacy discussion paper.

The Hon. RON DYER: NCOSS, surely, must have been aware of the advocacy paper.

Ms REGAN: NCOSS was aware of the advocacy paper. I turned up on the first day and was not able to get the systemic advocacy discussion paper for several days. It was not being made available en masse or comprehensively to people with disabilities.

The Hon. RON DYER: I find it surprising that it was just before the break that the Committee has heard any reference at all made to this, given its centrality and importance.

Ms REGAN: I might say that the systemic advocacy discussion paper is mentioned throughout the 26 pages of the NCOSS admission.

The Hon. RON DYER: Nothing was said about it orally this morning.

Ms REGAN: I think I mentioned it twice at least.

The Hon. AMANDA FAZIO: Was it discussed at the consultations—or, as you referred to them, the information sessions—in April?

Ms O'CONNELL: The afternoon session was devoted to discussing the discussion paper.

Ms REGAN: But the paper might not have been circulated beforehand, because the only way you could get it was either to know about it—which meant that one of the services that had applied for it as an expression of interest package was telling you about it—or you actually applied for an expression of interest package.

The Hon. AMANDA FAZIO: So, even though it may not have been circulated beforehand, people who participated in those consultation meetings, or information sessions as you call them, were given copies of that discussion paper in the afternoon session?

Mr HERD: We do not call them information sessions; the department calls them information sessions.

The Hon. AMANDA FAZIO: Whatever. At the meetings that were held in April, was the systemic advocacy discussion paper distributed?

Ms EPSTEIN-FRISCH: Yes, it was. It was available to people who came to those meetings. It was available on a table at the session which I attended. At the session that I attended there was one person who both facilitated the session as well as recording information about it. At the session that I attended, as well as the information I had heard from either sessions, people overwhelmingly were concerned at the quality of the paper; they were concerned that this was a very inadequate way to even begin the discussion about what was systemic advocacy, what were its responsibilities, and how it should be grown.

CHAIR: The national disability advocacy program, which is part of the department's submission to the Committee, lays out both systemic and individual advocacy in detail. You got a $300,000 grant this year from the Commonwealth for individual advocacy. How much of that is a package for New South Wales, do you know?

Mr FRENCH: I cannot answer for New South Wales without referring to some papers, but the program nationally is worth about $10 million, and we receive less than our per capita entitlement, and the Commonwealth is just going through the process of topping that up. So I imagine we receive something like $3.5 million or perhaps towards $4 million in New South Wales.

CHAIR: So that the Commonwealth's new commitment to individual advocacy is about $3.5 million to $4 million in New South Wales?

Mr FRENCH: I could give you the precise figure, but that would be the generality of it.

CHAIR: So that the New South Wales Government's add-on is $1 million, is it not?

Ms EPSTEIN-FRISCH: Yes.

CHAIR: That would mean that this year coming there should be about $5.5 million more for individual advocacy from both the State and the Commonwealth governments.

Mr FRENCH: The $4 million is already allocated, so for next year the Commonwealth has reallocated one grant of $100,000, and I think it had $100,000 in additional money to disperse across existing agencies this year. So the increments of growth are very small.

CHAIR: But, still, the initiative for individual advocacy is not just from the State Government; there is also Commonwealth money for individual advocacy?

Mr FRENCH: Yes.

CHAIR: The national disability agreement, which was amended in 1999-2000, talks about individual advocacy as well as systemic advocacy. How much did the Commonwealth pay for systemic advocacy?

Mr FRENCH: It is included in that $3.5 million to $4 million figure.

CHAIR: Has that been an historical amount of money? Does that go back for ever and a day, or did it just start last year, or what?

Mr FRENCH: Advocacy funding at the Commonwealth level began—and Ms Fazio will remember this—with the national disability demonstration projects, which preceded the introduction of the Commonwealth Act. So that is the origin of advocacy.

CHAIR: In what year was that?

Mr FRENCH: In 1984-85.

CHAIR: So there has been constant funding at both the State and Commonwealth level for advocacy, and that has grown incrementally over time?

Mr FRENCH: That is right. With the Commonwealth-State disability agreements—as Christine said in her opening address—the opening recitals of those agreements say that advocacy will remain a joint responsibility. Part six of the agreement says that there shall be joint planning in relation to advocacy.

CHAIR: The criticism you have made is that there has not been any planned development in New South Wales. How does New South Wales fit within the table in terms of advocacy funding across the nation?

Mr FRENCH: I would have to take that question on notice.

CHAIR: I can ask the department, which should know the answer to that question.

The Hon. HENRY TSANG: Is EOI part of the Commonwealth-State agreement? Do any of the statements go to expression of interest?

Ms EPSTEIN-FRISCH: No.

CHAIR: I have checked; it is not in the agreement.

The Hon. RON DYER: Regarding the extent of the commitment by the Government to a continued form of systemic advocacy, I quote to you a short passage I found at the bottom of page 2 of the discussion paper to which I was referring a short time ago:

> The information and advocacy system will be approved by building on the experience of services already in place. ADD currently funds 36 information advocacy services with another 18 funded through the Commonwealth Government's National Disability Advocacy program.

That does not seem to me to be inconsistent with a continued intention on the part of the Government to fund systemic advocacy in some form.

Mr FRENCH: The difficulty we have is how to decipher these various messages. If you go back to the 6 February meeting you see that it is absolutely clear that the funding that was currently allocated to peak bodies and systemic advocacy organisations was part of the $3.7 million that would be put to tender. The only thing that you could tender for was individual advocacy, with a small component of systemic advocacy at the local and regional levels. On that day we sought clarification from the then director of strategic policy and planning as to whether or not peak bodies and systemic advocacy organisations were incorporated.

She said that she was not able to say and that she would need to check with the Minister. We followed up the issue with her immediately following the consultation and asked her to attend a major meeting of the caucus of New South Wales peak bodies a couple of days later to clarify this matter. She declined to come but she sent us an unsigned, undated letter dated 8 February stating that we were certainly included and that the only thing that was available to us was individual advocacy with a small component.

The Hon. RON DYER: That may well have been the position last February. However, I have the impression that this discussion paper has been issued at some subsequent time. We have to deal with realities as they present themselves to us now. I am asking you whether the statement that I have quoted to you is inconsistent with a continued intention on the part of the Government to fund systemic advocacy in some form?

Mr FRENCH: The problem that we have is that we had to prepare a tender, with the tender information that was released at the same time as that, criteria developed for individual advocacy. We are a peak body in addition to our other functions. Our tender related only to the tender documentation that was released with that paper, which was for individual advocacy.

CHAIR: The Government has not removed those tenders?

Mr FRENCH: No.

Mr HERD: It seems to me that the department has put the Minister in quite an invidious position. The department is asking us to believe that the responses to that systemic advocacy paper—whatever one thinks about its quality—were due only on the same day as the expressions of interest had to close. The Minister, therefore, could not even begin to try to make a political judgment about what that paper produced in the way of discussion in the New South Wales sector. The Minister could not even begin to form an opinion about what the Government's position might be until after we had all been required to submit our submissions of interest.

It seems to me that the department is not doing a proper service to the Minister that it is there to serve. I make this point, although it deals with history: There are contemporary publications to remind the Committee when it deals with them—it is in our submission and I believe that it is in everybody else's submission—that there was no mention of systemic advocacy or peak body representation on 10 January or on 6 February, to answer the question in the way in which Phillip French described it. In the media statement released by the department on 6 February the only references to systemic advocacy were the erroneous identification of the Disability Council, the Community Services Commission and the community visitors program of systemic advocates. That media statement has been withdrawn.

On 12 March, again the only references to systemic advocacy were the erroneous identification of systemic advocates in the form of the Community Services Commission, the community visitors scheme, the Public Guardian, the Protective Commissioner, the Anti-Discrimination Board and the Ombudsman's Office. All those organisations cited by the department have subsequently refuted the department's description of them as systemic advocates. Only after vociferous advocacy on the part of the Disability Council—and I understand that representatives from the Disability Council will tell you that themselves this afternoon when they appear before you—did this discussion paper appear.

The Disability Safeguards Coalition will probably want to keep its light under a bushel, but one need only put the department's apology for a discussion paper next to the much more thoughtful and clearly thought-out paper of the Disability Safeguards Coalition to see the difference between the two. I say on behalf of my organisation: If only the department had had the nous to go to a body such as the Disability Safeguards Coalition, which has no axe to grind and which has no money at stake, and say, "How about submitting a discussion paper which the sector can discuss?", we would have found ourselves involved in a much more positive and constructive debate, which is what we want to have with the Government.

The Hon. RON DYER: Whatever the rights and wrongs of the process in the past or perhaps now, I must really press this question: Is the statement that I quoted to you twice now inconsistent with a continued intention by the Government to fund systemic advocacy?

Mr HERD: If I understand that statement correctly—and I understand why you are pressing it—it does not represent the view of the Government.

The Hon. RON DYER: You say that it does not?

Mr HERD: No. It is in a discussion paper that will lead to government policy being formulated. That government policy paper will be based, in part, on the discussion paper and, in part, on the responses to the discussion paper. Those responses were not with the Government until the expression of interest process closed some two weeks ago. My understanding is that the Government has not pronounced a view on what systemic advocacy will look like in New South Wales at this time, nor could it have done so up until this point. That is where the department has let the Government down.

The Government has been left to answer questions, but the time table does not allow the Government to answer those questions. Unless I am wrong, that does not represent a statement of government policy. That is the only view that I can take about what the Government has said and about the published policy of the Government as it is represented in the disability framework. Currently, that is either the Government's policy or it is not. It is difficult for us to deal with a department that is making things up as it goes along to justify the mistakes that it made three or four months ago.

CHAIR: Do you believe that the decision was made prior to the letter of 10 January?

Mr HERD: It must have been.

CHAIR: From your inquiries, who made the decision? Was it the Minister's office, Cabinet or the department?

Mr HERD: We have asked that question several times and we have been told—and this is the only answer that we have, either in writing or verbally—that these decisions are a consequence of a clear government policy. When we asked the Government to specify that clear government policy we have been told that it was the living in the living in the community policy announced in the budget statements given last year. When we go to the director-general's text of that budget statement to explain the community program associated with the budget last year, we see that there is not one mention of advocacy anywhere. Also, in the Treasurer's statement on funding for the department in last year's budget statement, advocacy is not mentioned and the review of advocacy is not mentioned. So we have yet to receive anywhere from anybody clarification of where this policy comes from.

CHAIR: From your inquiries, who provided the advice upon which this decision was made? Was it the department, Treasury, or Cabinet Office? Have you any idea where this decision to go to expressions of interest came from? Was it from somebody in the bowels of the department or was it from somebody in the bowels of Treasury? Who made the decision?

Mr FRENCH: I will answer for People with Disabilities. From our inquiries we formed the definite view that the decision was taken in the Minister's office and that it was being driven by the senior policy adviser.

CHAIR: So this was being managed by the Minister's office or the department?

Mr FRENCH: That is our view.

Ms EPSTEIN-FRISCH: The Disability Safeguards Coalition believes that it is happening through the Minister's office.

CHAIR: So it is ministerial matter?

Ms EPSTEIN-FRISCH: Yes.

CHAIR: What service would you like to see come out of the Committee's inquiry?

Mr FRENCH: We have submitted some recommendations to the Committee for its consideration. One of the most important underlying policy issues is that advocacy needs to be funded and administered separate from the community services, and ageing and disability Department simply because of the conflict of interest that arises. The respondent to much of the advocacy undertaken on behalf of people with disability inevitably will be the Minister and the Ageing and Disability Department. Secondly, we have reported a number of allegations that are circulating within the field about conduct of DADHC officers and the ministerial adviser. We think they ought to be investigated according to a proper process and we have asked the Committee to recommend that. We also think there needs to be established a formal complaints and appeals process in relation to the Ageing and Disability Department EOIs generally but specifically in relation to this one.

The Hon. RON DYER: Is there not a complaint and appeals process under the complaints, appeals and monitoring [CAMA] legislation?

Mr FRENCH: Not to deal with these matters.

Ms REGAN: It does not apply to decisions within the department.

Mr FRENCH: The final thing I would like to highlight is that people with disabilities take the view that we have a severely compromised process here in terms of both the department and the Minister's office. For the expressions of interest to be properly assessed there ought to be a relatively independent panel established to assist them. We propose that that panel be constituted by the President of the Anti-Discrimination Board or delegate and the Community Services Commissioner or delegate; that that panel make recommendations to the Minister about what expressions of interest ought to be funded and so forth; and where the Minister disagrees with a recommendation, that she be required to give reasons in writing. We also have other recommendations, but they are the ones I highlight.

Ms EPSTEIN-FRISCH: I would like to build on the ones that Phillip French enunciated, including that the Government needs to refine the range of activities. There is lack of clarity around what is advocacy and what the Government is going to fund. The Government needs to clarify those activities. It needs to use growth funds as the mechanism for improving access for people in rural and remote areas, for people of non-English-speaking backgrounds and for Aboriginal people. So, using a process rather than a top-down government imposition; a process of advocacy development, that is argued through our paper, as a way to grow the program responding to the issues of people with disability, particularly in those geographical and cultural areas that are missing out. Particularly to emphasise the point that we need an independent process to take us forward at this point where we have so many tenders in. It needs to be an independent process to determine what funds are going to be allocated. We need a negotiated process with the disability sector, perhaps led by a group such as the Community Services Commission, to take us forward clarifying accountability provisions, clarifying those who did the activities of advocacy and taking us forward into the future for improved advocacy for people with disability.

Mr HERD: We would endorse all the recommendations we ask the Committee to consider. The only one we would add is that we would like to see, as we have said in our submission, a restatement, or a statement for the first time, that competitive tendering in the community services sector is not a viable purchasing option for services. I say that within the context that we are not necessarily opposed to competitive tendering; we just think that in these government services it is not an appropriate mechanism. It is for other areas and we certainly would like to have confirmed that that is not going to be the basis of purchasing in this sector.

Ms REGAN: I would like to draw it down to a number of recommendations of a more specific nature building absolutely on the recommendations that have already been put. Firstly, the rest of the process. Now, the process of the closure of the expression of interest is unclear. There has been an extension of the deadline of expression of interest. That deadline was extended after the closure of the deadline of expression of interest. So, NCOSS would like to see a written process of what happens now to the expressions of interest and how the groups will be affected. There were some indicative time frames given I think in the end of March, however, those now no longer apply. NCOSS is calling for the publishing of the purchasing plan as it is developed, however it is developed.

Also we are calling for the publishing of the list of preferred providers in the interests of accountability and transparency. And we are calling for the publishing of the probity plan. Over and above all that, we would call for the development and publishing of a disability policy framework that sets out the directions for actions within the advocacy and disability program with particular emphasis on how any process of change or restructure actually adds value within the sector. That is something the Government often asks community organisations in their quest for funding, but very often the Government is not transparent about how its own actions add value within the community.

Ms O'CONNELL: I support the comments, particularly about the disability safeguards coalition. But we would like to see a State advocacy plan developed through consultation with people with disabilities and their supporters.

CHAIR: How many of you are registered lobbyists here at Parliament House?

Mr FRENCH: We are not.

CHAIR: Is there a reason you have not registered as lobbyists?

Mr FRENCH: I guess we do a great deal of lobbying without that appearing to be necessary.

CHAIR: If there is anything you would like to add, or if you think of something to tell us, please forward it to us or ring the secretariat. I would ask that it be written so that it could be included as part of the evidence. The report will reflect the evidence you have given and any we receive at a later time. Please do not hesitate to contact us if there is anything you want to add.

Motion, moved by the Hon. Doug Moppett, seconded by Hon. Ron Dyer, agreed to that:

The submission from People with Disabilities be made public.

(The witnesses withdrew)

(Luncheon adjournment)

LEONIE MARGARET MANNS, Chairperson, Disability Council of New South Wales, 323 Castlereagh Street, Sydney, and

DONEL KEVIN BYRNE, Executive Officer, Disability Council of New South Wales, 323 Castlereagh Street, Sydney, sworn and examined:

CHAIR: Did you each receive a summons issued under my hand in accordance with the provisions of the Parliamentary Evidence Act 1901?

Ms MANNS: Yes, I did.

Mr BYRNE: Yes, I did.

CHAIR: Are you each conversant with the terms of reference of this inquiry?

Ms MANNS: I am.

Mr BYRNE: Yes.

CHAIR: This is a public hearing, however should you at any stage during your evidence indicate that in the public interest certain evidence or documents you may wish to present should not be heard or seen except by the Committee, the Committee would be willing to accede to your request and resolve into confidential session. However, I warn you that the Parliament may override that decision at any time and make your evidence public. I give the usual warning for members of the press: Members of the press take responsibility for anything that they publish or any inferences that they draw from the evidence that is given here today. Mr Byrne and Ms Manns, would either of you like to make an opening statement before the Committee asks questions of you?

Ms MANNS: No, thank you.

The Hon. RON DYER: It would be useful to the Committee if, in the first instance, you could explain the actual role of the Disability Council of New South Wales vis-a-vis the New South Wales Government.

Ms MANNS: The Disability Council is the official adviser to government on all issues affecting people with disabilities and their families in New South Wales. We give this advice through the Minister for Disability Services for the whole of government.

CHAIR: So you are owned and operated by the Minister; by that I mean that you are appointed by and respond to the Minister?

Ms MANNS: We are appointed by the Governor, signed off by the Governor, and we respond to the Minister and through the Minister to government under the Community Welfare Act, section 16.

The Hon. RON DYER: In what form and at what time did you become aware of the intention of the Government to at least consider changing funding arrangements regarding disability advocacy services?

Ms MANNS: I personally became aware of it on the afternoon of 6 February 2001, when a member of the press rang me and asked if I would like to comment on a meeting that had occurred that morning at which members of the disability community were given some instructions by the Ageing and Disability Department, as it was then called. I refused to comment because I was not aware of what had happened, because I was not at the meeting. At that stage I rang a couple of people whom I knew were at the meeting and asked them what had happened and what had been said. That was the first indication that I personally had of that.

CHAIR: Your comment in your submission that the Disability Council of New South Wales were neither informed beforehand nor invited to the meeting is correct?

Ms MANNS: Quite correct.

The Hon. RON DYER: This morning some criticism was made, to say the least, by representatives of the disability sector to the effect that in their view the consultation process was not transparent. Do you have any view as to whether that is a justified criticism, or otherwise?

Ms MANNS: The consultation process after?

The Hon. RON DYER: Yes, after the announcement, or it became known, that the Government intended to change the funding arrangements?

Ms MANNS: It is hard to answer, because it is hard for me to know what people understand by the word "transparent". As far as the Disability Council was concerned, once we went into the consultation and had agreed, belatedly so, that we would take part in the consultation and the hosts of the afternoon session on systemic advocacy, I feel that the Disability Council tried to put out as much information as we could and began putting everything, including our submission to government, on our web site. We made that quite well known.

CHAIR: Were you in receipt of the letter from the director-general? The Physical Disability Council received a letter on 10 January from the director-general indicating that there would be a change in the nature of funding for advocacy? Have you seen that letter?

Ms MANNS: No.

Mr BYRNE: We did not receive that letter.

The Hon. RON DYER: There appears to be considerable controversy as to whether the process that is underway is an expression of interest process or a competitive tendering process. The department appears to take the view that it is an expression of interest process, properly so-called. However, the sector appears to believe that it is a competitive tendering process. What is the Disability Council's view is regarding the process?

Ms MANNS: I could understand how the sector would think that it is a competitive tendering process. I would think that a lot of that feeling would be brought about by the officers who have been involved in the process. The Department, at its highest levels, and the Government, at its highest levels, probably believe that it is an expression of interest process. However, I believe that the community sees it as a competitive tendering process. The population as a whole season these things as competitive tendering. We can call it what we like within government and the public sector, but people still see it as competitive tendering. There is very strong resistance in our community to competitive tendering of any human services.

Mr BYRNE: One of the reasons that leads to that direction is that the Government put all the resources that were committed to funding of the agencies up for grabs by the committee would put out the expressions of interest process. That leads to the view of competitive tendering.

CHAIR: You mean if it looks like a duck, walks like a duck and quacks like a duck, it must be a duck?

Mr BYRNE: Pretty well!

CHAIR: Nothing that was put out separately by government said that it was not a competitive tendering process?

Mr BYRNE: That is correct.

Ms MANNS: Not that I have seen. Certainly verbally the government has said to us, and the department has said to us, that it is not competitive tendering. As I said, I can understand why people would think it was.

Mr BYRNE: You will note in our advice to the Minister, following our discussions at the council on 8 March, that we thought that the process was wrong. We said that putting all the funding for the organisations up for grabs was a process that could lead to division and that there were better ways to go about it. We tried to step away from the competitive nature of the expression of interest process. But the Minister chose not to accept that advice and proceeded with the current situation.

The Hon. RON DYER: Would be true to say that competitive tendering can, in some circumstances, relate to matters other than money or funding? It could relate to standards of service and other matters, could it not?

Ms MANNS: It could. I do not think that the Disability Council of New South Wales or any of the disability sector have any problems with service delivery of the highest possible standard. I certainly do not believe that anyone within the sector has any problem with accountability for the funding; or with having another look at how they work. I think people are always and open to re-evaluating what type of service they are delivering and whether they are achieving the outcomes that they were achieving the past; or deciding whether things need to change. The other issue around putting all of this funding within the basket of money available—

CHAIR: I am sorry. The Hon. Ron Dyer's question related to a separate issue.

Ms MANNS: I am sorry. I do believe there are issues involved and that people and services are prepared to be accountable for the way they operate.

The Hon. RON DYER: For example, the department, in a submission to the Committee, said in part, "Service providers are not being asked to compete with one another purely on a cost basis. Four the six selection criteria against which applications will be assessed relate to the appropriateness of service models and the effectiveness of service delivery."

Ms MANNS: Yes, I believe that is true. That is certainly in the process. However, at the consultation information sessions a lot this was very unclear. The method of delivery—getting back to the question about transparency of the consultation process, I think in that way they were open enough, but the way the information was delivered to the service providers that attended those sessions was different, depending on who delivered it, and I think it was on the whole fairly poor. We have certainly held a meeting and have written letter to the Minister since the process ceased, to tell her how we feel about the performance of her departmental officers over this period—which, on the whole, was fairly bad.

CHAIR: Might I refer to question asked earlier. Do you believe that this process is driven by the Minister's office or by the department, or was the initiation of this process at a much higher level—the Cabinet Office or by government policy?

Ms MANNS: I do not think I know the answer to that question.

CHAIR: I asked the question because there is no point blaming departmental officers for being confused if the initiation process came from the Minister's office, from Cabinet or Treasury. The departmental officers may not have been fully briefed in regard to what was to be implemented.

Ms MANNS: All right. I think there are two strands to that.

CHAIR: I do not want you to speculate.

Ms MANNS: I do not want to speculate about where I think it may have come from. I believe it is government policy. I am fully cognisant that it is government policy. I also believe there is an issue of departmental officers' lack of skill. I believe that is always an issue.

CHAIR: The consultation that you and the Hon. Ron Dyer spoke about were conducted by Mr Barber and Mr Johnston.

Ms MANNS: Those were the consultations on systemic advocacy held in the afternoon session. I was talking about those held in the morning, which related to advocacy services in general, that were provided by the department as information sessions. I thought they varied in quality. Certainly, the Disability Council of New South Wales had members present at every session. Some of the quality was okay—which would be my top praise—and some were pretty poor.

CHAIR: The first session discussed how to fill in the expressions of interest [EOI] form and about what the department was looking for.

Ms MANNS: Absolutely.

CHAIR: Did you get the impression they were seeking intellectual capital or they were seeking nuts and bolts bids?

Ms MANNS: I think they were looking for a little bit of both. I think they were trying to tell people that they wanted intellectual capital but they were also very concerned with nuts and bolts.

Mr BYRNE: My experience of the morning session—the expressions of interest information sessions; I would not call them a consultation—related mainly to how to fill out the form.

CHAIR: The nuts and bolts issues. That does not preclude what the Hon. Ron Dyer said, that they were also seeking intellectual capital.

Ms MANNS: No.

The Hon. DOUG MOPPETT: We appear to be spending a lot of time threading around semantics and words. At the end of the day is it your understanding that the amount of money that might have been spent on the peak advocacy groups is going to be curtailed? Are some going to miss out on funding? What is the end purpose of this process?

Ms MANNS: I could not know for sure what the end purpose is. I have been told there is a transparent expression of interest process, but I would think if you put out an amount of money, albeit somewhat enhanced, to public expressions of interest and you throw that open very broadly around the State, that they will be very many groups in this underserviced area that will want to bid for some of that money for services. I cannot see how the money could be divided in the same way as it has been. I would presume that some people will miss out.

Mr BYRNE: At the present time more than 200 applications of expressions of interest have been lodged and originally 36 were funded.

CHAIR: What is your view of the unmet need for both systemic and individual advocacy? Have you gone to the trouble to make an estimate of that?

Ms MANNS: It is fairly high, particularly in rural areas. I believe systemic advocacy particularly is covered pretty well in this State. We do have some very efficient and long-established groups providing advocacy services. However, because of the often quite low level of funding it is very difficult for even the established groups to provide that service throughout the State. I believe that many rural areas do not receive proper advocacy. There are probably many smaller groups—smaller disability types, for want of a better explanation—who do not have access to those current groups, not through any fault of either party

CHAIR: Has your organisation examined the dollar value that might be involved? The Commonwealth and the State both contribute funding for individual and systemic advocacy. Do you have any idea what the unmet need is at the moment?

Ms MANNS: No, I do not. I believe that should have been the first part of the process.

CHAIR: It might be an outcome of this process.

Ms MANNS: Yes. I hope it will be.

Mr BYRNE: I believe the Commonwealth contributes funding, but not to systemic advocacy.

Ms MANNS: Individual advocacy only for the Commonwealth.

Mr BYRNE: The figure was originally $3.7 million and, with growth and the extra $1 million, was up to $4.7 million for the expression of interest process. Although that figure is stated as the amount, we do not believe it is adequate. The amount of funding that organisations have been able to get over time through one method or another was tallied up by an officer in the department. In no way was a discrete figure arrived at for providing systemic advocacy. I do not feel a study has been undertaken by the department as to the adequacy of that funding or the job it has to do.

CHAIR: There are 36 peak groups who obtain money from various organisations, be it WorkCover or privately, to help them with individual casework. No-one has ever totted up that amount.

Ms MANNS: I believe no-one has looked at this process. I do not think anyone in the department has looked at the historic position of many of these groups. No-one has conceded that this is the level of funding that has not actually been set aside as a line of advocacy's funding. We have suddenly decided that all the money given basically to the NGO groups that are not service deliverers is advocacy money, whereas a lot of it may well not be. It may be community development money. They have been involved with other issues with that money. But now it has all gone into advocacy funding.

Mr BYRNE: And information.

The Hon. RON DYER: There appears to be apprehension or even a firm opinion in the disability sector that the Government and/or the department are hostile to systemic advocacy, particularly systemic advocacy delivered by peak bodies. Do you have any view regarding that opinion that may be held by the disability sector?

Ms MANNS: I certainly think that is the opinion that is held. Whether it is a valid opinion it is hard to gauge. But, historically, government of all persuasions, and probably departments, interface differently with community groups, whoever they be, depending on what is happening politically at a point in time.

The Hon. RON DYER: You will no doubt be aware that a discussion paper has been issued entitled "Improving and Expanding Disability Advocacy and Information Services in New South Wales". Could you tell us first at what stage that discussion paper was circulated?

Mr BYRNE: Yes, the discussion paper was circulated after the placing of the advertisement on 31 March. Various members of the council received the final of the document in the evening of 31 March. The secretariat received it on the following Monday. Prior to that we had seen a number of drafts and attempted to alter the shape of the document. The council did not want anything as broad as that document finally came out with—

CHAIR: And you saw the final draft after the advertisement had been placed?

Mr BYRNE: Yes. We had seen the last draft prior to the final document about a fortnight beforehand and we had suggested a number of significant changes to it. We did not see it then for another couple of weeks, despite my pressing, because I knew the time for the ad was getting close. I kept being put off by the officer of the department. Finally, it was emailed to a number of offices after 5 o'clock on Friday. It was emailed to my office but because I had left the office I did not get it until the Monday morning.

CHAIR: But your comment is that the executive of the council felt that only a total rewrite of the paper would produce a document which was suitable as a discussion paper. In other words, that final draft that you received late was still hopeless?

Mr BYRNE: We thought it was a hodgepodge. When we saw it on Monday we were so disappointed that we called an urgent meeting of the steering group that was involved—the Minister's adviser, the then director-general of the department, Mr Watts, Leonie and me—to have a talk about the document and see what we could change. We managed some changes even then but not significant changes that would have made the document what we felt was a useful thing.

Ms MANNS: I have to say, too, at this stage that the first that the Disability Council knew that we would be involved in writing the discussion paper was when we saw a copy of the letter that went to advocacy groups putting that position.

CHAIR: On 6 February?

Ms MANNS: No, after the event. The advocacy groups received a letter—I am not sure on which date—after 6 February about when the consultations would occur and that there would be a discussion paper on systemic advocacy prepared by the department and the Disability Council. That letter was put out without any discussions with the Disability Council. We then had meetings and decided that although the situation was far from perfect and not one we would probably have wanted, we would stay in it because we felt that we had some control.

The Hon. RON DYER: On the first page of the discussion paper this statement appears, "ADD recognises the historic role that systemic advocacy has played in contributing to reform of disability services in New South Wales." That does not seem to me to be hostile to the concept—

Ms MANNS: We fought very, very hard to get that in. We thought it was an insult that we had to fight hard.

Mr BYRNE: It was a last-minute addition.

The Hon. RON DYER: Notwithstanding that, the statement does now appear there.

Ms MANNS: It does.

Mr BYRNE: But we do not believe they are wedded to it.

The Hon. RON DYER: Who are you describing as "they"? The department or the Government or both?

Ms MANNS: I think council feels a little apprehensive about the departmental attitude to this, yes, we do.

The Hon. RON DYER: There is also a statement at the bottom of page 2 of the same document, "The information and advocacy system will be improved by building on the experience of services already in place. ADD currently funds 36 information and advocacy services, with another 18 funded through the Commonwealth Government's National Disability Advocacy Program." Was that statement there initially or was it put there as a result of your pressure?

Ms MANNS: I cannot remember.

Mr BYRNE: I think it was pretty well mostly there.

Ms MANNS: I think they put that in.

The Hon. RON DYER: If that is so, it would appear to be consistent, I would have thought, with some sort of commitment to a continuation of systemic advocacy.

Ms MANNS: I think there is a commitment at some levels.

The Hon. RON DYER: When I was putting the statement I have just quoted to the disability sector representatives this morning one of them, Mr Herd, said that the statement did not represent government policy. What is your view regarding that?

Ms MANNS: I would only have to presume that if something is put on letterhead of the Department of Ageing and Disability it would be government policy. If it is not, there must be some—

CHAIR: It was pointed out that this was a discussion paper.

Ms MANNS: Yes.

Mr BYRNE: The remark was made at the information sessions and again on a couple of occasions on the systemic advocacy consultations that we were involved in that the paper was a discussion paper and not departmental policy.

Ms MANNS: So I do not know whether I can comment on that. I am not too sure about what I would say there.

The Hon. RON DYER: You do not know whether it is government policy or not?

Ms MANNS: No, I do not, actually. I am only presuming that it is. Maybe I—

The Hon. RON DYER: You are not denying that it is?

Ms MANNS: No, I cannot deny. I just do not know.

CHAIR: The Disability Council of New South Wales believes that there was a total lack of consultation by the department or the Minister with the advocacy groups and information services for people with disabilities prior to the meeting on 6 February. Even now, at this stage in June, you have not been able to discover any evidence of consultation before the letter of 6 February hit the deck—or the meeting was called?

Ms MANNS: I think that is quite right. Certainly I believe that the department and the Minister or the Minister's office have been in conflict with the community for a long time.

CHAIR: This may be an unfair question: Do you believe that this is almost a way of shutting up the systemic advocacy groups?

Ms MANNS: I hope not.

CHAIR: What process should be in place to ensure that the Disability Council is used to its capacity as the Government's official adviser by the department—or by the Minister, I presume it should be, because you advise the Minister—on matters that impact on people with disabilities?

Ms MANNS: I believe—I have said as much to the Minister—that we need to be taken into the picture very early on in the decision making. If the Minister is to receive worthwhile advice there needs to be a lot of trust each way. I believe that we do have that trust but it is quite difficult to overcome some reluctance on behalf perhaps of advisers or whatever to open up earlier in the process. A lot of these situations could be avoided by taking advice early on how to do it. I do not think that anything we would have said would have changed this thing happening but it may have changed the way it happened and the timing. That is the main thing for us. The process and the timing have been appalling.

CHAIR: I understand that if every time the Minister had a bright idea she rushed off to the Disability Council as a sounding board then all the feathers across new South Wales would be ruffled almost every day.

Ms MANNS: Absolutely.

CHAIR: But I understand from what you are saying that there should be some trust that you can bring matters forward to the Minister not fully developed, just as ideas, and she should be able to bring things to you to see what you think in terms of scoping early.

Ms MANNS: And I think that does happen to a certain extent, but it seems that it did not happen in this circumstance.

Mr BYRNE: In truth, the Minister did raise with us the possibility of having a look at organisations, like a review, but there was no talk at that stage that it was going to be a total throwing open of all the funding for the organisation, that there would be this competitive tendering process. We believed that there was going to be some review of organisations over time. We rightfully said to the Minister that that would probably be a good thing in that there were a lot of organisations out there and some of them were very well developed and so on and it might be time to have a bit of a mature look at them.

CHAIR: What the Minister or the office has been saying is that they have no idea what these groups do. What would your response be to that?

Ms MANNS: They are entitled to have a look, but I would be very surprised to hear that the department has been funding groups for as long as it has, and it has no idea what they do. That would be a bit of worry about what happens with public funds.

Mr BYRNE: I would be very surprised also because I know, and I am on the management committee of a couple of them, that those organisations provide a fully detailed annual report as part of their conditions of funding, and that goes in every year with their resubmission for funding, because it is annual. What else do they need to do other than report their activities? It is not their fault that the department does not read them.

The Hon. DOUG MOPPETT: We have talked about the circumstances leading up to, and now we are into, the process. Sometimes these things are set up to serve a predetermined end. What do you think about the assessment process and the panel? Do you think that will give satisfaction to people who have put in submissions and tenders that they are going to be dealt with fairly?

Ms MANNS: I would assume not because with 200 applications and what is a relatively small amount of money there will be people who miss out. It will not be totally satisfactory to everyone involved.

The Hon. RON DYER: That is not necessarily unfairness.

Ms MANNS: No. I was going to go on with that. I would hope, and certainly Disability Council will watch as closely as possible, that the probity of the affair and the process is fair. I would not make any assumptions that it would be unfair, no.

The Hon. DOUG MOPPETT: It is very difficult when you talk about peak groups that are not delivering a service to an individual in their role of representing members of their association. Evaluation tends to be a bit esoteric. It is not as though we can say they made marvellous submissions, this one is 45¢, that one is 42¢, therefore 42¢ wins. How are you going to make those assessments?

Ms MANNS: I am certainly not going to be involved in making those assessments. I have made it very clear that the Disability Council will not be involved in any panels. I do not know how you make those assessments. I truthfully cannot answer that. I have been involved in community groups for many years. I have come to it from all sides of government. I have always said that government money should never be considered shut-up money.

CHAIR: What process have you been told about in terms of the judgment on these EOIs? What framework has the department for making the judgment? What matrix does it have? What is it trying to achieve?

Ms MANNS: We have not been advised.

Mr BYRNE: We have not been advised of that. All we have been told is that there will be two officers of the department and one Independent, who will also be a member of the New South Wales public service, who will assess those applications under the expression of interest process.

After that assessment they will put all the applications, not a series of recommended nominees, forward to the Minister and the Minister will view all those applications and make a decision.

CHAIR: Not the department?

Mr BYRNE: No, the Minister will make the decision. That is what we have been told

CHAIR: But nothing is written about what they will be judged against, what criteria will be used by the Minister or her staff, on merit, or what aims are to be achieved?

Ms MANNS: Not to our knowledge, no.

Mr BYRNE: The only thing we have been informed is that the Minister is looking for innovative services to increase the level of individual advocacy right across the State, but also access to services by people from Aboriginal and Torres Strait Islander backgrounds and people from culturally diverse backgrounds.

CHAIR: And rural backgrounds?

Mr BYRNE: Yes, and rural areas.

CHAIR: I love the way they talk about innovative things. They are new ideas and new approaches that almost throw out the old approaches that work. It is extraordinary!

Mr BYRNE: The view of the Minister is that it is not working well in some areas.

CHAIR: It may be that the Minister does not give him enough money.

Ms MANNS: I think that is quite true.

Mr BYRNE: That would be an innovative idea, give them more money.

The Hon. DOUG MOPPETT: I have been very interested in that. We have discussed the impact that competitive tendering will have on some services. One of things we have heard, and I would be interested in your comments on it, is that the interregnum is almost worse in terms of staff morale and getting on with the job: they are binding around, wondering what is going to happen and spending most of their time addressing this.

Ms MANNS: For the past few months it has been very disruptive to the whole sector, and very divisive. Unfortunately, that has happened. I believe that it need not have happened. I believe it is quite possible to overview and review any system in a timely and proper way. If you do that you are much more likely to take a community with you and leave them behind in disarray.

CHAIR: What would you like to see as an outcome from the inquiry of this Committee?

Ms MANNS: The main outcome I would like to see is peace in the sector. I do not know if that is something I am not going to see, but I would like it. I would like to see services on the ground throughout New South Wales for all citizens with disability to have access to advocacy, but I still believe that we need a strong system of advocacy because all of us sitting around here, or the achievements we have made in disability, are a result of the advocacy system. It has come from people being advocates throughout their lives; some of us in all sorts of ways, even as members of Parliament.

CHAIR: Is there anything further you would like to add? Other issues raised by some of the peak groups this morning went to the transparency that follows this process and the transparency of adjustment to the discussion paper, because the discussion paper on systemic advocacy was finalised at the same time as the EOI process went in. What do you think should happen from here? Do we simply wait until November when the Minister suddenly says, "Here are the winners. The winners are." Or do we need more than it?

Ms MANNS: I would hope that the Minister, her advisers and her senior departmental officers would read the report of the systemic advocacy consultation very closely and have a close look at what the community has said and what it feels, especially the additional information that the Disability Council has written in there, so that they can look at what they looked at what comes through in the expressions of interest process and marry them together. It will not work if everything is funded as individual advocacy programs or a project because the organisation cannot exist on project funding. We all know that. All of us have been there.

CHAIR: When we hear about biennial meetings and systemic advocacy projects, that is a completely different business to stable infrastructure funding, is it not?

Ms MANNS: Yes. I am hopeful that it will not simply be project funding. I am hopeful that what has come through from the discussions will be able to carry this forward, and that we will end up with a robust advocacy sector.

CHAIR: Is there any further information?

Mr BYRNE: We have some additional information. As part of the consultation process we recognised that a lot of people would not have been able to participate in the face-to-face sessions. In discussions with the department we got an officer on board and ran a phone-in through the entire time of the face-to-face consultations and there is a report summary of that information. There is also a copy of the further letter we sent to the Minister following the release of the so-called supplementary information.

CHAIR: Would you like to make that a further submission to the Committee?

Mr BYRNE: Yes.

CHAIR: That information is so published.

(The witnesses withdrew.)

ROBERT WILLIAM FITZGERALD, Commissioner of Community Services, 128 Chalmers Street, Surry Hills, sworn and examined, and

ANITA TANG, Manager of the Policy and Community Education Unit, Community Services Commission, 128 Chalmers Street, Surry Hills, affirmed and examined:

CHAIR: Have you received a summons issued under my hand in accordance with the Parliamentary Evidence Act 1901?

Mr FITZGERALD: I have.

Ms TANG: I have.

CHAIR: Are you conversant with the terms of reference of this inquiry?

Mr FITZGERALD: I am.

Ms TANG: I am.

CHAIR: If you consider at any stage during your evidence that in the public interest certain evidence or documents you may wish to present should be heard or seen only by the Committee, the Committee will be willing to accede to your request and resolve into confidential session. However, I should warn you that Parliament may override the decision at any time and make your evidence public. Are there any opening remarks you would like to make?

Mr FITZGERALD: I would like to clarify a couple of things in relation to the commission and its role in relation to advocacy. The Act under which the commission is established—what is commonly called CRAMA—provides two sets of functions in relation to advocacy by the commission. One is to promote, liaise with and assist advocacy services and organisations for persons receiving or eligible to receive community services. A second statutory function is to support the development of advocacy programs. Notwithstanding those two statutory functions, the commission itself is not an advocate. In relation to some statements made by the then Department of Ageing and Disability Services, we need to clarify that position. Neither the commission nor the Community Visitor program, which we co-ordinate, are advocacy support or advocacy programs. In some of the media releases that were presented, the Government indicated that the funding of both the Community Visitor program and the commission represented a commitment to advocacy programs. We need to clarify that.

CHAIR: What is your proper role in this regard? Do you have no role in advocacy?

Mr FITZGERALD: No, we have a role in trying to deal with individual and systemic issues, but the commission was not established as an advocate, rather as a body to promote and liaise with advocacy bodies and to promote advocacy programs. One of the difficulties right throughout this process has been people's misuse of the terms "advocate" and "advocacy". While I do not think it is appropriate to enter into a definitional discussion, in our view there is a clear distinction between bodies such as the Commission, Community Visitors, the Disability Council and community-based advocacy services and bodies generally.

CHAIR: You can understand the Government and people generally being a little bit confused after the way Mr Sidoti and people like Chris Puplick are advocates in their own right in human rights and anti-discrimination. Quite clearly they are more than just judges or helpers, they are clearly out there pushing the boundaries.

Mr FITZGERALD: There is a very grave difference between the Anti-Discrimination Board as an advocate body or advocacy body while it holds positions and represents positions, and saying this is part of an advocacy program. It is important to understand that, otherwise you start to draw in all the quasi and semi-government authorities representing a commitment to advocacy, and that would be inappropriate.

CHAIR: I thought I would clarify that because I see Sidoti and Puplick as advocates and I can understand why people, even the Government, think that. Even the Health Care Complaints Commissioner could be seen as an advocate in certain ways in pushing the medical board to do something about ongoing education for doctors to improve quality of services. They are out there pushing the boundaries quite deliberately and quite differently.

Mr FITZGERALD: But in no circumstances would the Health Care Complaints Commission regard itself as an advocacy body; nor would it be regarded by government as an advocacy program. It would be seen to be a complaints handling body that raises both individual systemic issues.

Ms TANG: One of the key distinguishing features is around independent community-based advocacy and the sort of role statutory bodies have.

The Hon. RON DYER: Would it not be true to say, though, irrespective of what formal definition one might give to the term "advocacy", that the Community Services Commission historically since its inception has on many occasions not only upheld individual complaints but published detailed reports addressing systemic issues, such as, to take one example, conditions within large residential institutions?

Mr FITZGERALD: And we continue to do so, because the other 10 statutory functions require us to undertake inquiries to deal with complaints, and so on. The point we are trying to raise is that the promotion of issues either on behalf of individuals or that affect a service or that are systemic in nature, by nature do not turn the commission into an advocacy body, nor part of an advocacy program. The point needs to the clarified so there is a clear distinction between the programs we are talking about that are subject to EOI, and the government and semi-government authorities that do deal with those three issues.

The Hon. RON DYER: I understand what you are saying about not being an advocacy body, however would it not be true to say that in publishing generic reports such as I have mentioned you are advocating change and improvement in the system?

Mr FITZGERALD: One is always advocating change and improvements in the system, but the release of an inquiry report would not be regarded as the release of an advocacy position. It would be the report of an inquiry that was conducted by the commission, which would make recommendations, and, as the Committee is well aware, the commission takes a position based on a consumer protection approach or a consumer enhancement approach. So, absolutely we are about making recommendations in relation to improvements in the system, but the inquiry reports would not be regarded as advocacy reports per se.

The Hon. RON DYER: Would you understand, though, that people who are not approaching the matter from the specialist standpoint would perhaps assign the general term "advocate" or "advocacy" to a body such as yours?

Mr FITZGERALD: Yes, they do so, and they do so often quite wrongly.

CHAIR: You would not expect the Minister and the department to make such an error, would you?

Mr FITZGERALD: We would hope that the Minister and the department would understand the role of the commission and the community visitor program as distinct from the community-based advocacy programs and services, yes we would.

The Hon. RON DYER: What is your view regarding the differences that have arisen between the department and the sector on whether the process regarding advocacy could be described as an expression of interest process or a competitive tendering process?

Mr FITZGERALD: If I may, I will surround my remarks by three concerns and then answer that directly. We have raised three concerns: first, the lack of articulated policy or program framework for the funding and provision of advocacy; second, there is the inappropriate process itself; and, third, there are ambiguities surrounding statewide systemic advocacy. The expression of interest process is a deeply flawed process. It is in fact a scoping exercise as well as what we would regard as a competitive tendering process. There is little doubt at all that the Government, through its various announcements, does intend to use the expression of interest process as a tendering process. There is little doubt about that because what they have done is link the gathering of information, the expression of interest and the funding announcements to that one process.

The Hon. DOUG MOPPETT: Many are called but few will be chosen.

CHAIR: Have you undertaken any sort of study of advocacy needs at all, given your responsibility for liaising and assisting?

Mr FITZGERALD: What we have been doing is this: over a period, we have identified the need for advocacy services. We welcomed the Government's announcement that there would be increased funding, particularly for individual advocacy. The transfer of the group homes process identified a large number of people who did not have advocates at that time. The Government's response was to fund the Office of Public Guardian to assist. In much of our ongoing work we have raised the issue of the lack of sufficient advocacy available, particularly for people in residential services right throughout New South Wales but more so in rural and regional communities. We have not been able to quantify that. I should draw your attention to the fact that the Department of Ageing and Disability in 1996 commenced an extensive process in terms of examining the advocacy services situation New South Wales and that was never ever completed and the findings of that were never released.

The Hon. RON DYER: Mr Fitzgerald, what is your view regarding the commitment of the Government to a continuation of systemic advocacy?

Mr FITZGERALD: I think the commitment is ambiguous and confused. Since we were advised of this process, which was on the afternoon that it was announced to the advocacy community—the advocacy bodies—we sought clarification. In relation to systemic advocacy, it has changed several times from systemic advocacy based at a regional level through to the systemic projects to the discussion paper from which you quoted previously. The term that we have used in our submission to this inquiry is "ambiguous", and I think it remains ambiguous.

The Hon. RON DYER: When I put passages to which you are now referring to a witness from the disability sector this morning, the view was expressed that the sentiments that are in this paper in this regard do not represent government policy. What is your view?

Mr FITZGERALD: If the document to which you are referring is the discussion paper, I think the discussion paper is not government policy. It is in fact the discussion paper in which a number of positions have been put. Let me say that the Government has indicated that it does have a commitment to systemic advocacy but, as I have indicated, the contents of that or the context continues to change and that is where the ambiguity arises. But certainly the discussion paper would be regarded by us as being just that, not a policy statement.

CHAIR: Have you seen any evidence of the fall-out of service provision by the peak groups as a result of this whole process?

Mr FITZGERALD: The process is taking place at a time when the disability sector has been under extraordinary stress for some years. The relationship—as we have indicated to several other parliamentary inquiries between the Government, the Minister's office and the sector—has rarely been at such a poor level. This disruption takes place when major initiatives of the Government are being rolled out which includes the devolution, which is being re-emphasised over the next three to four years, the not completed group home transfers and many other matters. I think it has been highly disruptive but, most importantly, I think the concern we have is that this is taking place where there is no clearly defined framework, when no appropriate scoping review of the sector has taken place and when there is no basis upon which the funding decisions can be made that have been publicly articulated. Therefore I think it has created great concern and confusion. At the end of the day I think we would certainly indicate to the Government that it is an extremely poor process which has led, in part, to that increased confusion.

CHAIR: Where do you think the Government is going with this whole issue? We have got the end point of the submissions on the systemic advocacy finishing on the same day as the expressions of interest [EOI]. Where is the Government going after that, from your point view? Where do you see the Government going after that?

Mr FITZGERALD: The commission cannot second-guess a Minister or the department in relation to the process. What we have tried to point out is that the process is flawed and generally outcomes that arise as a consequence of poor process are often poor themselves. What we have tried to do is try to encourage the Government to take a new approach. What we do know is that one outcome will be increased funding for advocacy bodies, which we would welcome. One of the second things on which the Government has articulated a position is that there should be increased funding for individual advocacy, which we welcome. But beyond those two points, it is very hard to know where this process will lead.

The Hon. RON DYER: Mr Fitzgerald, you said a short time ago words to the effect that there is no basis upon which the Government can make funding decisions. You are referring in that context to advocacy funding decisions. Is that really the case, given that there is an expression of interest process and there have been seminars or information gatherings around the State and other efforts to elicit views?

Mr FITZGERALD: But against what framework is the EOI process being called? Against what set of principles or frameworks will funding decisions be made? At this stage there has not even been an appropriate scoping exercise. The 1996 endeavour was an attempt to review the sector with a view, I would have hoped, to establishing a framework and then perhaps some sort of funding process. None of those elements is present in the current process. Undoubtedly the Government will have obtained a very large amount of information through the expressions of interest process. We would hope that that is what it is used for. The Government would then enter into a process of establishing a framework, and against that framework would be able to make funding decisions. But at the moment, I say this honestly, there is no indication that there is any framework against which funding decisions can be made.

The Hon. RON DYER: Do you think that the approach you are taking is perhaps unduly formal and that it is at least arguable or possible, as a result of information collected in the expression of interest process and other means available to the bureaucracy, that informed decisions can in fact been made?

Mr FITZGERALD: No, I do not believe they can be. I believe that the expression of interest process serves as a scoping exercise of what is available and what is potentially available. I think the process that now needs to be entered into is the development of a framework which identifies what the Government believes to be the appropriate means for advocacy services throughout this State. Against that framework, funding decisions can be made. But I think it is very difficult to use an all-encompassing process to achieve that outcome.

CHAIR: On page 5 of your submission you say:

> Prior to the announcement about the decision at a seminar of advocacy and information providers, the commission was unaware that the department was about to embark on a service improvement strategy involving a statewide EOI process.

Those words appear under paragraph 3.1. Did that seminar of advocacy—which, I presume, is a seminar about advocacy—occur before January 2001?

Mr FITZGERALD: No. The seminar to which I am referring was—

Ms TANG: It was 6 February.

CHAIR: You also mention the January issue here.

Mr FITZGERALD: That is right.

CHAIR: That letter just came out of the blue as far as you are aware.

Mr FITZGERALD: We had discussions with the Ageing and Disability Department last year about the potential for a review of advocacy services. That was also at the same time that we were talking about reviews of therapeutic and specialist services, as well as the review of the monitoring and review functions of ADD. There was no discussion that there would be what turned out to be a service improvement strategy involving an EOI process until it was announced publicly on that afternoon in February.

CHAIR: We have also heard evidence that the Government or the department—and I do not know which one it is—has no idea what these groups do. What would be your response to that?

Mr FITZGERALD: The department itself commenced a process in 1996 in relation to trying to examine the whole issue of advocacy services. It seems to me incomprehensible that the department, since that time, continued to provide support to these agencies without any understanding of what they were providing. But, more importantly, let us assume that it is correct that the department did not understand what the agencies were doing. The appropriate response—

CHAIR: Clearly, they do not understand what advocacy is if they think you are an advocate.

Mr FITZGERALD: Be that as it may, we would have thought the initiating process was a review that scopes what the current disability services are providing. That would be an absolutely legitimate and appropriate process so that you scope what is taking place, you identify both the strengths and weaknesses and then you establish a desirable framework. That process may lead you to the same outcome, but that would be a process that would be consistent with the same approaches that are being taken, for example, the department is conducting a review into specialist and therapeutic services. It is not called an EOI process for those services. The department is conducting a review of its monitoring and review functions. It has not called for expressions of interest. What it has legitimately done is to review both the strengths and weaknesses of the current provision and then to develop a framework and then have a further process after that.

CHAIR: Have you seen the evidence of the results of this inquiry that began, as you said, in 1996?

Mr FITZGERALD: No. As we understand it, the results have never been released.

Ms TANG: The department commenced a process to develop an advocacy plan for New South Wales. It established a steering group. It was a collaborative process. Major stakeholders were involved. The department issued a series of discussion papers in 1996 which went out for consultation, and we have no record of any outcome of that process.

Mr FITZGERALD: We believe that that was a good process. I think it was initiated under Mr Dyer's ministerial position.

The Hon. RON DYER: It would have been a good process, in that case.

Ms TANG: The initial discussion papers were looking at the strategic issues that would have to be resolved in order to develop a State plan for advocacy. It was trying to scope issues around definition, types of activities that should be in an advocacy program, extent of need and how to manage the different types of advocacy.

CHAIR: This morning we heard that the Commonwealth has developed an advocacy plan, but the five groups that appeared before us this morning, including NCOSS, said that there was not a plan in New South Wales. Is that still the case?

Ms TANG: As far as we are aware, there is no plan in New South Wales.

The Hon. AMANDA FAZIO: In your submission in point 4.1.1 you say that the commission acknowledges the Government's right and duty to ensure that all funds for advocacy are appropriately and effectively deployed. Do you believe that the current process is necessary to ensure that, or do you believe the yardsticks that currently funded programs have been measured against are adequate?

Mr FITZGERALD: Our view would be that it is absolutely right that there should be a review of disability services, as with all funded programs, on an ongoing basis. But can I just say that the Government in other areas, particularly through the Premier's department, has adopted a very strong approach to building of capacity within communities and within organisations and agencies. One of the strongest initiatives of the current Government has been to take an agenda which is about trying to strengthen existing agencies to deliver better outcomes—in other words, to build skills, resources, infrastructure and sustainability. Often, the best approach for that is a negotiated approach against a clearly articulated and mapped framework. In order to build strengths and capacity within the advocacy area, that may have been a more appropriate approach and consistent with government policy.

The process here runs the risk, as so much in disability services does, of spreading capacity, not enhancing and building it. One issue we have raised with the social issues Committee was the extraordinary spreading of the capacity within the disability sector, and that has weakened the ability of agencies and organisations to deliver quality services. The approach to that is not another EOI process. In fact, it is a clearly planned process to look at the needs and then to build capacity. I think there are two ways. If you simply want to throw it open for all agencies to put up their hand, then this process does that. If you want to build capacity in the advocacy sector I think there are different approaches you would take.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: What approach would that be?

Mr FITZGERALD: One is a scoping exercise to see the strengths, weaknesses and gaps; the second is the framework; and the third is a process either of negotiation and/or EOIs that lead you to that position.

CHAIR: Under 5.11 this is I suppose the philosophy: the purposes of advocacy may jeopardise some of the key principles of advocacy. What you are saying is that you do not like the whole idea of tendering for advocacy one little bit.

Mr FITZGERALD: What we have indicated in relation to tendering is that there is no evidence to indicate that an EOI or competitive tendering process necessary leads to better outcomes in the community service sector. What is clear is that the EOI or tendering process is a means to an end. One must have a very clear definition of those ends. Once one has established what outcomes are desired, you can work back and say whether it should be an unlimited EOI process, a preferred EOI process or a partly negotiated process based on the current agencies' capacities. There are many different ways to achieve outcomes. One of the dangers throughout Australia has been that the EOI process or competitive tendering process has become almost the only way in which community services are in fact now funded. That has not proven to be appropriate in a number of other areas of community services. What we are saying is that EOI may be a means to an end, but one must clearly establish the outcomes that one wants to achieve.

CHAIR: But you have gone further than that in your submission. You say that it offends or jeopardises some of the key principles like independence, minimising conflicts of interest and focusing on the needs of people with disabilities, rather than focusing on the needs of the advocate group.

Mr FITZGERALD: I think there is a danger, depending on the process. Always the Government will have the right to determine who is funded and who is not funded. That always creates potential for conflict, particularly in the advocacy area. One seeks to minimise but not completely eliminate those tensions by a process. That is why process is so important. Process minimises the risks to those agencies; it does not eliminate those risks. At the end of the day governments will determine who is and who is not funded, but it minimises those risks and conflicts.

CHAIR: So in November this year a couple of people from ADD and an independent person from the public sector will go through all the expressions of interest and make comments about them. They then go to the Minister's office and the Minister and her staff wade through about 200. Then in

October or November the winners are announced, but of course there must be an awful lot of losers. Do you have any views on how the Minister might conduct the selection process without using a blackboard?

Mr FITZGERALD: The commission has neither been asked for nor provided any information to the Minister in relation to how they may now sift through those expressions of interest to determine a funding process. I repeat: We believe that the EOI process that is current should be used as a scoping exercise, followed by a framework.

CHAIR: In other words, pick up a few bright ideas and then throw it open saying, "We actually like this approach. Why don't you make some submissions to us about this approach?"

Mr FITZGERALD: At this stage all I can say is that we have not provided any advice in relation to how they may choose which organisations to fund.

CHAIR: I might be opening a can of worms but we have a bit of time and you are the sort of person of which to ask this question. The Commonwealth through open the advocacy for employment to Tursa from its own department of employment, the CES. Do you see a difference between that process of employment advocacy or assisting people to get employment and being an advocate for someone who needs disability services? In other words, could this whole process go out to Tursa to do advocacy for disability?

Mr FITZGERALD: First, the vast majority of advocacy for the disability services sector is already privatised in the sense that it is with non-government agencies. With the exception of the Office of the Protective Commissioner and Public Guardian, the New South Wales Government does not have any instrumentality for the provision of advocacy. So it is already different. Secondly, I return to a point that I raised before: In our view, it is not a matter of opening it up to the world; it is about trying to enhance and build capacity within the service delivery system. If you take that approach—I think it is the correct approach and is endorsed by the current Government—the processes by which you achieve that are quite different.

I want to make a few points about advocacy in the disability area. First, advocacy is an absolutely integral part of ensuring the rights of people with disabilities. This is not a side issue; it is at the core of whether we believe people with disabilities have rights and entitlements. Secondly, advocacy for people with a disability must be sustainable overtime. Advocacy for an employment purpose may be very short; we are talking here about a whole-of-life circumstance. I think it is critical that advocacy services have sustainability built into them. That does not mean that an individual advocate remains for life with a particular person or even an agency. It does not mean that some agencies should not lose funding if they do not do a proper job—clearly they should. However, the disability area has a quite different sort of advocacy from that associated with trying to find someone employment.

The Hon. DOUG MOPPETT: You said a moment ago that you thought the question of advocacy was fundamental to the rights of people with a disability. For the benefit of our report, could you expand on that point? People will say that all sorts of organisations—parents and citizens associations and so on—are looking for government money, but you are making a clear distinction in relation to these peak advocacy groups.

Mr FITZGERALD: There are a couple of reasons why people with disabilities in particular require advocates. The first reason has to do with their vulnerabilities and their capacity to self-advocate. Advocacy includes self-advocacy, and there are self-advocacy bodies in New South Wales. People with disabilities are very vulnerable and the service models in which they live—members have served on inquiries about this—sometimes increase that vulnerability. Therefore, it is very important that there be a person in their lives who can strongly and effectively articulate and push a position with a service provider.

Secondly, the apparent advocates are not necessarily the real advocates. For example, family members may believe they are the advocates or the decision-makers for people with disabilities. However, in reality—we often find this through the commission's work—another person who is not necessarily a family member sometimes needs to look at the individual. That is important. The third critical point is that system failure impacts directly on the quality of life of people with a disability. This is an area where systemic failure and weakness impacts directly and absolutely on quality of life, day by day. Systemic advocacy is critical to improving quality of life in a way that is sometimes not so evident in other areas. There are many reasons why advocacy is important.

The Hon. DOUG MOPPETT: You say that advocacy is a right. Is it the sort of right that is recognised at any formal level—for example, at a statutory level—that we can point to in the report?

Mr FITZGERALD: The Disability Services Act and the principles that it articulates strongly propose that a person with a disability must be able to participate actively in decisions about his or her own wellbeing and that he or she has the right to be represented, to make complaints and so on. I cannot say whether there is a specific right to advocacy, but there is a right to a number of functions that may require advocates or advocacy to enable them to be fulfilled. That is clearly demonstrated in the transfer of group home process that the Government is still undertaking.

The Hon. DOUG MOPPETT: Do you think destabilising the major peak advocacy groups almost runs against the Act and the rights that have been laid down by both the Commonwealth and the State?

Mr FITZGERALD: In fairness to the Government, it has indicated that this process takes place in an environment where it will increase funding—we welcome that—and increase the level of individual advocacy. To that extent, one of the outcomes we hope for is that there will be greater individual advocacy for people with disabilities in New South Wales. We have applauded the Government for doing this. The difficulty is—we have said this very clearly—that that should not occur at the expense of systemic advocacy. We also continue to say that the process is important. I hope that the Government will remain true to its commitment that this is about increasing advocacy, which is quite the reverse to trying to undercut it. The difficulty we have all mentioned is in relation to the Government's commitment to systemic advocacy.

CHAIR: Do you believe the Government has breached the disability service standards in terms of its decision making, choice, participation and integration, valued status and service management?

Mr FITZGERALD: The commission cannot say that the Government has breached its principles because at the moment all it has done is instigate a process in relation to funding advocacy agencies. It has made no decisions; it has not changed the funding or the framework. At the current time all the Government has done is commence an expression-of-interest process.

CHAIR: What about participation and integration?

Mr FITZGERALD: We could not speculate. The commission is often asked its opinion well in advance of the Government's making a decision. Our approach has been not to second-guess the Government's decisions, and it has not made a decision in this instance other than to call for expressions of interest.

CHAIR: There was no consultation before the Government took a huge change in direction, so the process alone would appear to be a breach of decision making, choice, participation, integration, valued status—if nothing else—and service management.

Mr FITZGERALD: The commission cannot comment as to whether the Government has or has not breached the principles. The commission has said very clearly to this inquiry that the process is flawed. You have already heard independently about the consultative processes.

The Hon. HENRY TSANG: The submission of the Department of Ageing, Disability and HomeCare says that the central objective is to improve participation by people with disabilities from Aboriginal and ethnic backgrounds and those who live in country areas. Do you think the EOI process is an appropriate way to implement that objective or should a different process be adopted?

Mr FITZGERALD: I think you can get the same outcomes—which I think are both noble and real outcomes. I think it is very important to increase the level of advocacy for indigenous people and for people in regional and remote communities. We thought the process would be different from the one that is being developed by government. I reiterate: It would be a scoping exercise to identify the strengths, weaknesses and gaps to develop a framework that clearly articulates the type, nature and quantum of the advocacy that one wishes to achieve across the State. Then there is the funding process. A different process would benefit those outcomes.

The Hon. HENRY TSANG: You would still have to go through a process.

Mr FITZGERALD: You may use an EOI process as the final funding stage, but there are alternatives to it. For example, in relation to indigenous communities, it is not likely that an EOI is the most appropriate process to achieve the best outcomes. Indeed, for indigenous communities—as many members of this Committee may know—it will require a negotiated arrangement to find the most suitable agency in the area to which you are trying to provide services. It is unlikely that an EOI process would be the most appropriate way of meeting that particular goal.

Ms TANG: There are two issues. First, there is no baseline at the moment. We do not know how much access those groups have to the existing advocacy service, so it will be hard to measure any effectiveness if that is one of the outcomes being sought. Secondly, if you are interested in promoting access and participation for particular groups of people to advocacy services, that could be done in a more targeted way rather than requiring all existing grants to be subject to the EOI. For example, at the moment in the department there is some specific funding for advocacy for people involved in the criminal justice system. That is a separate process that is not caught up with vacating all grants.

The Hon. AMANDA FAZIO: We have heard from some people, and some submissions, that allude to this whole process as being about some backhanded or backdoor way to abolish or de-fund systemic advocacy altogether. Have you seen any evidence to support that theory?

Mr FITZGERALD: It is not appropriate for the commission to second-guess the Government's intentions or decision-making. I reiterate that this is taking place in environment—we have said before—of enormous distrust and breakdown between the community sector and the Government. This has now been ongoing for some time. It is not, therefore, unlikely that non-government agencies would see the dark side of this particular cloud. It is also very true that the government has not used effectively the advocacy services or peak bodies in recent times. The environment in which this announcement took place is problematic but I cannot say, nor have I seen evidence, that the Government, through the Minister or the department, has an agenda to, in fact, get rid of any one agency or agencies, nor has it made any decisions accordingly. The environment in which this decision was announced is highly problematic.

Ms TANG: Another factor that contributes to that is that all the material put out by the department is very ambiguous, as we have said, about the future role of systemic advocacy particularly at a statewide level. There are no clear statements that commit to ongoing core funding for that function.

The Hon. DOUG MOPPETT: Given the ambiguity that you are talking about and the broad concepts you have discussed about the significance of advocacy, what would you like to come out of this Parliamentary inquiry? Do you think the Committee can play a role in developing better models for advocacy?

Mr FITZGERALD: Given the terms of reference of this Committee, there are three or four things that we think would be important. The first would be a moratorium on the current expressions of interest process. Second, to encourage the Government to use the information gained through that process to embark on a scoping exercise. Third, to call on the Government to develop an appropriate statewide framework for disability services. The last part of that is a funding process appropriate to achieving the outcomes established in the framework. In that way it is important that the Government's increased and enhanced contribution would be well used. The process would gain integrity and within 12 months we would, in fact, have what should have been completed following the initiation of the review in 1996. That would be a good outcome for everybody and would achieve a considerably more robust outcome than the current process. That is what we would believe the inquiry could contribute. I do not think it is appropriate that the inquiry itself set to establish a framework for advocacy services. If it is, your terms of reference are substantially short.

CHAIR: The Committee will keep within its terms of reference, I assure you, as that is a bigger issue than we need to bite. If you have any further submissions you may send them to the secretariat, they will be distributed to members and will be taken into account when the Committee makes its final decision. I thank you for clarifying the intellectual discussion which I found very valuable indeed.

(The witnesses withdrew)

MARIANNE DEBRA HAMMERTON, Executive Director, Strategic Policing, Planning and Funding, Department of Ageing, Disability and HomeCare, 83 Clarence Street, Sydney, sworn and examined:

CHAIR: Did you receive a summons issued under my hand in accordance with the provisions of the Parliamentary Evidence Act?

Ms HAMMERTON: I did.

CHAIR: Are you conversant with the terms of reference for this inquiry?

Ms HAMMERTON: I am.

CHAIR: At the conclusion of formal questions if you should consider at any stage during your evidence that in the public interest certain evidence or documents you may wish to present should be heard or seen only by the Committee, the Committee would be willing to accede to your request and resolve into confidential session. However, I should warn you that the Parliament may override that decision at any time and make your evidence public. I understand that you may wish to take some questions on notice. I have discussed that with myself and I have given you the answer that as long as that is within a reasonable time, such as tomorrow afternoon, that would be permissible. This will allow the writing process for the inquiry to begin. Would that be acceptable?

Ms HAMMERTON: Yes.

CHAIR: Therefore, some questions will be taken on notice but they will be answered, hopefully by the next afternoon. Do you wish to make an opening statement in relation to the terms of reference?

Ms HAMMERTON: Yes, I would not mind making an opening statement. I would like to set the scene for the Government's position in relation to this particular expression of interest process by saying that the backdrop was the disability reform directions that the Government endorsed last year and that were then subsequently underpinned through the budget process.

CHAIR: Do you have a reference for that?

Ms HAMMERTON: The reform directions?

CHAIR: Yes.

Ms HAMMERTON: Yes, I can give those to you separately.

CHAIR: Just so that we have a quote from them.

Ms HAMMERTON: The reform directions are summarised on page 1 or page 2 of our formal submission. There are four directions that can be referred to. Clearly, the backdrop is one of significant reform on a range of fronts in relation to disability services in this State, to be largely effected through a range of expression of interest [EOI] processes over time. Advocacy and information services are clearly part of the service and support system, which also needs to be strengthened and extended in a transparent and accountable way. Here we have a part of the service system that has a long history in terms of both being around but not necessarily reviewed in any follow-through sense. That is acknowledged, except that I would say that back in 1995-96 the Department of Ageing and Disability embarked upon a process. The Commonwealth, our counterpart and co-partner in the provision of disability information and advocacy services, picked it up with a major review process. We are at the point now that the Minister last year decided to act based on the history that there needed to be a revisiting of most parts of the disability services system, consistent with these reform directions, and that the disability advocacy and information services should be no exception to this. In doing so she decided to invest an extra $1 million in these services. An EOI process was her preferred way of seeking improved innovative and transparent responses across the range of individual and systemic advocacy services as well as information services.

The goal, aims and objectives of this EOI are clearly spelt out in the EOI documentation and, what is more, they are consistent with the National Advocacy Program, which is important given, as I said, that both the Commonwealth and the State are funders of these kinds of services. In this policy sense there is a consistent approach to what it is that we are collectively trying to achieve across the board. The EOI was seen as an opportunity to demonstrate an openness to a range of service options that could be considered under the criteria. It was very open to seeing what organisations wished to do, given the opportunity, but also what new organisations entering this field might wish to do to add to a strengthened advocacy and information system across New South Wales.

We do not see it being easily characterised as competitive tendering. Where there is price and quality competition around the same model of service, that would apply. That is not seen to be the case in this EOI due to, as I said, opening it up for consideration of a broad range of responses to the EOI process itself. Due process has been and will be observed, obviously with the support of mechanisms like the Probity Auditor being in place and reviewing the accountability controls along the way. It is acknowledged that it has been an intensive process all round for all parties concerned, and particularly those interested groups and community organisations who have chosen or are choosing to respond to the EOI, given that we have two more days before the EOI closes. Lessons have been learned, as lessons are always learned.

But it is important now to conclude the process giving confidence that the assessment process, the negotiations and the transitions ahead will be smooth and fair. At stake is $4.8 million of advocacy and information services. That extra million dollars demonstrates the commitment to growth, but also to further investments to underpin information and advocacy services for this State. That information, what it is that will largely need to be done, will come from the outcomes of the systemic advocacy discussion, but also what participating community organisations will tell us in this EOI process about what is needed.

CHAIR: As you know, the Committee has heard from quite a lot of people today. With regard to whether this is competitive tendering, basically they have all summarised it by saying that it looks like a duck, it waddles like a duck, it sounds like a duck, and therefore it must be a duck. The Community Services Commission has made it very clear that anything that is tied to models plus money amounts to tendering. Many other people clearly indicate that in the information briefings they were given the only briefing that was held was how to fill in the forms, and the details in those forms clearly went, in excruciating detail, into the cost of these proposals. The Committee has also heard other evidence that clearly shows that everyone in the sector thought that a bidding process such as that was clearly understood by them, including the Disability Council, to be a tendering process. It seems odd that you can say that this is not a tendering process.

Ms HAMMERTON: Obviously we and the Government do not accept that this does represent competitive tendering. I refer to the New South Wales Government's service competition guidelines which define service competition as “the use of competitive forces to, indirectly or directly, achieve the best value for money”. The work is allocated to the tenderer offering the best value for money. Our EOI process requires services to meet six criteria, of which value for money is but one. The six are the ability to provide the specified services; the ability to meet the required standards; the ability to meet the needs of service users; the ability to interact successfully with local community organisation networks; financial viability and sound management practices; and value for money.

In this context, value for money does not simply mean the cheapest price. We expect that the EOI process will lead to the development of many different models of service to develop a strong system, and that these models will have outcome and output measures as well as the cost of service. The assessment of EOIs will consider a range of service options under the criteria. As I stated at the outset, we see competitive tendering occurring where there is price and quality competition around the same model of service. We are not asking for a single response to the development of information and advocacy services in this State.

CHAIR: Many people have suggested that this is a form of scoping to see what bright ideas are out there. I draw your attention to the competition model for the New South Wales Government Competition Guidelines. During another inquiry in which I was involved the committee dealt with compulsory competitive tendering for roads. The guidelines referred to bringing on a benchmarking process. Do you have any benchmarks against which these service provisions, particularly advocacy, are to be judged?

Ms HAMMERTON: In the EOI documentation there are outcome expectations. Further to that, I would say that we are part of a national program, together with the Commonwealth. In that context we are progressively developing output-based funding in relation to all service types. That approach is more advanced under the Home and Community Care Program, but there is a commitment to doing so in relation to the CSDA program and work is unfolding. That is one area where, jointly, the Commonwealth and State will be working towards output-based funding. So at this point in time, for us to take a particular position when we are not doing that in collaboration with our Commonwealth partners would be a bit shortsighted. We see it as an evolution process.

CHAIR: The evidence we received today from Mr Phillip French indicated that he was receiving funding from the Commonwealth on individual advocacy, basically on the basis of his, if you like, dependent population. In other words, it was population-based funding. He did not mention anything about benchmarking in terms of outputs. You are now saying that what he has signed up for is an output-directed policy from the Commonwealth for individual advocacy.

Ms HAMMERTON: No, I did not say that. What I said is that there is a collective approach going on with the Commonwealth which is moving towards output-based funding. He has not signed up at the moment to output-based arrangements because they are not yet in place. But there is a commitment to moving down that path.

CHAIR: There is nothing in the agreement that says that.

Ms HAMMERTON: That is because they are not developed yet. This is a co-operative process with the Commonwealth.

CHAIR: The Commonwealth-State Agreement on Advocacy, which is a Commonwealth document and was attached to one of the submissions, does not refer to output measurements at all.

Ms HAMMERTON: That is right. That is because we are in transition—

CHAIR: Where is the evidence that you are all moving towards output measurements?

Ms HAMMERTON: I can provide separate documentation in relation to that, if you require it.

CHAIR: I would be pleased if you could. The document is headed "Commonwealth Department of Community Services" and at the bottom has the notation "1999-2000 Agreement".

Ms HAMMERTON: Which submission is it attached to?

CHAIR: I am trying to find the submission. It was a witness who appeared this morning from the Community Services sector.

The Hon. DOUG MOPPETT: It seems that there are two quite distinct paradigms. You were generous enough to speak about the reference in the Standing Committee on Social Issues to the much greater need for people to be dealing with the individual, how they relate to service providers where they could look for alternative lifestyles, and so on. That is one paradigm of advocacy, but it is quite obvious that a long-established group of organisations could be seen as nothing else but advocacy organisations of a generic nature. How do you compare the outcomes? It is very easy when you say, "I can deal with so many people in group homes, and I can go and see some people who are still in institutional care, and I can show you my case history." But when you are an organisation that has a number of members, how do you compare them? If you say that you are expanding the two paradigms, you are going to give an extra $1 million but you are going to greatly increase the amount that will go to individual advocacy, it would seem to be implied that the amount of money that will go to the traditional generic association-type advocates will be reduced. Do you see that as an outcome?

Ms HAMMERTON: It will not necessarily be the case.

The Hon. DOUG MOPPETT: How do you compare the two, then?

Ms HAMMERTON: I refer you to the outcome indicators that we have prepared as part of the EOI process, indicators that are available for everyone to see. If you read those carefully, you can see that there are broad enough desired outcomes for individuals under this initiative, for systemic responses to the EOI, to also make their case relative to those series of outcome indicators.

The Hon. DOUG MOPPETT: At the end of all this we will have a whole pile of EOIs, and someone will mark them off and say, "They are excellent submissions," and maybe put some marks on them. I do not know how you will do it. Then, later on, someone will make a hard-nosed decision and say, "There is only so much money."

Ms HAMMERTON: That is right. That is always the case.

The Hon. DOUG MOPPETT: "My recommendation to you is that, the pile is so high, get rid of that proportion of it."

Ms HAMMERTON: It is always the case that we have more responses to EOIs than we have money to meet them. So it is not an unusual process to face that sort of consideration. The process that we will go through—and, if you think this will be helpful, I will talk it through because it might help set the scene for this next stage—is that panels will be convened by the department, as is usually the case, and by an officer of the department who has not had direct involvement in the initiative to date but who has expertise in this particular service type.

Panels will have independent representation, including a person from the Department of Public Works and Services who also has no direct involvement in this process. Panel members, as is usual good practice, are trained to ensure there is a shared and clear understanding of the assessment process, and will operate in accordance with the department's guidelines for assessment panels and code of conduct for committees. All panel members will be required to enter into a confidentiality agreement. Panels will undertake a detailed assessment of all eligible bids, using the published assessments criteria in the EOI information packages.

All bids will be scored. Weightings will be applied to which of the criteria, to reflect the relative importance of each criterion in relation to the specification. The weightings are being determined before the EOI bids are sighted by panel members. That is not unusual practice. The panels will prepare a bid assessment for each EOI that they are responsible for processing, and an assessment panel and summary report as a formal record of their considerations and recommendations. Recommendations made to the Minister for funding will be on the basis of eligibility of the bids and an optimal service mix and regional spread. That includes information, individual and systemic advocacy services—a reasonable spread. The Minister, however, will be advised of the outcome of all bids assessed through the process, so that she can clearly see what has been forthcoming.

The method by which recommendations are formulated and made to the Minister is the usual process of compiling the outcomes of the assessment process. And, of course, the Minister will be well positioned to take into account advice from the Disability Council in summarising the outcomes of the recent systemic advocacy discussions that took place in 13 locations across the State. So the Minister will be well informed about the views of key stakeholders in this process, in order to be able to make sense of the outcomes of the assessment process. So I am saying there will be a mix of services—

CHAIR: Forgive me, but the commissioner has just been in front of the Committee and said that the department and the Minister have not got a clue what advocacy is all about. In fact, the Minister put out a brief that the commissioner is an advocate and that he provides an advocacy service—which he does not—and that visitors provide an advocacy service—which they do not. The Minister has not got a clue at the moment what advocacy is all about, and his view is that you do not either, that your department has no idea either.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: He did not say that exactly, to be fair.

Ms HAMMERTON: Clearly, there is a difference between information and how it is presented or characterised. Yes, it is acknowledged that some information has been characterised in a way, early on, that some parties took exception to.

CHAIR: They did not take exception to it; they said you were clearly wrong to describe the commissioner as an advocate—clearly wrong!

Ms HAMMERTON: The Ombudsman, for instance, wanted to make a slight change to the way that the material was presented—and did so, so that the information on the web site was clearly updated to reflect that better understanding.

CHAIR: The information that you put out in the middle of all of these discussions was, "Don't worry, we are not getting rid of all systemic advocates; the Government is putting all this money into other advocacies, like the commissioner, the Ombudsman and so on." But they all came out and said, "No, no, no; we don't do that.

Ms HAMMERTON: I think that is a bit strong.

CHAIR: You might, but they do not.

Ms HAMMERTON: I think the position was not left to the middle of the process; it was upfront where, clearly, a broader view was presented that there are a range of interested parties who are concerned about information and advocacy services in this State, and they are entities which, in various ways, play a role—I am not necessarily saying an advocacy role à la the EOI that we are talking about, but which clearly have an interest, as the Commission does, in ensuring that there are advocacy and information services that work for clients of services in this State. That is their role.

CHAIR: What I was talking to you about is the amendment in 1999-2000 to the service agreement for disability advocacy services of August 1999, with Family and Community Services, the National Disability Advocacy Program, the goals and objectives.

Ms HAMMERTON: Yes.

CHAIR: This talks about both systemic and individual advocacy.

Ms HAMMERTON: Yes.

CHAIR: You are going to provide the Committee with information, which we do not have, about how everybody is moving towards an outcomes focus. Is that right?

Ms HAMMERTON: That is right—which is not in that particular agreement because the work is still going on. Indeed, the stage that the Commonwealth is at is in developing performance indicators. Phillip may not have mentioned that, but the Commonwealth has embarked upon a phase of developing performance indicators. This is not unusual, may I say.

CHAIR: I am happy that you will provide the Committee with the information. I want to return to what we embarked upon about advocacy. The Committee has heard statements to the effect that the department and the Minister have no idea what these people have been doing. When I put to them that that was the case, they said, "How could they not understand what we have been doing because we have given them an annual report every year, telling them precisely what we are doing."

Ms HAMMERTON: Not all organisations have given us an annual report every year.

CHAIR: No. But what these people do in terms of advocacy clearly has not been understood by the department and the Minister. The fact that the Minister does not even understand that the commissioner is not an advocate leads me to believe that what the other people said to us today was true. NCOSS, People with Disabilities and the New South Wales Safeguards Coalition all said that this is an issue.

Ms HAMMERTON: Can I comment?

CHAIR: Yes.

Ms HAMMERTON: Like other parts of funding for the disability services system, over time service types have needed to be revisited early on by the Ageing and Disability Department, and obviously now by the new department. We have, over time, through our monitoring system, developed a picture of what is going on in particular service types. But what we have found in some respects is that we have still carried over baggage from Commonwealth days, so that there has not necessarily been clarity around what is being funded, and the basis of it being funded. As we move to look at our information and advocacy services, there was not total clarity, or on-the-record information, about who does what and about which services or components of services might be more appropriately funded under other service types.

The Minister felt that, while we did have a picture, developing a really close spot picture in its own right of what exactly is going on was not going to be beneficial in its own right. We have given organisations the opportunity to tell us what more they want to do, many having felt constrained over time and not having had much additional funding made available to them, so that they could start putting forward and shaping ideas about what a strengthened information and advocacy system could look like. I refute the statement that there was no picture of what it looked like. The picture of what it looked like was mixed. It also confirmed messages that had come through quite strongly over time through previous consultation processes and through the National Disability Advocacy Review program. Those issues remained and had not been addressed in the way in which we had funded a mix and range of services.

CHAIR: You commenced an inquiry into the matter of advocacy in about 1995 or 1996 and that did not end up anywhere. The Commonwealth now has a plan for advocacy. I understand from the witnesses who have appeared before us that you do not have a plan for advocacy and that this decision and the letter that was circulated on 10 January were a bolt from the blue?

Ms HAMMERTON: The work that went on and the consultations of quite a few years ago stopped in recognition of the fact that the Commonwealth was about to mount a major review program. That identified a range of aspects that we knew needed to be picked up—aspects that had been picked up in the Commonwealth program but that also needed to be picked up in our further effort. That related to: suggestions for improvement around a performance management approach for advocacy services within which outcomes are defined; that advocacy services and advocates be required to minimise their conflict of interest and focus on the needs individuals with disabilities and their families; and that advocacy provision be independent of existing service providers.

CHAIR: The Commonwealth had a plan for advocacy and you did not.

Ms HAMMERTON: No, it has in place a process to which we are bound, in the sense that we have picked up the same aims, objectives and principles and the same framework for our EOI process. So there is total consistency in the partnership.

CHAIR: Except in relation to partnership with the groups and consultation with those groups. We then suddenly have the 10 January letter and the 6 February meeting.

Ms HAMMERTON: Commonwealth consultations have been quite extensive. We had also gone through an extensive process many years before and some clear messages came through. So we had consistent messages as a result of previous consultations, which were fairly consistent with what came out of the Commonwealth findings.

CHAIR: You suddenly ambushed the whole sector on 10 January.

Ms HAMMERTON: Why would we go through that process again? There would then be perceived to be five, six, seven or eight years of ongoing consultation when, clearly, there were a number of indicators of potential change.

CHAIR: If you thought that that was so great why did you not put out a plan illustrating how you were going to go about it rather than stating on 6 February that you were going to have this EOI process?

Ms HAMMERTON: A survey form went to all organisations prior to that 6 February meeting. It had been announced by me in the budget presentation of the previous year in which we talked about reform directions and budget underpinning. We said that advocacy and information services would be looked at and that they would need to be addressed in the context of disability reform.

CHAIR: So it is mentioned in the budget papers?

Ms HAMMERTON: It is in the presentation that I made which I will provide for you as well. It is not as though we have been hiding our light under a bushel, or whatever. The Minister said that we should not ignore that history—and there is a strong thread of messages through that history—which is reinforced by Auditor-General's reports and other reports about what is happening or not happening by way of advocacy for people in group homes and residential services. The Minister said that, knowing the disability reform directions that we are going down, we needed to move forward. She chose an EOI process that would enable all interested parties—those that are currently funded and those that believe they can contribute to a strengthened system—to move forward. All organisations have had the benefit of that first discussion in February, which I agree raised a lot of questions.

CHAIR: The peak groups were not involved?

Ms HAMMERTON: No. In the first instance the focus was strongly on, "Let us ensure that all individual advocacy providers have the chance to be in the same room." That had never happened before.

CHAIR: It now happens pretty regularly.

Ms HAMMERTON: I am sure that it does not. Thirty-six organisations do not meet regularly.

CHAIR: It would be helpful to the Committee if the witness's answers were a little more succinct.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Would you agree that credibility of process and trust are important things?

Ms HAMMERTON: Yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: There has been a large budgetary increase for the disability sector. One could say that that was due to systemic advocacy and to some committees asking a lot of questions. Is that related, or is it as a result of the department's internal processes recognising a need?

Ms HAMMERTON: I do not think that there is a strong link between what peak organisations may have presented to government at a particular point in the lead-up to the budget process, in the course of the enhancements, or in what they put to us during that process. That is not to say that those groups have not, over time, been consistent in raising issues that clearly have been taken on board by the department. In developing our budget enhancement process the strategies may have been ours, but the desire was there in the positions of many of the peak advocacy groups.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Last year we conducted an inquiry into the process that was being carried out for the tendering of group homes, which caused quite a ruckus. The peak groups, who were upset about it, pointed out the flaws in that process. There was an inquiry about the process and the Government appears to have backed off in relation to some of its approaches.

Ms HAMMERTON: In what respect? We still have not quite completed the process.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: The fact that the process has taken a little longer might have affected the outcome.

Ms HAMMERTON: I think that is a reflection of how considered we are when trying to ensure that the families and individuals concerned have the chance to take the necessary time.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: It seems as though history is repeating itself. You could be in the same chair but just wearing a different coloured hat. We are trying to build trust with these groups whose trust has been battered in the past. Why was an extension of three weeks announced a couple of hours after the 3.00 p.m. closure of the EOI process on 20 May?

Ms HAMMERTON: That came about because of advice that the Disability Council put to the Minister's office and consideration of that feedback. It was quite late in the day. Concerns had been expressed directly to us by some community organisations about their capacity to respond within the time frame. A decision was taken to extend that time. So it was actually a combination of factors, driven by the Disability Council forming a view and giving advice to the Minister. At that late stage the decision was made to extend the time.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Was that decision made after the 3.00 p.m. deadline?

Ms HAMMERTON: No.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Was it announced after the 3.00 p.m. deadline? Most people received information after the deadline.

Ms HAMMERTON: No. I understand that, unfortunately, some people received it after 3.00 p.m.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Could that be seen as someone having a quick look through it and saying, "I am worried about this. Let us see whether or not other organisations are also worried?"

Ms HAMMERTON: Due process has been observed. All the EOI packages that have been received by the department are in the safe keeping of the probity auditors.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Did you record the time when submissions were received? Is that public information so we can determine when each submission was received?

Ms HAMMERTON: I believe that it is recorded.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Were any submissions from new bodies received late?

Ms HAMMERTON: I can take that on notice. I believe we can do that.

CHAIR: Both processes, the systemic advocacy discussion paper and the expressions of interest EOI, were completed on the same day?

Ms HAMMERTON: Yes.

CHAIR: How could anybody make a decision or reasonable submission to you about systemic advocacy if it was just a discussion paper on government policy and therefore something the Government was going to act upon? In other words, how could somebody make a reasonable assessment of how you were going to use systemic advocacy when they were making their submission about the EOI?

Ms HAMMERTON: The Government is clearly open to views about what mix of systemic advocacy is needed in this State. It encouraged the Disability Council to work with my department to develop a discussion paper and go through that process, which I agree came together just at the same time as the original closing date was supposed to end. The advice that comes out of the summary of those discussions is then put to the Minister, and obviously the department, for consideration. What the discussions showed, and I assume the Committee has seen that material, is that there is a wide range of views around how things could be improved in relation to systemic advocacy as well as individual advocacy and information services. That is clearly what we want to take into account.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: In the evaluation I gather you will have three people and you have described the three people. Public Works is interesting in the sense that I know it builds things but whether it is the ideal person to have for human needs. Surely built infrastructure follows philosophy rather than vice versa?

The Hon. RON DYER: The Department of Public Works and Services is the central procurement agency for services and goods on the part of the whole government. So, it should be responsible for a procurement process.

CHAIR: The Hon. Ron Dyer was the Minister. It is just not blocks of sandstone, is it?

The Hon. RON DYER: No.

Ms HAMMERTON: I give you an assurance that increasingly it has been involved in human service processes in recent years and recognises that it needs to keep up with the requirements of the public sector.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Is the third person going to be a disabled person consistent with the Government's guidelines that disabled people should be involved in the shaping of their lives to the maximum extent possible?

Ms HAMMERTON: We are seeking a third person to be an independent representative. That does not necessarily mean it will be a person with a disability.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Should it not be if you are going to involve the disabled in the decision-making process to the maximum extent? One out of three seems to be pretty minor; after all it is only a third?

Ms HAMMERTON: That is an option.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Can you not do better than that? Can you not give me a guarantee that you will have a disabled person?

Ms HAMMERTON: We are trying to identify the best possible people who can support that panel process.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Does it have to be a person within the department? Could it not be a disabled person from within the department?

Ms HAMMERTON: There still needs to be continuity from within the department. So, we have to make sure that we have the due process, otherwise there is no consistency in understanding our approach to services and EOI processes. There is no common thread if we have a process - despite all its controls and rigour - that has no input from a departmental perspective, particularly in relation to the broader reform directions we are trying to implement.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But if you have a number of possible conceptual directions that the EOI submissions are going to take you, would it not be good to have a disabled person say, "Yes, this is a terrific idea. What about the public sector getting together and implementing this?"

Ms HAMMERTON: It may be.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Well, in that case it would be good to have a disabled person, would it not, rather than saying that this is what the department can offer?

Ms HAMMERTON: I note your point.

The Hon. AMANDA FAZIO: I have a three-point question referring to historical background. How have systemic advocacy services been funded until now? Has there ever been a case of a service being defunded? To date how have you monitored the effectiveness of those systemic advocacy services?

Ms HAMMERTON: I believe that funding of systemic advocacy services has just built up over time. So, it has not been on any systematic basis. That is one of the fundamental reasons why it is timely to reflect. We are looking at advocacy services, that is, individual and systemic advocacy services, as part of the continuum. We have essentially an historical situation whereby on a relatively ad hoc basis at times additional funds have been made available to these organisations in response to their requests. Indeed, the Physical Disability Council is not even on a recurrent basis. It has 12 months at a time compared with some other organisations. So, it varies how we have approached these organisations. That is why it is time to take stock and do this systematically, but in a way that those organisations can themselves start from square one and say, "If we could do this better, expand it, do it differently, to achieve our full effect, what would we do?"

The Hon. AMANDA FAZIO: Has the department ever defunded an advocacy service?

Ms HAMMERTON: I do not believe we have, but I can check that.

The Hon. AMANDA FAZIO: How have they been monitored to date?

Ms HAMMERTON: Through our usual monitoring system, and that is through our officers that have a primary role of service development and monitoring. They are based in regions across the State. So, it is the same monitoring system that we apply to other service types.

The Hon. DOUG MOPPETT: In explaining how the department and the Government came to this decision you mentioned that you feel confident, as a result of earlier consultation processes and also the Commonwealth's work, of the need for reform?

Ms HAMMERTON: Yes.

The Hon. DOUG MOPPETT: Would you be prepared to indicate some of the shortcomings?

Ms HAMMERTON: Sure.

The Hon. DOUG MOPPETT: If you saw there was a need for reform, obviously you identified shortcomings in the existing advocacy arrangements. It would be helpful if you gave us some specific examples so that we would understand really what is driving the Government?

Ms HAMMERTON: A couple of the areas that have clearly come through consistently over the years are that there is not an equitable spread of information advocacy services across the State. If you look at the outcomes of the discussions in the south, for instance, the Southern Highlands has no coverage at all for individual advocacy. That is the case that was being put and presented in the course of those recent systemic advocacy discussions. That is just one example of a gap. There are many gaps. But there are not just gaps around geographic coverage; there are clearly gaps around cultural and linguistically diverse groups as well as ATSI communities. Indeed, the Commonwealth recognised that such that fairly recently in the last 12 months it funded an ATSI advocacy service. But in relation to other communities, we have not got that right at all. Everyone would agree, including participants in all the discussions today, that that is the case.

Another example of concerns that have come through is that there has not been necessarily a clear separation between disability service providers and their connectedness with individual advocacy and information services. So, one of the points of this exercise and one of the reasons we indeed provided supplementary information in the course of the process was to reinforce the criticality of ensuring that an outcome of this process is that people with disabilities and their families and carers are the people that constitute the memberships of boards and management committees that make these services work, and that we undo those connections where there can be a potential conflict that existed in the past.

That theme goes right back to the consultations in 1995-96. So, we have been drawing together all the threads of the consultations and, as I said, in looking at the write-ups of the 13 systemic advocacy discussions across the State, much of which is reinforced by the observations that are made. Various parts of rural communities say "We haven't got this", "We haven't got that", or "We are not necessarily getting the coverage we need from the peak organisations". They might say that they are doing that, but they are not. If you carefully read the range of messages, all the write-ups, they are quite consistent with the themes that we are responding to and trying to address in this process.

The Hon. DOUG MOPPETT: It is useful to make a separation between individual advocacy and organisations that may fail occasionally because of problems with distance and with getting people of non-English-speaking background to come forward and join their organisations. In the way that you have described the development of the review of advocacy, it would have been quite easy to separate the peak groups, because they are well recognised, long established and we have been funding them for a long time. We would like to negotiate a process with them to make sure that the outcomes that they claim they are doing, and were put to tendering, are put to the other side. In other words, leave them secure in the knowledge that basically they will be funded.

Their funding will continue because there is almost a need for there to be a continuation of their corporate memory and there is a need for staff to feel that they are not just on a project fund and at 30 June they could all be gone and have to find another job. You could have said that that is the way you were to deal with those well-known peak groups—and there us not all that many of them—and you could have told the others that there were out of this process. You could have said that you were going to call expressions of interest for the whole new area of expanded, individual advocacy which, in the main, I think will probably be supplied by different types of organisations. Why did you prefer to put the whole lot into the melting pot, instead of separating the two groups and giving them the confidence that maybe they would be reviewed and negotiated, parts of the others would be competing for funds.

Ms HAMMERTON: I would be very interested in your definition of a peak organisation and which of the range of disability organisations that maybe see themselves as having a peak role fit within your definition. I think that you would find that there is some debate about that, and indeed, the Minister was confronted by the fact that some are clearer than others.

The Hon. DOUG MOPPETT: Yes, I accept that.

Ms HAMMERTON: But how fair is that process when you have to get into an argy-bargy about whether you have a role in the systemic advocacy system. It is not all that clear. It is totally understood that this is not straightforward.

The Hon. DOUG MOPPETT: At the start of my question I said that you appear to be totally confident that you had had enough consultation, you had done that in 1995 and 1996 and the Commonwealth had carried on with it. You said that you had clear knowledge of where you wanted to go with the reform process. I know that it is difficult to name names, but it would seem to me that you were in the process is saying that you thought that five organisations that you were wasting your money on; you wanted to do away with them. Was it like that?

Ms HAMMERTON: No.

The Hon. DOUG MOPPETT: Did you feel that you needed to tickle along the edges, throw the whole lot into a melting pot?

Ms HAMMERTON: No. I think the Minister wanted to try to make sure that it was a very clear indication.

CHAIR: So this was a direction from the Minister? Or was this something that you dreamt up?

Ms HAMMERTON: Based on the understanding of the situation that we were facing. It is not all that clear-cut.

CHAIR: Were you aware that the Minister was going to go to go down this track before 10 January?

Ms HAMMERTON: Yes.

CHAIR: When were you first aware that the Minister was going in the direction of expressions of interest?

Ms HAMMERTON: In the second half of last year.

The Hon. AMANDA FAZIO: Earlier the Committee heard evidence from the Council for Disabilities and the Community Services Commissioner that in the second half of last year there had been some communication with them about reform of advocacy funding.

Ms HAMMERTON: Absolutely, consistent with my announcement on the budget.

CHAIR: The commissioner said that he could not find anything about advocacy in the announcement on the budget, which is why we are interested in seeing it.

Ms HAMMERTON: Well, I will go back to my budget speech, I certainly need to check that.

CHAIR: The Disability Council of New South Wales says that it was neither informed beforehand nor invited to the meeting on the 6 February. They sought an urgent meeting with Mr Nealy in the Minister's office to find out what the damn hell was going on. They had absolutely no idea of what was happening.

Ms HAMMERTON: Excuse me, other groups were not invited to that meeting either. Robert would acknowledge that we did have some discussions.

CHAIR: I do not expect the Disability Council necessarily to be invited, but one would have thought that the Disability Council of New South Wales would have been aware of what the Minister was planning, or that the Minister would have discussed it with them before the sudden announcement.

Ms HAMMERTON: That is the Minister's judgment, that is her call. She has a relationship with the Disability Council, it is not my role to comment on the nature of that relationship.

CHAIR: I am happy with that.

Ms HAMMERTON: But it is complicated. Even going through the group homes EOI process and meeting with all interested organisations that believed that they had a purview, an interest, in the system change that was unfolding, meant that invariably there were 30 people around the table. Where do we draw the line? Clearly, the Minister's call was that we needed a transparent process, we needed to give all parties an opportunity to identify the role that they want to play in the future to strengthen and support the system. Clearly, the Government is wanting to put more money, wanting to grow, and to make sure that the disability reform directions that we have embarked upon are strengthened by that investment.

CHAIR: The Minister's own advisory council, the Disability Council of New South Wales, said that the discussion paper on the systemic advocacy was something they came after the event and was not part of parcel of a whole event on 6 February. They said that they saw a final draft which they sought changes to after the Minister had decided to go to the expression of interest process.

Ms HAMMERTON: That is true.

CHAIR: They felt not so much used and abused but that they had to fight to get certain words into the discussion paper. Those words were:

> The ADD recognises the historic role that systemic advocacy has played in contributing to reform the disability services in New South Wales.

They had to fight hammer and nail to get those words included.

Ms HAMMERTON: I remember being involved in the last discussions around the final wording of the document, so I cannot comment on the detail that came before. Nevertheless, I was party to a teleconference in the rooms of the Disability Council at which we agreed on the words. The words were modified at the very last minute.

CHAIR: Their last comment was that concerns were still held with the content of the paper and that the executive council felt that only a total rewrite of the paper would produce a document that could be suitable as a discussion paper bearing the endorsement of the Disability Council.

Ms HAMMERTON: Clearly there had been a discussion process where the Disability Council around the paper over a couple of weeks. No-one ever asked anyone to do a fundamental rewrite of the paper. That comment may be made at this time but the paper was put on the table for consideration, it was refined through a series of detailed discussions including a range of Disability Council members. I understand that they all signed off in some way or another before it was released. The bottom line is that this is a discussion paper to support getting views out on the table by people who were interested, and are interested, in trying to shape the future direction.

CHAIR: Does the discussion paper actually reflect government policy?

Ms HAMMERTON: No, it is an input document.

CHAIR: So none of that stuff in it is government policy?

Ms HAMMERTON: At this point, no.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You have been saying that there was a discussion process and this was part of the process. Yet it is exactly as happened with the group homes. The thing was announced, there was a heck of a hullabaloo and then there were some discussions. Sometimes what are euphemistically called discussions are presentations by the department and then people are asked whether there are any questions. That is put up as a discussion meeting when in fact it is very much a "here it is" thing and then the discussion is forced on later. Here again you said something in your budget speech—I did not register and it sounds like Dr Pezzutti did not either—

Ms HAMMERTON: I accept that.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: People promised that a lot of things will happen. Then there was a seven-month incubation period, if you would like to call it that, and the letter goes out and all the people are shocked again. This is said to be part of the discussion process. You have said that there was a lot of discussion going on and the department was clear in its outcomes and so on. Can you actually itemise when and with whom all this discussion happened before this thing dropped and then when and with whom and according to what sort of framework did things happen after that? We hear about all this discussion process going on and it all seems like magic. It all sounds great: We are having a discussion process and there is a lot of consultation da da da da da da.

Ms HAMMERTON: I did not say that.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Yes, you did. You said there was a discussion process going on and this was part of it.

Ms HAMMERTON: Around the systemic advocacy paper, in the lead-up to developing a systemic advocacy paper. That is what I said my remarks applied to. I did not say that there was a discussion process apart from clearly one that went on with the Minister and her advisers in the lead-up to the decision to send the survey out and call together the individual advocacy providers in early February. I did not say anything about a discussion with—

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You said there had been consultation, I think was your phrase.

Ms HAMMERTON: No, I am talking about the historical thread of consultations.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: This five years before caper.

Ms HAMMERTON: No, the same groups had also been consulted by the Commonwealth in much more recent times. There had been clear messages through reviews by the Auditor-General and the Audit Office in relation to government-funded services that there was not sufficient advocacy. Things were pretty consistent. The Minister, seeing all that, putting that in the melting pot and wanting to support the disability reform direction, took the view that an EOI process was the best way to go. In relation to systemic advocacy—

CHAIR: But they had nothing to do with systemic advocacy.

Ms HAMMERTON: No, it has to do with systemic advocacy. There is a recognition—it is clear in the documentation—that a continuum of individual and systemic advocacy and information service is needed in this State. There is a commitment to that. It is on the record. The point I was making about the discussions with the Disability Council around the systemic advocacy paper was that we in fact had a series of discussions before any paper was penned. And then—

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you can give me a list of dates in the second half of 2000 of when you made the announcement and when this—

Ms HAMMERTON: No, this year, after the announcement. It was after the announcement.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: If you have consultations with groups that are the Minister's eyes, ears and advisers, if you like, surely that consultation goes before something comes out rather than after. Would that not seem to be the way one did things if one had an open, transparent, consultative process?

Ms HAMMERTON: It is not necessarily the case if it was a matter of signalling the clear directions in which government wanted to go which were consistent with the past and then there was opportunity for further discussion around how we make sure this process is well informed.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So the discussion was set by the Minister's office from a reading of the Commonwealth documents and then a document was put on the table in a pretty advanced state and the Minister's consultative body was shocked but recovered to put some input in later? Is that a summary of the situation?

Ms HAMMERTON: The systemic advocacy discussion paper was developed subsequent to the meeting with the individual advocacy providers and further discussions involving the Minister's office, the Disability Council and us. There was a commitment to a paper being developed. We had a number of discussions involving those three parties and out of that a draft discussion paper was developed. Then we went through a further process of tidying up the paper, addressing the issues—including the wording that had come up—and it was understandable that issues were raised around wording.

As I said, I just happened to be involved in the last discussion at the Disability Council to sign off the agreed words and I heard everybody say, "Yes, this is the paper." It is a discussion paper to inform and illuminate this process, to show that there is a range of ways that we can go and considerations that need to be put on the table. Now surely that gives assurance that any focus on a specific word that says systemic advocacy is about project-specific—as in that is it without a broader interpretation of what the community as saying to the Minister, to government—is not on. The Minister is committed to this process of discussion.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: If I were to ask you for a timeline of the meetings when you had discussions on systemic advocacy prior to the release of that paper you would say to me that there would be nothing on the timeline, is that you are saying?

Ms HAMMERTON: No, there were discussions.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Between the Minister and the systemic advocacy groups or the Minister's advisers?

Ms HAMMERTON: No, I acknowledge that there were not but there were discussions involving the Minister, the Disability Council and us in agreeing that to inform the development of thinking around systemic advocacy a discussion paper would be a good way to go.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Well, why were they shocked by it? My understanding from this morning is that they were shocked by the—

The Hon. RON DYER: No-one was shocked by the discussions.

CHAIR: No, what they were shocked by—

Ms HAMMERTON: They may have given views about when they would have liked to have been involved, at what stage of the process. I understand they are on record as saying that.

CHAIR: We have run out of time. We will prepare a few questions for you and fax them to you for reply. Thank you very much for attending and being so very professional.

(The witness withdrew)

(The Committee adjourned at 4.07 p.m.)