GENERAL PURPOSE STANDING COMMITTEE NO. 2

Monday, 26 September 2016

INQUIRY INTO CHILD PROTECTION

The Committee met at 10:45 a.m.

CORRECTED PROOF

MEMBERS

The Hon. Greg Donnelly (Chair)

The Hon. Paul Green
The Hon. Trevor Khan
The Hon. Matthew Mason-Cox
The Hon. Daniel Mookhey
The Hon. Dr Peter Phelps
Mr David Shoebridge
The Hon. Bronnie Taylor

The CHAIR: Welcome to the second public hearing of the inquiry by General Purpose Standing Committee No. 2 into child protection. Before I commence, I acknowledge the Gadigal people who are the traditional custodians of this land and I pay respects to the elders past and present of the Eora nation, and extend that respect to other Aboriginal people present or those who may be joining us today on the internet. Today the Committee will examine the procedures, practices and systems that operate in the area of child protection in New South Wales. Due to the sensitive nature of this inquiry, it is important that individuals, including children are not named or easily identified in evidence provided to the inquiry. Any examples of case studies should be in a generalised form.

Today the Committee will hear from a number of witnesses including the NSW Ombudsman, The Alliance for Family Preservation and Restoration, the National Child Protection Alliance, Domestic Violence NSW, FamS, the Australian Services Union, Mackillop Family Services and the Catholic Education Commission. Before we commence I will make some brief comments about the procedures today.

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

There may be some questions that a witness could answer only if they had more time or with certain documents at hand. In those circumstances witnesses are advised that they can take a question on notice and provide an answer within 21 days. I remind everyone here today that Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. While it may be helpful to hear in a generalised sense about examples of cases, we also wish to protect the privacy of people. I therefore request that witnesses focus on the issues raised by the inquiry's terms of reference and avoid naming individuals unnecessarily. Witnesses are advised that any messages should be delivered to Committee members through the Committee secretariat. Finally, would everyone please turn off their mobile phones or set them to silent or off for the duration of the hearing.

STEVE KINMOND, Community and Disability Services Commissioner, Deputy Ombudsman, sworn and examined

The CHAIR: Do want to make an opening statement?

Mr KINMOND: Yes, I will make some opening comments about issues to do with the capacity and quality to do with the child protection system. What I would note, and no doubt the Committee has already discovered, is that the caseworker response rate to risk of significant harm [ROSH] reports remains unacceptably low with 29 per cent of reports receiving a face-to-face response. This is despite the fact that Community Services has decreased casework vacancy rates from 11 per cent to around 3 per cent. There has been increased productivity. There are more kids being seen, and that is a positive, but the gain has been offset by a 20 per cent increase in the past 2½ years in the number of children reported to be at risk of significant harm.

Overall the data confirms the observations we made in our 2014 report to Parliament that meeting ROSH demand cannot be achieved by FACS alone. We have a particular interest in, for example, the co-design sites in Western Sydney and also in the Central Coast in terms of what they might reveal and in terms of other co-located sites what they might reveal in terms of the capacity to deal with the demand. In particular, after having looked at the child protection system in terms of its capacity and quality challenges over a number of years I want to make a few observations.

We believe there needs to be more sophisticated, what I describe as intelligence practice, or some data-driven decision-making practice in terms of identifying those families most in need of early intervention—I say that deliberately—as well as those who are a very high risk from a child protection perspective. We believe there is a need for an efficient, well-coordinated and integrated response to these families. In this regard that is why we believe the co-location of staff in these locations is very worthwhile having a very close look at in terms of what it delivers in terms of a coordinated and integrated response to these families. We also have an interest in the integrated case management panels that FACS are setting up across various community service centres [CSC], the extent to which those panels are delivering an integrated, coordinated response, and the extent to which those panels are sophisticated in respect of identifying those who are most in need.

The CHAIR: Mr Kinmond, as we go through your testimony, for the sake of Hansard would you mind using the full reference instead of the acronyms so we can record them.

Mr KINMOND: My apologies. Furthermore, we believe that we would improve cross-agency work and with the support of enabling IT systems, there is the potential to build a system in which support can increasingly be provided without the need for a helpline report to be made. The fact that helpline reports are up 20 per cent illustrates why this is essential. One should not have to, with a family that is already known, trigger a response by making a report to the helpline. If you have effective working relationships on the ground, increasingly the responses to vulnerable families should be able to be delivered at the coalface by agencies working together.

Finally, given the increased reliance by Family and Community Services on the non-government [NGO] sector, we need to be confident that there are robust quality assurance systems in place and, in this regard, it would be important to collect and report on the outcomes being delivered by NGOs across the whole spectrum of need and just as important is the need to ensure that the non-government agencies are also at the table in respect of determining the response that needs to be delivered for those high-risk families. Our work via our child death review and our review of many child protection matters has shown that if there is a lack of clarity concerning roles and responsibilities between various agencies, children can and will fall between the cracks.

They are my opening comments in respect of high-level capacity issues and quality levels in respect of the child protection system. I have some observations about the out-of-home care sector, but I will not make those observations at this time. I am happy to provide that either today during this hearing or at a later stage. I would be happy to make broad observations about Aboriginal children as well.

The CHAIR: I acknowledge that your submission, which is number 74, is a detailed and extensive document.

Mr KINMOND: Thank you.

The Hon. PAUL GREEN: Mr Kinmond, as I have travelled around in my position as an MLC in the past five years there is a growing concern and a lack of confidence in the Ombudsman being on the side of the family or complainants. It is becoming clear that the observation is that the Ombudsman falls to the side of the Government rather than the complainant. Do you have some comments on that?

Mr KINMOND: In the absence of further particulars, it makes it difficult for me to respond. What I can say is this: We track very closely the outcomes that have been achieved, and I am happy to provide information to this Committee in respect of complaints that are raised with us. In the human services area, we have the highest resolution rate by a long way, and we have a situation where in almost 70 per cent of complaints that we receive in the human services branch area, there are identified positive outcomes for complainants. Let me talk about the reportable conduct scheme, for example. In connection with the reportable conduct scheme, matters that are finalised, for example, in the out-of-home care area, in 60 per cent of those cases management action is taken, including disciplinary action, on matters that come to our office.

Let me break it down further. In respect of matters that have come to the reportable conduct scheme and the out-of-home care area in the past three years, there have been 107 staff members who have either been dismissed or allowed to resign. In respect of carers, for example, there are several hundred carers who have been de-authorised as a result of matters coming to the reportable conduct scheme. In relation to carers my concern is are they being de-authorised because they are voting with their feet because they found it all too tough, or are they being de-authorised because there are problems in relation to their treatment of children? I think the answer lies—it is probably a little bit of both. The data does not tell me that there are not strong results being achieved. Current oversighting in the out-of-home care area indicates there are 37 matters where an individual has been charged with one or more criminal offences. It is great that you are getting that feedback. I have an absolute commitment to working with people. On the weekend I deal regularly with matters concerning individuals who need some support, so, please, send them my way.

The Hon. PAUL GREEN: The weight of some evidence given to us is that many individuals—and I guess it might end up in complaints or certainly the Ombudsman—do not know what it is written in the reports until they get to court and then they find out there has been adverse mention in the reports from the department or from FACS or the oversight department about their particular case and the way that they care for the children. Are you aware of that and are you able to make a comment on that? Secondly, in respect of that, would you be of the view that it would be a fair process that a carer should be able to have access to the information that has been written about them before they get near a court if they chose to review what the staff member is writing about them? Given the fact that, in good faith, many of those people are vulnerable and are giving that evidence to get help rather than the opposite way?

Mr KINMOND: Yes. In respect of what should be delivered before the court process, obviously there are processes in place via the court system to deal with that, and clearly an individual who is being charged needs to know the case to which they have to answer. In respect of the reportable conduct scheme, I have the view that people who are the subject of adverse findings, which will have implications for them in respect of their rights, or their legitimate expectation, should be given sufficient information to know the basis on which the proposed adverse finding is going to be made. Now, the difficulty that one has in that area is does that then mean one provides every piece of information to every person in every case where there is a proposed adverse finding?

Mr DAVID SHOEBRIDGE: I do not think it was just about reportable conduct. This is in a section 90 matter, for example, or any matter before the Children's Court. There is a repeated pattern of evidence where people say they have been surprised by evidence at the last minute or only partial evidence is given, if you like, or only evidence for the prosecution is being presented and there is no evidence about the strength of the families or the carers.

The Hon. TREVOR KHAN: Are we asking the right person this?

Mr DAVID SHOEBRIDGE: In terms of your oversight—

The Hon. PAUL GREEN: I guess, yes.

The CHAIR: Order! Mr Kinmond needs to able to answer a proposition that has been put to him. We have jumped across, so we will have one at a time.

Mr DAVID SHOEBRIDGE: I am saying it is not just about reportable conduct; it is across the board.

The Hon. PAUL GREEN: I thank Mr Shoebridge for his help because he is far more advanced in the education of these matters, and I appreciate the help. The context of the question is that the by-product of those are complaints to the Ombudsman.

The Hon. TREVOR KHAN: You need to put it in terms of what his remit is in respect of complaints that he received. Ask him that.

The Hon. PAUL GREEN: I have.

Mr DAVID SHOEBRIDGE: We have read the submission.

The CHAIR: A proposition has been put. Mr Kinmond is quite an experienced gentlemen. He can respond as he sees fit.

Mr KINMOND: Thank you.

The CHAIR: Unless you need coaching?

Mr KINMOND: No, I am okay on this.

The Hon. TREVOR KHAN: I am not coaching. I think you are being unfair by asking him a question that may not fall within his remit.

The CHAIR: If there is part of the question that Mr Kinmond feels he cannot answer because he does not have the information before him or it is beyond his remit, I am sure he is capable of saying that. Please proceed.

Mr KINMOND: I can talk about the matters that come to us, whether it is a complaint or a reportable conduct issue. I have a strong commitment to promoting procedural fairness. I have a strong commitment that people know the basis of the information that is being relied on when there is a proposed adverse finding against them. Having said that, it can be a complex area because sometimes the provision of information can prejudice or put at risk another individual. It might be the alleged victim; it might be other third parties. The devil is in the detail in this area, and these matters need to be worked through very carefully.

Let me give you the flip side. Currently, as a result of Parliament passing legislation, we are in a position where we can provide to parents, in connection with reportable conduct matters, certain information. We may be able to provide certain information relating to the progress of reportable conduct matters and the outcomes arising from reportable conduct matters. That sounds very simple but, once again, in that context the information that we provide needs to be very carefully considered in terms of unintended consequences for the individuals about whom the information we provide is concerned. It might put certain individuals at risk and it might, for example, be unfair in the circumstances. So we are working through—for example, with the education sector—how we give proper effect to the legislation in a way that does not leave people exposed to risk. But it is a complex area, and I would welcome feedback that you are receiving where people believe the system is not calibrating the risk well with the rights that people have—the presumption that people have—to know information that is adverse to them.

Obviously, at the outset of an investigation a good investigator of a serious matter will not necessarily show their hand. But when it comes to the findings stage then my understanding is that the law is pretty clear: one must make every effort to ensure that the person knows the case which they have to answer.

The Hon. MATTHEW MASON-COX: Some evidence has been put to us that, in this very difficult area, the complaint mechanism is not sufficient. Obviously, the Ombudsman's role in this area is very important so I just wanted to get your response to that, as a matter of evidence, in relation to the role you play. Is that sufficient in dealing with the number of complaints that you receive? I understand that you said that 60 per cent of the complaints in the human services area are resolved. Is there a need for a merits review in relation to some of the complaints you receive and how they are resolved?

Mr KINMOND: My evidence would be—you would probably expect me to give this evidence—that I am not receiving direct feedback from individuals indicating, in connection with areas under my oversight, that there is a significant problem in this area. That is why this is coming as something of a surprise to me. If the complaint system is not operating effectively—and it is in part due to failings on our part—then we have a very clearly defined review process, with a clear understanding for individuals that they can refer their concerns to the parliamentary Committee who can, from a systems point of view, look at whether there are some weaknesses in our practice.

There are review mechanisms in place. For example, if somebody is de-authorised they can challenge that through NCAT. If an individual, for example, is removed from child-related employment on the basis of the Guardian determining that the person poses a risk to children, there is a NSW Civil and Administrative Tribunal [NCAT] review. So, at this stage, I do not have a strong evidence base to indicate that there is a need for an NCAT review process in relation to decisions arising out of the discharge of our functions. But I am open to look at the evidence.

The Hon. MATTHEW MASON-COX: One of the key criticisms we have received is that there is a culture within the Department of Family and Community Services in relation to how they deal with the range of people who are confronted by the system—be it the initial family which may have a child taken out of home or even the foster parent or foster family that looks after a child or the children. There is a power imbalance in relation to those relationships, and the system drives the process. Often the people who are part of that process, and affected very significantly by it, do not understand their rights and are not empowered in any way through that process to pursue those rights. Rather, they become just subject to the flow, and dictated to by the department. Do you have a comment about that?

Mr KINMOND: Let me give you, by way of analogy, an observation. I have had cause recently to look at matters involving parents who have children in the school environment. The children are children with disability. From looking at those matters recently we concluded that it is essential to show understanding and respect for the parents—to be able to see things from their perspective. Sometimes it is not just about the outcome that is achieved but about the way the process is played out.

One observation I would make is that if my people in the complaints area had more time to sit with matters and had more time to show people the level of respect and understanding that they deserve—some of this is about building proper relationships with people; I do not mean compromise relationships but understanding people in terms of the challenges that they are facing and the pain and trauma that many people are experiencing—that would be a positive thing.

By way of counterbalancing that point I make this observation. Only last week I was approached by a representative of the Commonwealth Ombudsman's office who has been doing some work for about 12 or 18 months with my human services branch. She approached me because, having observed the work in the human services branch, she thought that there was a fantastic way of showing commitment to complainants and understanding of complainants and the respect shown to complainants. She thought it was so significant that she has invited my complaints manager to go to Canberra to talk to a whole range of Ombudsman delegates to let them know of the different practices that are required when you are dealing with vulnerable people.

My short answer would be that more time and more understanding equates to a greater level of respect. Often, respect is critical to people feeling as if they have been heard properly, particularly in cases where trauma is involved.

The Hon. DANIEL MOOKHEY: I want to switch to a different aspect of your submission. My question is in two parts. One is to do with the assurance framework for ad hoc care and development of the assurance framework for ad hoc care. You made the point that the department has an aspiration to transfer all children under its care to out-of-home care by 2022, but it seems that the gist of your submission is that what is lagging is the development of an appropriate assurance framework to accompany that policy choice. Firstly, have I read your submission correctly? Secondly, can you give us your views about what is causing the delay in the development of this framework? Thirdly, do you have any specific points about what should be in it and how we can expedite it?

Mr KINMOND: The Auditor-General made the point that the measurement of outputs in this area is necessary but it is, in no way, sufficient. So, yes, children are transferring from Government care to non-government care, but it is absolutely vital that we are in a position to ascertain whether the quality of care is adequate and—

The Hon. DANIEL MOOKHEY: Are we in that position?

Mr KINMOND: No, we are not in that position at this point in time. We need to be in a position to be able to measure quality of care by certain providers, and compare that with the results in terms of quality of care by other providers so that the Government is informed in relation to the contracting process.

The Hon. DANIEL MOOKHEY: What is causing the delay?

Mr DAVID SHOEBRIDGE: Or what is the absence?

Mr KINMOND: There is a need for a quality assurance framework to be settled. The Parenting Research Centre was engaged to put forward a proposal in that regard. I have sighted information to indicate that they have put on the table a quality assurance framework looking at safety and permanency, culture and spiritual identity, mental health, cognitive functioning, social functioning, physical health and development with indicators against those various domains. It will be essential that that quality assurance framework is rolled out, and it will be essential that it is properly in place as part of the re-contracting process, so the Government can then be in the informed position to know whether they are providing quality care.

Mr DAVID SHOEBRIDGE: As I read that part of your submission, there seems to be a whole lot of baseline data that is not even being collected at the moment to start that quality assurance. Did I misread that part of your submission?

Mr KINMOND: I think you read that correctly.

Mr DAVID SHOEBRIDGE: What is the baseline data that is needed? Which agencies need to cooperate to get it?

Mr KINMOND: The department will need to get it from Health and from Education and from Police and from the reportable conduct scheme. There is a range of agencies, but the first thing is that you have to have your framework in place. You are not going to collect the data until you have the framework in place, and hence this is why the quality assurance framework is important. It is important that it is not only agreed to but rolled out as soon as practicable.

Mr DAVID SHOEBRIDGE: You should not be putting children into non-government institutions until you have your quality assurance framework in the first place, should you?

Mr KINMOND: I think the fact that we do not have a quality assurance framework at this point in time is not adequate, but let me make an observation. One of the principal reasons why Justice Woods supported the move from government to non-government care related to observations and evidence that he collected, for example, in relation to the level of casework support. I can go back, as I have done, to information from 2007, various in-care reviews that I conducted where I saw local community service centres where the number of allocated cases ranged from as low as only 50 per cent of cases being allocated for any casework response to up to 80 per cent of cases not receiving a casework response. There ought to be a strong quality assurance framework in place, absolutely. The non-government sector has demonstrated a stronger commitment, I think, in terms of advocating for providing casework support as a part of a service they provide. Is that important? Yes. Is it sufficient? No. What will be sufficient? A comprehensive quality assurance framework.

The Hon. DANIEL MOOKHEY: To follow up on my previous question, in terms of the complaints you are receiving and the oversight responsibilities that you are discharging, to what extent does the absence of a meaningful quality assurance framework manifest itself in contact with your system—that is, because one is not in place, people have to come to you? Secondly, in the absence of such a framework, what powers do you meaningfully have to change this behaviour?

Mr KINMOND: A framework would assist in terms of putting a line in the sand concerning what is and what is not acceptable in practice. The sad reality is that many matters that we deal with via the complaint system do not involve a complex consideration as to whether the child is receiving an adequate response. In many cases, it is clear from our review of the information that the child is not receiving an adequate response. A quality assurance framework would complement our work, but is not necessary for us to reach those conclusions. I also make the point that in that regard we have access to the KIDS system, the child protection system, as well as the police system. That puts us in a strong position very often to make judgement calls about completely unacceptable practice in particular cases.

The Hon. PAUL GREEN: On page 18 of your submission you talk about child-to-child sexual abuse in out-of-home care. You talk about the lack of a formal reporting scheme in New South Wales for what the royal commission has described as child-to-child abuse. You say:

> However, there is currently no legislated requirement to report this type of incident to our office or any other body to allow oversight of the handling of such matters; nor is there any centralised, systematic data capture about the incidence of 'client-to-client' abuse in NSW.

Please comment on that.

Mr KINMOND: I should qualify that comment in the sense that my understanding is, because as a result of me raising this issue I have a better understanding of the framework, that certain sorts of data are captured. When you are dealing with a child-to-child abuse matter of a serious nature, it is not about capturing

data, is it? It is about ensuring there is an adequate response. Ensuring that there is an adequate response does not only include considering whether Community Services is discharging its responsibilities properly. It obviously involves having a look at the non-government agency's response. Importantly, it may involve considering Health, considering Police and the adequacy of their response. Last week there were three examples of very serious matters, all of which involve serious criminal allegations. Because we have access to the various systems, we can see that the system has not operated as it should. That is a regular occurrence; this can be a challenging area of practice.

My principal concern in this area is not whether someone captures some data—and I suppose the next question is: Do they make it public?—it is really whether children, who have been the subject of serious abuse involving another child, are receiving an adequate response. The work that we are now doing in the reportable incident area, which is to do with the reporting of abuse and neglect of people with disability in supported group accommodation, bears out the fact that it is absolutely essential to see that there is adequate practice in this area. If one looks at the reportable incident scheme—and some of you may have seen the coverage in the *Sydney Morning Herald* of 18 charges in under two years against people in the disability area in that field and the *Herald*'s criticism essentially was to ask whether that was enough. But the *Herald* did not report that in 38 per cent of those cases the matters are being sustained. Over 30 people have been dismissed from employment and another group of people essentially resigned before they were dismissed, so well over 50 people have been dismissed or permitted to resign.

When you are dealing with the issue of child-to-child abuse, the focus really should be on prevention. The focus should be on the factors that meant that this environment was not a safe environment. Of course, that does not only have implications for the particular child, who might be the alleged victim. It has implications for the child who may have engaged in the harmful behaviour together with other children in the place. We would argue it is an important area for independent oversight.

Mr DAVID SHOEBRIDGE: Do you think the gap in part 3A that you identified should be filled, which is to have a statutory obligation to report to your office not just abuse that happens from a carer or a parent but also child-to-child abuse when a child is in out-of-home care? Should we recommend that?

Mr KINMOND: My view is that there needs to be independent oversight of that area, and the independent oversight body needs to have the power and the influence and the access to information to enable them not only to look at the trends but also to intervene when required.

The Hon. PAUL GREEN: On page 31 of your submission paragraph 6.2 relates to the intersection of the reportable conduct scheme with the Working with Children Check. Paragraph 6.2.1 talks about assessing the quality of the agency investigations and related findings and goes on to talk about the sorts of findings. Part of the final paragraph says:

> However, there is no currently no mechanism to oversight the quality of investigations carried out by those reporting bodies under the Working With Children Act that are not covered by the reportable conduct scheme. This is because organisations outside of our scheme handle their own investigations and provide their findings to the Office of the Children's Guardian without the benefit of independent scrutiny of the quality of their investigation.

Do you want to clarify those strong comments?

Mr KINMOND: For example, church organisations who do not run camps in fixed accommodation of three days or more. You can ask me the question as to why I am referring to fixed accommodation of three days or more. Churches that do not run those types of camps do not run what is described as substitute residential care by the Solicitor General. Therefore, churches who do not run camps of that particular type are not reporting bodies to the Ombudsman's office. They are, however, reporting bodies to the guardian. There are many community bodies—the Scouts, for example—who are responsible for reporting to the guardian serious sexual misconduct and serious physical assault matters but they are not responsible for reporting the matter to us unless they run camps in fixed accommodation of three days or more.

It is for that reason that in February of this year we essentially said should that be the guide for our jurisdictional reach, whether community bodies and church bodies happen to run particular camps? If they run them in tents they are not in jurisdiction. If they run them in fixed accommodation and they are for three days or more they are in jurisdiction. Is that a rational basis to determine what the oversight of the Ombudsman should be insofar as these agencies are concerned? I think the Committee is well placed to form its own conclusion on that issue. We have made the point that these distinctions are really extraneous to the issue of risk to children.

I also note, for example, that all of the bishops from the Catholic Church wrote to Government last year and said that it is time for us to come under the Ombudsman's jurisdiction as a church. All of the bishops from

the Anglican Church wrote a similar letter to Government to say that it is time for us to come under the Ombudsman's jurisdiction. To be fair on that point, the Government is saying that we want an indication from the royal commission, which has spent 3½ years looking at our operations in terms of the reportable conduct scheme before we make a decision on that issue. Say, for example, the royal commission was to say I was doing a terrible job. There is not much point extending my jurisdiction before Parliament then takes me out of play. I can understand the Government saying let us wait to see what the royal commission has to say about the efficacy or otherwise of the reportable conduct scheme before we look at the question of extension of jurisdiction.

The Hon. Dr PETER PHELPS: Call me old-fashioned, but an Ombudsman exists to provide independent oversight and reporting on the Executive function of Government. Is it not simply a case of mission creep by going into those areas when there is a Children's Guardian who could theoretically handle those situations in relation to church matters? Surely the role of an Ombudsman is to look at the role of Executive Government and seek redress for people who feel they have been materially affected by poor administrative decision-making?

Mr KINMOND: Sixteen years ago I would have agreed with you, but for the last 16 years we have had the reportable conduct scheme which was recommended by Justice Wood which brought us into the non-government sector in a very big way. We then had in 2003 the merger of the Community Services Commission into the Ombudsman's office, which then gave us extensive jurisdiction over a whole range of non-government entities. On 3 December 2014 our jurisdiction was extended in terms of the reportable incidents scheme to all disability accommodation providers for the reporting of abuse and neglect of people with disabilities in supported accommodation environments. I talk these days about a twenty-first century Ombudsman model. I think with Government increasingly moving in the direction of outsourcing to the non-government sector, the question remains in terms of the Ombudsman as an independent representative of the community in critical areas that relate to community safety what role should an Ombudsman's office play? Once again, I am happy to leave that with Parliament.

Mr DAVID SHOEBRIDGE: Your submission points out that in the first quarter 2015-16 some 37 per cent of children in out-of-home care were Aboriginal. We are talking about 6,618 children. I do not know if you have an updated figure on that. The Minister has promised a review of Aboriginal children in out-of-home care. Can you update us so far as what you know about that review and if you have any involvement in it? The Minister also said the review would be independent.

Mr KINMOND: I do not know where it is currently sitting. I have not heard anything to indicate that that review is not going ahead, but I have nothing to cause me to believe that I have any really substantial information over and above the information you have just outlined.

Mr DAVID SHOEBRIDGE: Your submission talks about there being 497 children under the age of 12 in residential care. That raises enormous problems in my mind about how children that young are being protected in residential care. What is happening there?

Mr KINMOND: In terms of children under 12 in residential care, my understanding is the number would be around the 140 to 150 mark. But I would add that, as has been accepted recently, the concern is that there has been a growth—

Mr DAVID SHOEBRIDGE: Your submission says that in the first quarter of 2015-16 there were around 579 children and young people living in out-of-home care, but only about 120 of them are under 12?

Mr KINMOND: Yes. There were 570 children and young people as of that date living in residential care of which, as I understand it, around the 130 to 150 mark would be children who are under 12. That is obviously an issue that must be examined.

The Hon. DANIEL MOOKHEY: Following on from the line of questioning by the Hon. Paul Green in respect to the—for want of a better term—legal technicalities that inhibit your jurisdiction, am I right in understanding your evidence that when it comes to things such as church camps and the like your point is that as a Parliament we do not have to wait for the royal commission to conclude in order to fix that issue?

Mr KINMOND: That is correct, but I do believe that there is some merit in having at least some discussions with the royal commission in terms of whether they think the scheme that comes under my oversight, under my responsibility, is working effectively. Let me say there is some evidence to perhaps support that it is working effectively. The Australian Capital Territory has just passed in Parliament legislation very similar to the New South Wales reportable conduct scheme. Victoria, I understand, by the end of the year will

pass similar legislation. There are some strong indicators that our scheme is sitting reasonably well in terms of the job that we do, but I think there would be much to commend Parliament approaching the royal commission and ascertaining from the royal commission its general observations about the scheme. I would also note the fact that KPMG has been engaged to review the reportable conduct scheme by the royal commission. My understanding is it should be in a position to report to the royal commission reasonably soon on the results of its review.

The Hon. DANIEL MOOKHEY: Do you know whether the Government has in fact undertaken that consultation or communication with the royal commission?

Mr KINMOND: No, I do not.

The CHAIR: Thank you for your frank and clear answers. It was a very good submission and the answers you have given have been very helpful. I thank the Ombudsman's office for the very important work that it is doing in New South Wales.

Mr KINMOND: Thank you very much.

(The witness withdrew)

MARY MOORE, Convenor, Alliance for Family Preservation and Restoration, affirmed and examined

GREG MORRIS, Advocate for Children and Families, Alliance for Family Preservation and Restoration, sworn and examined

ELSPETH McINNES, Researcher Sociologist, Family Violence, Child Abuse and Child Protection Expert, University South Australia and Member of the Expert Advisory Panel of the National Child Protection Alliance, sworn and examined

NIKI NORRIS, Vice Chair, National Child Protection Alliance, affirmed and examined

The CHAIR: Thank you very much for coming along. We very much appreciate the fact that all of your organisations have made submissions to this inquiry. Those submissions have been very informative. We will commence by asking each of you to make an opening statement if you would like to. If you can keep it relatively brief, that will give us maximum time to ask our questions.

Ms MOORE: I will give you a little insight into my background so that it helps when you are asking questions. I am a Forgotten Australian. I was abused in institutional care in the 1970s. I have had a nursing career of over 30 years with postgraduate qualifications in intensive care. More than half of my nursing career was in paediatrics inside a children's ward here in New South Wales and also in the Northern Territory, looking after Indigenous children and their mothers. I spent a couple of years working as a community visitor in Queensland for the Commission for Children and Young People and Child Guardian, visiting children in care in their foster care placements and residential settings.

One of the main areas I cover is assisting families that are now being denied legal aid in care and protection matters—not because of financial reasons but because someone in an office is deciding that a case has no merit, so the grant is either not granted to start with or it is denied just before the case is about to go before the court. We step in and subpoena the evidence, help them put the affidavits together and take them through the court process. We do not have any lawyers—I am not legally trained—and are doing this on a voluntary basis. We attend meetings with them. That is the kind of work that we are looking at. There is a huge black hole when it comes to legal aid funding. I know it is a Federal matter but it is getting worse and worse as the months and years pass.

The only thing I would like to say apart from that is that we agree with His Honour Tim Carmody. He reiterated a couple of days ago in line with evidenced best practice that: "Supporting family preservation is the best baseline for child protection rather than the current risk-averse culture that has dominated this century, resulting in the forced removal of children in such high numbers who never should have been removed and placed in out-of-home care." But words are not enough, and that is why our submission has focused on vital independent accountability and oversight measures and legislative changes that are needed to stop the ongoing failures of the current child protection system.

The CHAIR: Thank you for that. That is very helpful.

Mr MORRIS: Like Ms Moore, I am advocating for the parents and children. My background is that I have also been personally impacted by the child protection system. I have been manager of a couple of groups where I have supported and given advice to parents, children, grandparents and extended families who have been unjustly victimised by the child protection system. The stories that come through on a daily basis are astounding and shocking, based on opinions of caseworkers who have brought on these child removals. Things are not going forward at the moment, so that is what we are here for: to hopefully bring change.

The CHAIR: Thank you very much for that.

Dr McINNES: I am a PhD in sociology, and I work at the University of South Australia in my day job. I have come over here today to give evidence at the request of Ms Norris for the National Child Protection Alliance, with which I have been involved for a number of years as an expert. I teach early childhood educators about how to recognise child protection issues that might be presenting for them and how they might usefully act in intersections with child protection systems. I follow child protection cases and particularly systems around Australia and their intersection with the family law system. Once again, I am acutely aware that this is a Federal matter; however, we know that most abuse occurs in families and that means that the family law system inevitably intersects with a great many of the cases that come to the notice of the child protection system. I am here today mainly to speak around that, though I would offer that I have interests particularly in trauma-informed practice—that is an area that more awareness is emerging around—and also the propensity of child

protection systems to focus on adults and the practices and behaviour of adults with relatively little deliberate, careful attention to child development and the specifics of how children's behaviour, children's disclosures and children's responses inform their behaviour. We need to be paying a lot more attention to children in this system rather than to managing or trying to manage, read and attribute motives to adults.

The CHAIR: Thank you for making the effort to come to Sydney.

Ms NORRIS: My colleagues and I thank the Committee for this opportunity to express our concerns about an area of child abuse rarely spoken of; that is, child abuse matters being heard in the Family Court. The submission of the National Child Protection Alliance [NCPA] recommends that the New South Wales Government introduce a system of family tribunals, which we believe will protect children more fully and more quickly, and set a precedent that other States may follow. My statements are intended to be informative and should not be regarded as criticism. We recognise that all parents can be abusive. However, 99 per cent of cases coming to the NCPA involve abuse perpetrated by fathers. Child protection is a State duty, but the unacceptable level of power within the Family Court is having a devastating impact on the efficiency and effectiveness of the State Child Protection Services [CPS], and is influencing police and CPS to believe that they cannot intervene when a matter is before the court.

I will provide two examples. First, a child refused to visit the parent they named as their abuser and police were brought in. After it had been confirmed that it was a Family Court matter, the police officer stated, "It's my job to enforce court orders." There was a criminal history and serious child sexual abuse had been substantiated by the New South Wales Joint Investigation Response Team [JIRT]. Secondly, concerns were reported to police after a child had not been returned days after the specified date. It was established that the matter was in the Family Court and the police officer's words were, "It's not my job to enforce court orders." The child was in effect missing and the father was well known to the police. Other responses from police officers when the matter is in the Family Court are: "My hands are tied", "There's nothing I can do", or, when issuing an apprehended violence order, "I don't know why I am bothering because the Family Court will overrule it anyway." The police seem to doubt their investigative powers in these cases and often express their frustration.

In the cases of child abuse reported to the NCPA in which a child names their own father as the perpetrator of abuse, we have found that investigations are usually minimal and children usually are not believed. However, research shows that in 96 per cent of instances the child is truthful. In many cases, children tell of having to watch pornographic material on their father's computer, yet computers are not confiscated. This check alone could save more than one child. We are concerned that children in extra-familial sexual abuse cases are being shown concern and protection on a higher level than those who report sexual abuse naming a parent as their abuser, suggesting possible discrimination.

Children in Family Court cases are being forced to spend time with or to live with the person they allege sexually abused them. They are very often not believed when they tell detectives of abuse, and mothers are often told their child is too young to be regarded as a reliable witness. The reports often suggest the mother may have coached a child to lie, or is suffering mental anxiety of some kind. Yet, in 2014 when a mother and two children aged two and six reported sexual abuse by a stranger in a park, they were believed instantly, the children were well protected, they were regarded as reliable witnesses, and an arrest was made two days later. In each case the children were aged six and under, yet in only one case were the mother and child believed.

On numerous occasions when State CPS has produced evidence and substantiated child abuse, Family Court judges frequently refuse to admit that evidence because they are not bound by the usual rules of evidence. In cases where JIRT has substantiated child sexual assault, the court-appointed expert report writer has in some instances accused JIRT of interrogating the child to force the disclosure calling it "systems abuse". In one case, the court expert expressed concern that the court was put in a difficult situation because JIRT and the police supported the child's allegations of sexual abuse against its father.

An area of great concern to the NCPA is the growing number of reports that lawyers are pressuring protective mothers to sign consent orders outside of the court. In a case in which our barrister was involved, the Family Court judge warned the parent that she would be given three opportunities to sign consent orders and withdraw her allegations of domestic violence and child abuse, saying that if she persisted the child would be given into the custody of the father, who was the alleged abuser. Protective mothers are being forced to sign these orders under extreme duress and threats that their children will be taken from them. The signing of consent orders effectively means that child abuse allegations are seen to be withdrawn. The mother is seen to be admitting to having lied about the abuse or to having been overly anxious or delusional at the time she thought the abuse was taking place. Her credibility and state of mind are in doubt from that point, and can be used

against her. She is scared to report further abuse or to seek help for her child, thus risking removal of her child from her care by the Department of Family and Community Services, which may decide that she is not caring properly for her child. She is usually court ordered not to take the child to a doctor for any examination without the permission of the court and the father. This delay allows ample time for injuries to heal and for evidence to fade.

Consent orders effectively take responsibility for the child's safety from the court and lawyers, as in Abbie's case in Western Australia, and place it squarely back onto the mother, who had tried to protect her child with barely any investigation having taken place and court orders that often prohibit her from reporting further signs of abuse without the permission of the court and/or the alleged abuser. To our knowledge, there is no other area of law in which the permission of the alleged offender is required before a matter can be reported to the police or the State authority.

Despite the Family Court not having statutory powers nor the expertise, nor the resources to investigate alleged child abuse, both child abuse and domestic violence cases continue to be heard in that jurisdiction. For the many reasons outlined in our submission, the NCPA recommends that New South Wales be the first State in Australia to fully embed the United Nations Convention on the Rights of the Child and that the Government seriously examine the possibility of introducing a system of family tribunals based on an inquisitorial model.

The Hon. Dr PETER PHELPS: Ms Moore and Mr Morris, the underlying tone of your submission seems to be that there is an over-estimation of risk of serious harm among caseworkers. Why do you believe that is the case?

Ms MOORE: That is based on our experience and the cases in which we have been either directly involved in terms of reading all of the paperwork involved, subpoenaing it, and preparing it for court, and the reports of those who come to us. We have seen children removed for reasons that are not significant harm, and we see that time and again in dozens of cases.

The Hon. Dr PETER PHELPS: Can you provide any particular examples?

The CHAIR: You do not need to use the names; just provide the circumstances.

Ms MOORE: There are many common reasons. There might be a domestic violence situation, and the children are being removed.

The Hon. Dr PETER PHELPS: Why is it not a risk of serious harm given the high correlation between domestic violence and potential abuse of children?

Ms MOORE: I will clarify that. There might be a mother who has left a domestic violence situation and taken the children with her. We are still seeing the children being removed from the mother once that has happened.

Mr DAVID SHOEBRIDGE: Because she is having difficulty with accommodation and other stresses that result from it?

Ms MOORE: That is correct. We do not see that as the child being at risk of significant harm. She is with the mother—the primary caregiver—or the father. She has removed herself from the home to protect the children, yet the children are still being taken. There are areas of neglect. A lot of that relates to poverty, and often it is based on the opinions of the caseworkers. I have seen many situations where children are just removed. I cited a situation in our submission where there was an accumulation of opinions. Indigenous children are a very good example. There is a list of reasons for neglect. And that includes that the child does not have its own bedroom, the child has not worn shoes to school—

The Hon. Dr PETER PHELPS: That includes every white working class person in the 1930s in Australia essentially.

Ms MOORE: Yes, I agree with you but these are reasons being used to remove children.

The Hon. Dr PETER PHELPS: Are the standards which FACS caseworkers seek to apply to families in your view an unacceptably high standard? In other words, a white middle class standard which, in many cases, is not appropriate in a number of circumstances to family living arrangements?

Ms MOORE: I would agree with that. What I would like to look at is the inconsistency. Like you will have some caseworkers that will—

The Hon. Dr PETER PHELPS: You are getting on to my exact next point. The Committee has heard that in many instances there is too much subjective judgement and not enough objective assessment. Will you elaborate how you see the situation? Is there too much subjective judgement left to individual caseworkers rather than an objective assessment? If you cannot actually provide an objective assessment which is universally applicable to all families does that mean that the subjective assessments which are going to have to continue should be reviewable by people outside of FACS?

Ms MOORE: Yes, in summary to that. I think it is very difficult for one individual caseworker who then relays information back to a case manager who quite often does not even see the child, or the family, so he is sitting at a desk and making life-changing decisions about what is going to happen in terms of removal of a child. I think that that is a system that is inadequate, and I believe that there should be a better way to do it. My main point is that caseworkers are not even registered. They are not even professionals and I have been pushing for mandatory registration for child protection workers, but it would be great if New South Wales took the initiative.

An example of what I mean by that is as a registered intensive care nurse I am responsible for my behaviour and my decisions, and how I treat patients and their families and for everything I do. If anyone is not happy with that they can go to my governing body and make a complaint and it will be looked at. If I do the wrong thing criminally I could end up in jail. What we have got with child protection is that there is absolutely no standards, there is no registration so there is not even minimal education requirements. There are no standards whatsoever without national or State registration. Nursing started out with State registration.

You have inconsistency in every case you come across. Some workers are not even qualified beyond TAFE qualification. I have gone to meetings and child protection workers have got a TAFE one-year diploma in welfare, and others have got higher qualifications. They could be psychologists or whatever but there is no consistency in standards. When you have got that inconsistency to start with, which I think has to be sorted first, then you look at the objectiveness or subjectiveness of what determines what is a significant risk of harm.

The Hon. Dr PETER PHELPS: I think it is impossible to build an objective standard of a significant risk of harm. I think it is impossible given a variety of circumstances. You may disagree with me. You may be able to say, "Yes, we can build an objective standard for risk of significant harm." If that is never going to be able to be achieved, and we still rely upon subjective assessment, what is the nature of the merit review process of that subjective assessment that you think should be implemented?

Ms MOORE: I think it should not be a decision left to a child protection worker.

The Hon. Dr PETER PHELPS: Does it lie within FACS? Does it rely in another executive body? Does it lie within the Ombudsman? Does it lie within NCAT? Does it lie within the Children's Guardian?

Ms MOORE: I think what there has got to be is an independent oversight mechanism which is made up of professional people so that you have got that buffer between families and Community Services. At the moment you have a dictatorship. FACS go in, a young caseworker makes a decision "Remove a child" and the family is left shocked, not understanding what is going on, cannot even get legal representation half the time, do not know what the process is and do not think or believe in a lot of cases that that child should have been removed.

I think there has got to be a buffer system and responsibility for removing a child should not be with a caseworker and their manager when they are not registered, when they are not governed and when there are no national standards for education, training and any of those things. You cannot give that much power to someone that has no governance.

Mr DAVID SHOEBRIDGE: Of course, the system is meant to have an essential check in it, which is the caseworker makes the initial decision for removal but then that decision has to be supported by and ends up becoming the decision of the Children's Court. That is the way the system is meant to operate with this very strong check with the Children's Court if you read the legislation.

The Hon. TREVOR KHAN: As a matter of law it does.

Mr DAVID SHOEBRIDGE: And if your read the legislation that is the structure. Will you comment on the Children's Court because the legislation says the Children's Court, as it is independent, is meant to be making this decision?

Ms MOORE: It does not happen.

Mr DAVID SHOEBRIDGE: What is your observation of the Children's Court?

Ms MOORE: It is just a rubber stamp for what the department wants. I say that with no disrespect.

Mr DAVID SHOEBRIDGE: You are not the first to say it but it is disrespectful but you are allow to say it.

Ms MOORE: I am allowed to be disrespectful?

The CHAIR: You can be frank, and you are being frank.

Mr DAVID SHOEBRIDGE: And you are not on an island.

Ms MOORE: I will be frank. I have attended as support in many care court cases and from the very moment that you enter that courtroom the solicitor for FACS will get up and make certain statements to the judge. I have found them to be actually quite untrue statements. Apparently because a solicitor is at the bar table they are not under oath so it does not matter if what the say is true.

The Hon. Dr PETER PHELPS: I assure you that is not the case.

Ms MOORE: When you report it to the Law Society they say, "Well, I'm just taking instruction from my client", who is the caseworker. But basically what happens is the judge accepts whatever the judge is told. If you are lucky enough to have a solicitor from Legal Aid—I say "lucky" because these days it is getting harder and harder to even get Legal Aid—most of them do not defend you at all. So what actually happens is it only takes five to 15 minutes. In New South Wales, to make it very clear, the very first time you attend court is within a day or two of your child being taken. You are very lucky if you have even got paperwork. You do not have a solicitor so you rock up to, say, the Parramatta Care Court and it is just like—legal people call it the zoo, for very good reasons if you have ever been there.

The very first thing that happens is the duty solicitor says, "I'll take your case on." You have a little chat to this duty solicitor. They say to you straight away, "Look, it's just a matter of process today. There's nothing you can do, nothing you can say." The next court case is four to six weeks' time and what most parents do not know is that that is an establishment hearing, but parents are not informed about that. What actually is happening sadly and tragically is that rather than taking instructions from families, even checking in to the case at all, the Legal Aid solicitors are just basically gifting the children to the department by informing the court that they accept establishment, without admissions.

What that tells the court is that the parent agrees to the FACS case but they are not prepared to make any admissions. But your case is lost there and then. It has gone. Now parents do not even understand that. They do not even understand an establishment hearing, they do not understand what has happened. A lot of this is happening without the parents' consent at all. Parents are saying, go in there, please fight for my child, but that is exactly what is happening.

Mr DAVID SHOEBRIDGE: Assuming what you have said, what is your solution to that?

Ms MOORE: First of all, there has to be sufficient legal representation for parents. What we have at the moment is totally inadequate, unless you are very well off and can afford a good legal team, you have got no chance of getting your child back. If you have got money and a good legal team, you have a much better chance. You cannot take someone's child away and then not provide any legal representation, and then the quality of that legal representation is so poor it is not worth having. That is a huge problem. That is also a Federal funding issue; I understand that. What I am saying to you is that you have a parent who is in shock and trauma, their child has been removed, they have not received the paperwork and do not really understand what is going on and, within four to six weeks in New South Wales, that child is gifted to FACS and the Government because no-one even attempted to defend the case.

Mr DAVID SHOEBRIDGE: In regional areas I am told that even if you get a grant of Legal Aid, often you cannot find a solicitor—

Ms MOORE: That is right.

Mr DAVID SHOEBRIDGE: —because everyone is either acting for or has previously acted for the department—

Ms MOORE: That is correct.

Mr DAVID SHOEBRIDGE: —or does not want to put the department offside.

The Hon. TREVOR KHAN: You can say that, David, but unless you get proper evidence—I can assure you that is not correct.

Mr DAVID SHOEBRIDGE: Gunnedah is what I am talking about.

Mr MORRIS: It does happen.

The Hon. Dr PETER PHELPS: Can I follow up on that. Would an inquisitorial system correct that adversarial situation you are suggesting?

Ms McINNES: An inquisitorial system certainly seeks to go to the heart of what has happened rather than focusing on what case has been put before by whom, and the evidence is limited to that brought by the parties as in the Family Court system.

The Hon. Dr PETER PHELPS: Are you suggesting an executive inquisitorial system or a judicial system?

Ms McINNES: I am not sufficiently qualified in the legal structures to know the difference between executive and judicial, but it is to say that the difference is parties bring a set of evidence and that is what we have got, which is certainly the family law case. They have no investigative powers and no budget for that. In the case where the judge is in charge of finding out and instructing parties to the case to find and bring evidence, there at least is the capacity to follow evidence to follow inconsistency, to find missing evidence, to find that which might puzzle and trouble a court. To my mind, it also takes out the dynamic of A versus B. It is simply there is a truth out there, a sort of truth about the child—

The Hon. Dr PETER PHELPS: Except there always will be. If you have a caseworker who says, "This child is at serious risk of harm", and the parent says, "My child is not at serious risk of harm", you immediately have an adversarial system placed there.

Ms McINNES: You do. However, the parents lack a capacity to bring evidence in the way that the court might accept it, I understand that. Typically they are people of low income, typically people have low understanding of what the procedures mean and the Crown has all the capacity in respect of the Children's Court structure. Where you have capacity to have an inquisitorial system, at least they can find the circumstances for the parent, and circling back to the case of the domestic violence and removal of children, one of the ricocheting effects we are seeing across Australia is that women are increasingly reluctant to seek help from the police for fear of losing their children to the child protection system when they are subject to domestic violence. That loop is working very badly by making domestic violence a child protection-parent severance issue.

The Hon. DANIEL MOOKHEY: To be fair, my question is a follow-up to Dr Phelps. I understand your point that there is a need for an inquisitorial system and as an alternative it should be explored. Namely the tribunal or a court is vested with the ability to independently investigate FACS and initiate an independent investigation. The downside of inquisitorial systems is that they tend to limit the standing of adversarial parties, so parents would have less rights to contest the findings of the tribunal and the court. I was wondering, were we to favour your suggestion, we would be limiting the rights of parents to trust the judgement of the court. Is that a consequence that you accept or, alternatively, do not accept, and on which you will build mitigation devices? I understand it is a legal point, but if we take up your suggestion of an inquisitorial system as an alternative to the status quo, we have to answer the most fundamental question, which is who gets to bring what evidence before that tribunal.

Ms McINNES: Yes. I would see that as resting with the judicial officer or the executive officer. In the adversarial system, it does not mean you would disable parents from access to support. It is vital that they have a means of expressing their realities and their circumstance, but it is a case of what can be investigated and brought. Under the adversarial system, there are great chunks of missing realities that never see the light of day, particularly because of evidence rules as well.

Mr DAVID SHOEBRIDGE: Then it is David and Goliath, it is not two genuine people, adversaries, is it?

Ms McINNES: Correct.

Ms MOORE: And you have the situation that there are no rules of evidence in Care Court, so anything can be said about you and you have no capacity to defend that. Even if you have a Legal Aid solicitor, they do not go to the effort.

The Hon. Dr PETER PHELPS: You can deny it. To be fair, you can deny it, but, then again, you might not know what you are going to be accused of—

Ms MOORE: Exactly.

The Hon. Dr PETER PHELPS: —before you turn up at court.

Ms MOORE: And nothing is getting tested.

The Hon. Dr PETER PHELPS: That is the problem.

Ms MOORE: The legislation is purposefully broad. I will read this to you. Cases are not published for care and protection, secret court. I was looking through the District Court of Parramatta judgements where the appeals are coming. This is consistently why appeals are even lost, because a finding cannot be made against a Care Court magistrate because their power is purposefully broad. It allows for children to be taken for the term of their childhood where there is a perceived risk of harm, despite a parent's conscientious efforts, or through no neglect or action on the part of the parent, and it includes circumstances where no harm has even occurred. Are you aware of that? Children can be taken on the opinion of a caseworker where absolutely no harm has occurred, but because they have concerns that harm may occur in the future, and that child is taken until they are 18 years of age.

The Hon. TREVOR KHAN: No, no.

Mr MORRIS: It happens.

Ms MOORE: It has happened. We have witnessed it. I have been in the court.

Mr DAVID SHOEBRIDGE: What is the section, or what are you referring to?

The Hon. TREVOR KHAN: That is the uplift power. It moves on from there.

The CHAIR: It would be helpful if you are able to cite what you are referring to. We will need to look at that further. Can you cite where that was from?

Ms MOORE: No. I went through the judgements. It is written in the judgements.

The CHAIR: We can ask you a question on notice or you can tender that, if you wish to do so, and we can examine it.

The Hon. PAUL GREEN: Obviously the point of the inquiry is that we do not get what is really happening in those courtrooms. We have clear anecdotal evidence from the Alliance for Family Preservation and Restoration, for whom I have a couple of questions. First of all, your submission says to make a law in terms of solutions rather than problems, make it law that families can have support with them in court, "and at every meeting with FACS and their stakeholders as often parents are alone, unsupported and extremely outnumbered causing intimidation and denial or justice with no independent witness". You go on further and say either film or photograph visits because it seems that there is no equal weighting if you do have a defence, or give your side of the story.

Ms MOORE: That is correct. That is happening all the time.

The Hon. PAUL GREEN: They are the sort of implications I am getting in emails from people who have had issues with FACS and courts. Would that be accurate?

Ms MOORE: That is absolutely accurate.

The Hon. PAUL GREEN: You are saying that they are not allowed to have someone with them?

Ms MOORE: No, they are often denied. This is the problem. Parents do not know what their rights are.

The Hon. PAUL GREEN: That is a good point.

Ms MOORE: They ask, "Can such-and-such come with me?" They are told, "No, you cannot."

The Hon. PAUL GREEN: Who tells them that?

Ms MOORE: The caseworkers.

The Hon. PAUL GREEN: No. 12 says:

> Make it law that FACS must provide a written legally binding contract of what is required of parents to have their children returned that can be used in court to have their children returned once they have completed all the requirements.

That is a parent control order or something, isn't it?

The Hon. TREVOR KHAN: It is called a care plan.

Ms MOORE: No, those are very different things.

The Hon. PAUL GREEN: My understanding is that this is another issue. People feel that they have a right to feel that they are jumping through all the hoops only to get to court and find that the goalposts have moved. Is that your experience, and would you like to give us some evidence about that? That is what I hear.

Ms MOORE: Do not confuse it with a care plan. A care plan is another issue which we have problems with. If a child has been removed and there are reasons for the removal we want a clear contract where the department says, "This is what you must do in order to have your child returned." Once that is achieved that should be it; the child should then be returned. What happens now is that the department often does not say what needs to be done to have the child returned. Or the department might say, "You need to do a parenting course," or "You need to do a domestic violence course," or whatever. The parents will do that but then the department will say, "You need to do this," or "You need to do that." It just keeps going on and on. Even when parents have done everything asked of them they still do not get their children back.

The Hon. PAUL GREEN: That brings me to the next point. We have come across indications, in our travels, that some mums giving birth to kids have been led to believe that they are going to have this baby and that everything will be right at home and they have assistance. They think that things are going to happen at home only to have the baby and then find out that the Department of Family and Community Services [FACS] has signed the baby to go into emergency care for whatever reason. My point is that the parents have been led to believe that they are going to take this baby home. Do you have any evidence of things like that happening?

Ms MOORE: Yes.

The Hon. PAUL GREEN: Would you be able to supply that evidence to our committee?

Ms MOORE: Yes. I will take that question on notice.

The Hon. PAUL GREEN: On notice, of course.

Ms MOORE: I will send you cases that we have dealt with. What is even more traumatic is that the babies are taken almost immediately.

Mr DAVID SHOEBRIDGE: Within two hours.

Ms MOORE: So the mothers are in shock and the babies are being denied colostrum and being locked in the nursery. The parents are being denied access to that baby. The baby is being denied colostrum and the parents are traumatised. They feel deceived by the department because they believed that they were going to be helped and supported to have this child. Often the reasons for removal are very puzzling, as well.

The Hon. PAUL GREEN: I think it is very important for the inquiry to know that colostrum is the beginning of the milk cycle.

Ms MOORE: It gives the baby immunity.

The Hon. PAUL GREEN: It gives the baby immunity and it is part of the bonding and nutrition. It is a very important part of the milk supply for a newborn, isn't it?

Ms MOORE: Yes. As a nurse, what I do not understand—

The Hon. PAUL GREEN: So you would not suggest that a baby should miss out on that, would you?

Ms MOORE: Absolutely not, but it is happening. It is happening all the time. What concerns me is that the hospital is a very safe environment, so why is it that the parents cannot see the child, start breastfeeding and bond with the baby whilst it remains in the nursery? Why are they getting locked out and denied even the opportunity to breastfeed?

The Hon. PAUL GREEN: No. 13 says:

> FACS caseworkers must be mandated to focus on the strengths of families not just their weaknesses when doing family assessments, reports and writing their Affidavits as our work evidences family strengths are rarely if ever mentioned.

This is something that we have been looking at and hearing about. Anyone who has children will know that you have bad days. I share with my friends some of my bad days as a dad and as a husband. It would be horrible for me to have that written down against me and against my fathering.

Mr DAVID SHOEBRIDGE: Catch any of us at our worst.

The Hon. PAUL GREEN: It seems to me that if you are having a bad day you should be able to confide in someone who is a healthcare professional or social worker—someone who deals with social health or a psychologist who deals with psychologist health—let alone a minister who deals with spiritual health. One would think that you should be able to share with your caseworker that you are having a bad day and not expect that that is going to be recorded as a strike against you.

Ms MOORE: Sadly, that does not happen. I will give you an example. One of the most common things that parents say to me after I attend a meeting as a support person—whether it is by phone because of distance or in person—is, "They spoke to me so nicely! That is the first time they have ever spoken to me like that." Isn't that distressing? That gets me, to start with.

They start off trying to be friendly with the parents but they are gathering information the whole time. So a parent starts to relax and think that they can talk about their bad days, or whatever. But without warning the child is taken and it becomes an adversarial situation straight away. The situation is so bad in some cases that I end up being a mediator in screaming and swearing matches—to calm the situation down because there is so much anger. The parties do not even like each other, so it is just an awful situation.

Just think about your own lives for a moment. Think about all those relationships that you consider to be private and confidential and all the things that you have said to different doctors over the years or psychologists. Think about your hospital notes and every note that a nurse has ever made about you. Once your child is taken or you are on the radar of child protection all that confidentiality—everything about your whole life—is out the window.

The Hon. PAUL GREEN: I can imagine it would be like standing naked in a room.

Ms MOORE: Exactly. None of us could stand up and say, "I am fine. I'm a great person. My life is perfect."

The Hon. TREVOR KHAN: I hear what you say. For a parent it would be quite distressing to have, for instance, all their medical records available, but if the objective of the legislation is to protect the child does the privacy of the parent trump the need to protect a child?

Ms MOORE: I am not saying that. I am just saying that that is what happens. I have seen the worst of child abuse, working as a paediatric nurse in intensive care in hospitals. Our organisation is saying that it is too easy to remove children. Far too many children are taken who should have been helped and supported to remain at home. There will always be those who need to be removed for their own protection. Our alliance looks at the number of children that should not be removed—that should be supported to remain at home—and those that are sentenced to 18 years of age, without any review whatsoever.

The Hon. TREVOR KHAN: There is a review mechanism, isn't there?

Ms MOORE: No, there is not.

The Hon. TREVOR KHAN: We have heard some evidence before, that it is section 90 of the Act.

Ms MOORE: Where do I begin about section 90?

The CHAIR: Order! The honourable member has raised a particular matter. If you wish to respond, respond to what he said.

Ms MOORE: Section 90 reviews are so hard to get. You have to get leave of the court to get them, to start with. There has to be a significant change of circumstances.

The Hon. TREVOR KHAN: I know what the section says.

Ms MOORE: You do not get legal aid for section 90, except in very rare, exceptional cases. The path to get a section 90 is very difficult to get.

The Hon. TREVOR KHAN: The reason that those provisions were put into the Act was to ensure stability for the child, was it not?

Ms MOORE: Yes, but we are saying that there is not a fair process of removal and final orders. Establishment is gifted. Establishment is not fought for or defended in cases where it should be.

The Hon. TREVOR KHAN: I heard what you said.

Ms MOORE: So establishment is just gifted without admissions. What is happening now—and we have received a lot of concerning reports in the last couple of months—is the magistrate does not even allow for

a hearing of final orders. What they are doing is saying that the ICL and the department agree so they will grant the final orders they want by consent and make a note the parents do not consent.

The Hon. TREVOR KHAN: Are you able to provide specific examples of where Children's Court magistrates have done that?

Ms MOORE: In order to do that, I have to get the permission of the parents for their cases to come to you. I will contact them and send you the cases.

Ms NORRIS: We are having two different arenas here. We are dealing with children in the Family Court who cannot get the same protection as the children who are under the State statutory duties. I am trying to bring it back to that level, because we are dealing with children where it has been substantiated that the child has been abused by a statutory department. When that goes through to the Family Court that is ignored. All that evidence, all that work by the State Joint Investigation Response Team [JIRT] is disregarded. These mothers have no way of protecting the children once they are outside that Family Court.

Mr DAVID SHOEBRIDGE: And there can be a race for jurisdiction to get it filed in the Family Court to gazump the State courts.

Ms NORRIS: There is a race straightaway, as soon as you report abuse of a child. If you take child to police or call the helpline there is an immediate passing on to the JIRT and the investigation is minimal. The child is usually two years old or six years old, and sometimes runs from the room, so there is no investigation as far as asking the child. Once it goes through to the Family Court they are lost. I will table some orders as examples.

The CHAIR: Does this material relate to your submission?

Ms NORRIS: Yes. This is when court orders forbid the mothers from taking their children to doctors. Without taking their children to doctors, they cannot protect their children or care for the children properly and therefore the department may report that a mother is not looking after her child properly, and they may take the child. That has happened. We can give you as many cases as you ask for as we have many on file. If you look at page 1 of the tabled papers, all those are court orders forbidding a mother to consult with the a medical practitioner, counsellors, psychologists, psychiatrists, welfare officers for any treatment et cetera without the permission of the father or the court and/or the father. These mothers' hands are tied behind them; they cannot protect their child any longer. At point 6, subject to any medical emergency the mother is restrained from presenting the child to a medical or other healthcare professional without first obtaining the permission of the father or contacting the appropriate child protection authorities, police and the father. There is a Catch-22 situation there because if she contacts the State authorities and they see that the child has been harmed, they may take the child from her. But if she reports it to the court, she is not allowed to report it because they are often forbidden to make any further reports of abuse to the police. They are literally shut down, suppressed and subjugated.

The Hon. Dr PETER PHELPS: I refer to your recommendation 3.

> We recommend that the NSW government reinforce with its social work staff and its police personnel, to act immediately to safeguard and protect child involved in Family Law proceedings where there are allegations that children may be suffering direct harm or during incidents of domestic violence.

Surely FACS staff are already aware of this because the argument we have heard is that they are overacting in this regard—not only where there is demonstrable evidence of abuse or harm but where there is the risk of abuse or harm. You appear to be saying that they are not doing their job where there is demonstrable harm taking place, when all the evidence we have heard is that they are pre-empting the evidence of demonstrable harm for child removals.

Dr McINNES: It seems to happen a lot, in particular with child sexual abuse. One of the things about neglect and physical abuse is that they do leave bodily markers and histories within medical records, if they have been found and presented. Child sexual abuse—we have all heard about the Federal royal commission and appreciate the difficulties of getting convictions, certainty and disclosures that hold up. We know the criminal justice system does not take evidence from children who are of preschool age and does not see them as viable witnesses. All of those things mitigate against investigations that are sufficiently thorough to hold up. In our case, we are seeing it most specifically with the crimes and actions of child sexual abuse, rather than neglect or physical abuse or the presence of domestic violence.

Where a child has made an allegation, you would appreciate in JIRT they have to spontaneously talk about those allegations; they are not allowed to have leading questions. Even when they do disclose them, there

is medical evidence of trauma. What happens in the family law system is that they say, "We are not a criminal justice system and there is no natural justice to your finding of the alleged perpetrator, therefore we will absolutely disregard your finding that there is child sexual abuse present". The combined effect of this is that, particularly very young children—and we know younger children who are pre-witness level in criminal court systems are targeted by child sex offenders—are particularly vulnerable. Once JIRT have that evidence, they are not going to take it through court because they do not have a reasonable prospect of conviction.

The Hon. Dr PETER PHELPS: But your recommendation relates specifically to the social work staff and police personnel. I am hearing two contradictory stories. You are saying that they are not acting, even with demonstrable harm being shown.

Dr McINNES: In child sexual abuse.

The Hon. Dr PETER PHELPS: Whereas other testimony suggests they are acting even with no demonstrable harm even being hypothecated into the future.

Mr DAVID SHOEBRIDGE: But I think their submission is focused on child sexual abuse cases. Is that what you are saying and is it distinct?

Dr McINNES: Yes, absolutely.

Ms NORRIS: I have a quote from the Single Courts Expert's report—

Dr McINNES: In the Family Court?

Ms NORRIS: —in the Family Court after JIRT has substantiated quite serious child sexual abuse. "The difficulty for the court is that there appears to be a strong position adopted from the police and JIRT supporting the allegations of sexual abuse." I can give you the outcome of that case later.

The Hon. Dr PETER PHELPS: I do not disagree with that, but your recommendation deals with the inaction on the part of social workers and police where there is demonstrable harm and domestic violence being shown.

Dr McINNES: In cases of child sexual abuse.

The Hon. Dr PETER PHELPS: But that does not accord with what we have heard from a whole range of other people, who say that social workers are overreaching. I am not sure how your recommendation correlates with a wealth of evidence we have heard that at the current time FACS personnel are trigger-happy in pointing people out.

Dr McINNES: In some cases.

The Hon. Dr PETER PHELPS: We have heard in a lot of cases.

Dr McINNES: I have seen cases where mum is about to give birth and she has had a poor history of drug use and violent boyfriends, say, and the baby is gone. She has no chance to prove whether or not she is a fit mother going forward. We have been hearing of those cases, but once again there is a wealth of evidence that sits behind and prejudices the mother's situation. When you have child sexual abuse, the child has no voice in the court system. There is "he said, she said" and there is nothing conclusive even if we get that it has occurred. Can we conclusively say that it is him, or her, or who? Because of the situation of child sexual abuse prosecution in Australia and the way it is very difficult to prove, there is a constant failure to act because the JIRT and the social workers see that there is no future in making positive findings because they will be trumped and gazumped and it will not go to criminal court anyway unless there is smoking-gun or DNA evidence. I am saying child sexual abuse and incestuous child sexual abuse are treated differently in many cases from cases of neglect, physical abuse and emotional abuse.

Emotional abuse is difficult enough when we say that exposure to domestic violence is the mother's emotional abuse of the child for making decisions to expose the children to that, whereas she may have no say in it at all. He has threatened to kill her as well as the kids if she leaves. In that case she faces having the children removed from her for choosing to be with a man who is effectively holding her prisoner. It is a different case if he is also having sex with the children and they have clear evidence that something is happening to the children but they know that in a court situation they are not going to get a reasonable prospect of conviction. So that test of prosecution falls away, the family law statutory relationship to the criminal justice system at a State level falls into place and the whole thing stops and sits there with the child basically being left unprotected and in the hands of Family Court decision-making which is woefully inadequate.

Mr DAVID SHOEBRIDGE: Ms Moore and Mr Morris, on page 2 of your submission you put in a table that shows the rate of child removal in Australia is more than four times the rate in Sweden, more than double the rate in New Zealand and the United Kingdom and vastly higher than the United States and Canada—all countries we often compares ourselves to. First of all, can you tell me where you got that data and perhaps provide some links on notice to that?

Ms MOORE: I can provide that.

Mr DAVID SHOEBRIDGE: Secondly, were there countries that you found that had a higher rate of removal than Australia?

Ms MOORE: No.

Mr DAVID SHOEBRIDGE: That data is pretty compelling.

Ms MOORE: That is what I went looking for. I wanted to find out how we stood in terms of removals because we are hearing about the high removals in the United Kingdom and the United States. I actually then went and started the population studies and we searched and searched. I have not yet found a country. This was back in 2014. I can send you the exact data on notice of how it came about. I went through the actual exact data that the governments produce for each of the nations, which are nations that we have supposedly based our system on, and was absolutely shocked to discover that, shamefully, we have got such a high removal rate of children.

Mr DAVID SHOEBRIDGE: There would be 30,000 fewer children in care if we had New Zealand rates, on your figures?

Ms MOORE: Absolutely, and that is what it should be.

Mr MORRIS: The majority of these removals are mainly in New South Wales. They have the highest rate.

Ms MOORE: More than half of the children removed in Australia are removed by New South Wales. I live in Queensland and so I have lots to do with care courts up there. What I am saying is the care court system here in New South Wales is the most unjust.

The CHAIR: We will need to draw it to a close here because we have gone well over time. Thank you all for coming along. Your submissions were very good and the testimony you provided this afternoon has been useful. I am sure we will take it into account as we formulate our report and recommendations. You will have 21 days to respond to the questions you have taken on notice. The secretariat will work with you on that.

(The witnesses withdrew)

(Luncheon adjournment)

MOO BAULCH, Chief Executive Officer, Domestic Violence NSW, affirmed and examined

SOPHIE TROWER, Policy Manager, Domestic Violence NSW, affirmed and examined

The CHAIR: Thank you both for coming along this afternoon. We appreciate the opportunity to ask you some questions to supplement the great material you provided in your submission. I invite one or both of you to make an opening statement, if you wish to do so. You may take your submission as read, so you do not need to cover it in any great detail. After a short opening statement, we will open up for questions.

Ms BAULCH: Thanks for the opportunity to have a conversation with you this afternoon. I would like to start by acknowledging that we are on Aboriginal land today. I pay my respects to the Gadigal people of the Eora nation and acknowledge that Aboriginal people have suffered generations of trauma and are overrepresented in the child protection system.

As a quick introduction to our organisation, we are the peak body for specialist domestic violence services in New South Wales. We consulted fairly thoroughly with our members before we made this submission, as you would be aware from the contents. Our members are from a range of services: refuges, specialist housing services, counselling, child support and also services such as Staying Home Leaving Violence, which is the Safe at Home model for victims/survivors of domestic family violence. We also span across a range of services, including men's behaviour change, women, children and family support, and youth, and we have large and small NGOs across the spectrum in the membership of DV NSW.

Certainly what we have found from our inquiries with our members is that the New South Wales service system in this space is fairly fragmented; that responses to domestic and family violence and child protection tend to be postcode-dependent, depending on where families are located; that there is a substantial lack of investment in this space; and that one of the key issues we have identified is a real lack of common definitions working across services and government. One of the things we have talked about in our submission is having a range of tools and measures so that we can actually measure safety much better across government and non-government.

To add to that, I think there has been a significant shift and change over the last couple of years in terms of policy in the domestic and family violence space. We have had significant investment in the Justice and Police space, and certainly responses are really improving in that area, but we also need to acknowledge that there is an entrenched fear of child protection, police and government intervention in a number of different communities and this may prevent people from accessing services. What we have been calling for in a range of different government spaces for a while now are structures where non-government agencies and experts can come together with government to truly co-design approaches to child protection and domestic and family violence. We see that the system is broken, because we are trying to fit vulnerable people and families into programs, pilots and short-term solutions that are ultimately failing in many cases, and we believe that vulnerable children and families deserve better than that.

Ms TROWER: Child protection work, as we know, is undeniably challenging and most reviews and inquiries, particularly in the last decade, have agreed that the system needs to be more timely, sophisticated and reflexive. At the core of any improvement, we believe there needs to be a long-term government commitment to bring child protection systems and domestic and family violence responses and expertise together. This will result in safer outcomes for children, young people, their families and communities. This way of working requires vision, resourcing and leadership from government and also respect for our leaders and elders in communities. With significant consumer investment in our mainstream and specialist services and a long-term collaborative vision shared between governments, community and the sector, we can build a system that meets the immediate crisis needs of children, young people and families, supports the ongoing recovery from trauma and effectively challenges the roots of violence-supportive attitudes.

The CHAIR: Thank you. We will now turn to questions.

Mr DAVID SHOEBRIDGE: People from the Aboriginal community are extraordinarily loath to ever darken the doorstep of a Family and Community Services [FACS] office, call a FACS office or even report domestic violence to police because they feel that if it becomes known there is domestic violence in their family—bang!—the children will be removed. Do you have any observations on that?

Ms BAULCH: I think it was the Hon. Linda Burney who last year for the first time told her story as a survivor of domestic and family violence and talked about the fact that, in many Aboriginal communities throughout New South Wales, violence is beyond epidemic proportions, and we have young Aboriginal women

growing up where violence is the norm and the expectation within a relationship. We are certainly not doing enough to tackle that. We do not have the structures in place around Aboriginal family violence yet. Here in New South Wales I think we are starting to move in the right direction with policy directions such as Safer Pathways and It Stops Here. You are right; there are huge blockages to being able to have this conversation at a community level and being able to have sensitive service responses. Ideally, what we would like to see in the domestic and family violence and the child protection space is a structure where we have male and female elders from a range of Aboriginal communities across the State coming together in a coordinated fashion at least a couple of times a year. It would involve Ministers and senior bureaucrats from the relevant departments sitting at the table and hearing what works in communities. We are never going to fix this with simple solutions; it is very complex.

Mr DAVID SHOEBRIDGE: Is part of the solution the Government financing and supporting Aboriginal-run, Aboriginal-directed, and Aboriginal-focused services? Can you point to any that are doing that?

Ms BAULCH: There are some really good models of where this is being done well. However, they tend to be, as you said, within Aboriginal community-controlled organisations. We do not have very well funded services across the State in the Aboriginal domestic violence space. Wirringa Baiya Aboriginal Women's Legal Centre is one example of a really good model where they work from a trauma-based perspective with Aboriginal women. They are specialists around sexual assault, child sexual assault, and domestic and family violence. However, their capacity to deliver services across the State is diminished.

Ms TROWER: When preparing this submission, we asked our members a substantive question about access to Aboriginal services, specifically for young people and children in the child protection space. Nearly 50 per cent reported that it was hit or miss whether they were able to allocate and refer children and young people appropriately to any type of service involving domestic and family violence. We have members across the State, so this is not only a city problem or a rural and regional problem. There is a dearth of services in this area that have the ability to respond.

Mr DAVID SHOEBRIDGE: What do you mean by "hit or miss"?

Ms TROWER: They talk about sometimes being able to get an Aboriginal child or young person into an appropriate program. That could relate to capacity issues, an issue of no service existing around them, or being too far away to be an appropriate referral. It was one of the options given as an intermediary between, "We have no problem; we can get young people and children from Aboriginal communities into services quickly", and "We have no services around." In 10 per cent of our services there was no appropriate local service for Aboriginal children and young people.

The Hon. PAUL GREEN: On page 6 of your submission you talk about the current approaches to perpetrator intervention work. You have stated that that is not heavily resourced. What is the way forward in trying to address that?

Ms BAULCH: We are just starting to understand what works in the perpetrator space. Significant resources were promised in the last New South Wales budget. We work closely with a number of different non-government organisations that have been working in this space for a while. We have only four government-funded men's behaviour change programs in New South Wales at the moment.

The Hon. PAUL GREEN: Four all together?

Ms BAULCH: Four all together funded by the Government. Victoria has been funding men's behaviour change programs for a decade or more. They have 30 government-funded programs. We are starting to understand more about men's behaviour change programs specifically, because we have standards set under the auspices of the Department of Justice. They regulate the way that programs are run. I think there are now 11 organisations that meet those standards in New South Wales. They are under review at the moment. We know that programs work for some men and not for others. We do not have anything governing one-on-one interventions with men who use violence. That is part of the conversation. It is not cheap to run a men's behaviour change program and it is very highly skilled work. One of the issues we have in this State at the moment is that we do not have a workforce that is expandable very rapidly. We are working with the New South Wales Men's Behaviour Change Network and No To Violence, which is the peak body, in that space to work out—

The Hon. PAUL GREEN: Is there no overall framework to increase that work, given that we want to turn the tide and get the perpetrators out of the home rather than the wife and the children?

Ms BAULCH: We need to see significant investment.

The Hon. PAUL GREEN: Is anyone auditing these programs to see what is fruitful and what is not?

Ms BAULCH: At the moment they are being regulated primarily by the Department of Justice under the standards. Practitioners need to have 50 hours supervised practice before they can deliver a program. They are being delivered throughout the State now. However, as I said, there is major underinvestment in this space. There will be more and more pressure on that space as people start to understand how men's behaviour change programs work. The flip side of it is that for a good men's behaviour change program to work you need to ensure women and their families are supported. We also need resourcing in that space for the non-government services—women's services and family services—to be able to support the family while the man is going through the program. As you can imagine, safety and risk go up and down like a yo-yo throughout that process.

The Hon. BRONNIE TAYLOR: I saw a great documentary about a men's behaviour change program.

Ms BAULCH: It was *Call Me Dad*.

The Hon. BRONNIE TAYLOR: It was very good. Sometimes we do not think along the lines that the Hon. Paul Green suggested. I can imagine that it is not just about an eight or 10 week behavioural change program. It would need to be resourced to ensure that those people are followed up. We can all do an eight-week program and feel better, but sometimes we revert. I certainly go back to eating things I should not eat. It is a long-term process of putting the client at the centre. It is all of those things working together and following up with the participants. I imagine that that would need to be done for years.

Ms TROWER: Very deep-seated attitudes are involved if you are using violence to express yourself. They are shaped from birth. Gender and equality are huge drivers of violence towards women and children.

The Hon. PAUL GREEN: Hurt people hurt people. You must first deal with that.

Ms BAULCH: We are talking about, often in many cases, intergenerational change. We are talking about attitudes and what people have grown up with and not knowing any other way. Part of this is also about having the bigger vision and thinking how are we going to shift this across the next generation or so. It is about having really well coordinated messages, talking to kids about respectful relationships, violence, gender and equality from the youngest ages. Early Childhood Australia has delivered a set of three online training modules around how to talk to kids from the earliest ages about violence, using age-appropriate language. We would like to see that sort of approach being coordinated throughout the education system.

Mr DAVID SHOEBRIDGE: The question from the Hon. Bronnie Taylor is about ongoing resourcing over time. Do any of those four programs provide the eight or 12 week intervention and also put the structures in place to support the family or the perpetrator over time?

Ms BAULCH: Certainly some organisations are looking at how to work with men. Men complete a program, and a program could be anything between 10 and 52 weeks, depending on who is delivering it, and there is a real variation in terms of what the program looks like or where there are some very poor, quite rigid standards that are about perpetrator accountability, making sure that women and children are safe throughout that process, that their safety is placed at the core of a men's behaviour change program. I think you are right; there needs to be things that happen afterwards.

I know of programs where men who have gone through that program have decided to repeat the program afterwards. That is obviously an issue where there are rebuilding difficulties and challenges around capacity of programs to be able to meet demand. I think we are going to see a huge increase in this area. We have seen *Call me Dad* and other media that has started talking to the public about domestic and family violence and perpetrator accountability. It is really only in the past 12 months that people have started to understand that these programs even exist, let alone what the possibilities are.

The Hon. BRONNIE TAYLOR: I think you articulated in your opening statement that there really has been a shift. As a layperson I know there is a lot more conversation about it. I am not making a political statement but we devise different programs, we name them, they get a run for eight or 10 weeks and we tick that and then move on. I know I always rabbit on and members of the Committee probably tire of it but it seems that we are running all these different programs when it is really a matter of everyone needing different things at different points on that trajectory. They need an acute intervention but then they need follow-up. Everyone has to work better together.

Ms TROWER: Absolutely brilliant, and especially if we are raising community awareness at the level that we are with Rosie Batty being Australian of the Year, it has gone through the stratosphere. There is an

expectation by the public that these programs are available and they are easy to get into and if you are showing an interest in being in these programs you can get onto them. The reality is that that is not the case. So there is a big disparity between community awareness and people understanding even the most rudimentary facets of domestic and family violence, and then having a system that is—and you are right, exactly, reflectively—able to respond to all types of violence whenever you are in that continuum and whoever you are.

The Hon. MATTHEW MASON-COX: I suppose the disconnect is probably best illustrated by the fact that with serious to serious harm cases, 71 per cent do not have a face-to-face response. It is a damning statistic. What is your insight into what happens with that 71 per cent and how do they come across your path?

Ms TROWER: The problems within the system at the moment mean that there is cumulative harm or risk of significant harm if you are over the age of three—and this is anecdotally, but it is stuff from our members—around not getting a formal or a face-to-face response. So when that does not happen often non-government organisations who are members are putting in substantive reports after that. When you are putting in additional report after report and you are not seeing a response for that child or young person in the way that you would need to be seeing—so statutory intervention—you start to realise, and it shapes your practice as a practitioner because there is a difference between the safety and well-being of a young person or a child, and the ability of statutory intervention.

Where we see the massive gaps is that there is not a face-to-face response often for those who fall into that too-hard basket, or the fact that if there is not going to be a face-to-face response that risk of significant harm is not deemed hard enough. We have made an arbitrary barrier whereby if you cross that you get a statutory intervention but if you cross that, but not quite enough, we have this kind of arbitrary bar in place for young people and children. You will have already heard from other inquiry submissions how difficult that is to track. Now we see it as the failure of many systems, or the intersectionality failure of many systems, to pick up on violence early in the life of a child or a young person, or the ability to be able to respond in that way.

Often what we see on the end of domestic and family violence specialist services are the culmination of years and years of trauma within a family that has not been picked up in other systems and that therefore impacts on the domestic and family violence system to respond. But you are right; the capacity of all services is very hard to be able to penetrate.

Mr DAVID SHOEBRIDGE: Ms Trower, did you say that an informal bar has been put in place that is kind of known but not confirmed?

Ms TROWER: The risk of significant harm is the bar that we put across.

Mr DAVID SHOEBRIDGE: I know that is the statutory bar.

Ms TROWER: That is the statutory bar. If children or young people cross that they either do or do not get a response, depending on how they are assessed at that level. As mandatory reporters, which is what many of our members are, if they are making reports and they can see that domestic and family violence is a cumulative harm or is abuse on a child or young person in that family, that may not cross this bar in order to have a cumulative effect. Whereas we know that the effect of trauma and abuse and even witnessing violence has the same impact on a child or a young person, particularly among infants where it really changes their brain development. That is not necessarily recognised in the mandatory reporter guide; it has just gone through its review. We were part of the committee that sat on that. Domestic violence has been flagged as something that is a problem. It is being seen as not an area that the mandatory reporter guide competently deals with, but it is being pushed in the next review because it is too difficult to deal with in this one.

The CHAIR: To be precise, exactly what review are you referring to?

Ms TROWER: The mandatory reporter guide review. It is reviewed yearly but this review is 18 months down the track so we were late for this review.

Mr DAVID SHOEBRIDGE: You say that it does not adequately recognise the harm of domestic violence?

Ms TROWER: It does not adequately understand the complexities of domestic violence. So mandatory reporters are going to have an innate and complex understanding of domestic and family violence dynamics, which is not necessarily the case for everybody across the State, but the mandatory reporter guide does not adequately give enough weight to cumulative harm, based on trauma and exposure to violence within the guide.

Mr DAVID SHOEBRIDGE: The Committee has received many submissions, both public and confidential, that say they want government resources, whether it is through non-government organisations or the department, to be spent on keeping families together—building on strengths. Is there something specific about domestic violence that would perhaps push the other way?

Ms TROWER: I think we need to understand the complex nature of domestic and family violence and how that plays out. For some people living with violence that is what they might choose to do. In order to support that family where violence is occurring, we need to be able to provide them with the appropriate supports to continue living, growing and managing violence in that way. Some people cannot live in that environment and therefore we need to be able to have safety planning so they are able either to leave that violent situation or children and young people have more support in that regard.

Where people are saying, "We will keep the family together", for some families that is absolutely appropriate and you can work with both the mother and the father. One of the things that we have noticed is that, particularly with Family and Community Services, there are no services or expertise, as Ms Baulch mentioned before, around working with the perpetrator. One of the hardest things to do, when a family wants to stay together, is working with a perpetrator who is using violence as well as working with the victims in that sense.

Mr DAVID SHOEBRIDGE: A good many people have put in their submissions, and I have received reports, that if a mother makes a complaint about domestic violence, even if they think they might benefit from family counselling and treatment basically the department says, "You have to move and you have to end your relationship. If you do not end your relationship we will take your children off you." Often it is not so black and white, is it?

Ms TROWER: No, absolutely not.

Mr DAVID SHOEBRIDGE: Could you talk to that a little?

Ms TROWER: In a situation where that is the case, it is the protective mother factor. The mother is often interrogated to the point where she has to prove that she can provide a safe and supportive environment in which the children and young people can live. The father is not put under the same scrutiny, even though he might have unsupervised access rights, for example. That is a typical example of where we would describe victim blaming, which is what you were describing before, where a mother is placed in a position where, if she does not end a relationship, she is seen at putting the children at extra harm. You are right; it is not a black and white situation. Where there is violence in homes, we know because there are programs that are operating. Many of our members are delivering them. Where violence is apparent in the home, in some cases for some families you can work with the whole family on reducing the violence and increasing the safety. It is appropriate for some families and for other families it is not.

Mr DAVID SHOEBRIDGE: Can you work with the perpetrator and the victim? Are there programs that allow you to work with both at the same time, or do you have separate programs for each because they have their separate interests?

Ms TROWER: As we mentioned before, the investment in the domestic and family violence sector in New South Wales has been heavily in the specialist homelessness space. Traditionally, that has been the area that has provided services to women seeking refuge. That would be the easiest way to describe it. As we mentioned before, men's behaviour changes is a newly burgeoning area so we do not have the level of expertise that we require in this instance to have an equal and supportable amount of funding that has gone into those two processes. As a consequence, there may be some programs and some models that use the expertise from those two sectors and bring them together and there are a few instances of services where they use both of those as part of their wrap-around service. Port Macquarie-Hastings is a good example.

They work with the perpetrators and they work with the family and then they work with children and young people as clients in their own right, which is something that we have written about in our submission that holds weight here. Children and young people are exposed to violence in this instance and require an intervention and support as their own person as opposed to being a sideline. When you have two systems, the domestic and family violence system, which has been heavily invested in and supported in the homelessness space, and we know now that domestic and family violence homelessness is a huge problem but it is also across other areas as well. When you look at where it has been funded and how it has been set up in localities where they have had to drive a message of wrap-around support, there are often areas where they are able to work with the whole family together. In a lot of areas, that ability to get access to counselling, therapeutic interventions, trauma support, is not always possible.

The CHAIR: At the top of page 14 of your submission it says "DVNSW recommendations" and states:

> NSW Government to commit to developing a sustainable, well-resourced sector. This requires government to commit to long-term, dedicated funding for specialist family and domestic violence services for minimum 5 year contract periods.

We have received evidence in this inquiry and others, and this is not any great State secret, that a number of NGOs have a complaint about the limited length of time for a service. It concludes and there becomes an issue over continuity funding arguments; sometimes they get it and sometimes—

Mr DAVID SHOEBRIDGE: Six months delivering the service, the next six months reporting on it and tendering for the next one.

The CHAIR: Yes. We have probably all heard of that in one form or another. With respect to the five years, is that based on any particular reasoning, or is it just presumed to be a reasonable period of time—half a decade.

Ms BAULCH: A number of different NGOs have been advocating in this space for a while. NCOSS, the Council of Social Services in New South Wales, is working towards five-year contracts; it is certainly advocating in that space. The royal commission into family violence in Victoria has also made a recommendation that contracts be five years.

The CHAIR: It is starting to emerge.

Ms BAULCH: In recognition of those factors, the fact that it takes 12 months to get something set up properly and to be able to work effectively in a community and build those relationships takes time. We see far too many 12-month funding contracts. It is six months for some short-term projects. It is just not enough to be able to make an effective change.

The CHAIR: The other chestnut, of course, is the valuation of such arrangements and how that is done. Do you have comments about that? Has your organisation made any observations of members commenting on how they are being evaluated, the pluses and the minuses?

Ms BAULCH: Evaluation is becoming more popular in this space and certainly NGOs would like to be able to prove the value of what it is that they are doing, so there is definitely a move to build evaluation into project proposals from the beginning. We would like to see more standardisation around that, and I think that you are hearing from NSW Family Services Inc [FamS] later about results base accountability and how that system is able to build in some core evaluative approaches to safety, for example, for families. I personally see far too much evaluation done on large Government projects by some of the for-profit organisations, which will remain nameless. I think we are spending an awful lot of money in that space, and we could be investing that into the NGO sector.

The CHAIR: NGOs are being engaged to evaluate?

Ms BAULCH: Absolutely, and you want to do that with the proper systems in place, but why not. Why not use expertise? I spend a lot of time explaining to large consultancy firms what domestic violence is, what sexual assault is, how child protection works in that space. We should be building the capacity of non-government agencies to do that stuff.

The Hon. BRONNIE TAYLOR: I hear what you are saying; we hear it a lot. We have had recommendations about the five-year contracts for years. In respect of NGOs, we need a system that says these guys are rocking it in this space, or, in this space, yes, they put a program in , but they are not up to scratch. If we are going to deal with this particular issue, domestic violence and children at risk, we know these guys are doing a great job. Whether they are government officers [GOs] or NGOs, we need a system to recognise strengths and witnesses.

Ms BAULCH: We would love to see that across government and non-government.

The Hon. BRONNIE TAYLOR: I think there are exciting things happening in that space. I do not think we can walk away from the fact that there are record investments into social issues, regardless of who is in Government. We have to find out that some things are not working as well as they should and we should not be afraid to say that. Everyone needs to be held to account, whether you are a GO or NGO.

Ms BAULCH: Absolutely. I would agree 100 per cent. Non-government organisations, particularly in the FACS space, are fairly used to being contract managed and performance managed. We would like to see a better, more solid system. A number of our organisations have various different funding streams within Family

and Community Services, for example, so they might be getting early intervention money, some specialist homelessness service money, and they might be getting some bits and pieces from the Federal Government as well, rather than reporting on 19 different contracts and being managed by a range of different contract managers within Family and Community Services. It would be far more effective if we had a set of measures that were about the safety of children and the safety of women and working across those different spaces. There are so many silos within government and even within one government department.

The Hon. BRONNIE TAYLOR: There are silos everywhere, thriving.

The Hon. DANIEL MOOKHEY: One aspect of your submission was striking, which was an example of the type of thing you are talking about. On page 9 you say you had a case reported to you, which detailed "exchanges of opinions by FACS caseworkers of a mothers protective capacity". Those caseworkers deemed her "too pretty" and, therefore, on that basis judged her as more likely to get into another violent relationship. That is a disturbing story. Can you expand on that? I understand this might be one of your members who has referred it to you. Can you provide that information on notice or if you have it. In respect of getting action on that in the complaint process, can you give us a bit of an illustration as to how that went?

Ms TROWER: I can. We were wondering who would bring up this one because it is a particularly illustrative case of victim blaming.

The Hon. DANIEL MOOKHEY: We have had a lot of evidence that has suggested that caseworkers make bad decisions and the review process is inadequate. You have helpfully provided a clear example of what has happened, so it would be helpful if you could talk us through what happened and how is the review process going?

Ms TROWER: In this particular case, up in the Central Coast area, a woman and her two children were referred into the FACS pathway of child protection. Child protection happened and those two children were put into separate residential care facilities while the mother was undergoing instruction from the court in things that she needed to do to get her children back. To cut a very long story short, those two children were in separate residential care facilities, both managed by the same provider. They provided evidence to the court that those children be returned immediately to the mother because they were doing really well and obviously the family unit was better together. The service, which was a community housing provider, that was working with the female victim survivor in this case, had also made a recommendation letter. This lady had gone back to school. She had got a TAFE certificate in social work—nothing less. She had done everything that the court had prescribed to her.

The Hon. DANIEL MOOKHEY: Over what period?

Ms TROWER: At this stage the children had been in residential care for two months. Then it came to the court proceedings, and in amongst it was the recommendation from FACS that this particular victim was more likely to get into a violent relationship because she was an extremely attractive woman. As a result, those children remained in care for, as far as we know, another four months while proceedings were taking place.

The Hon. DANIEL MOOKHEY: That is looked at as evidence to a court.

Ms TROWER: Whether those exact words were used I do not know. They were provided to us by a member service. It is a shocking example. It is overt but this stuff is usually quite hidden. It does not come out in our members' submissions very often. This is a very clear case where a woman was told that because she was too attractive she was more likely to get into a violent relationship, notwithstanding that she had not re-partnered and that she had not had any violent partners prior to the violent partner, who I think broke her jaw in this instance.

Mr DAVID SHOEBRIDGE: And there was no evidentiary support for that anywhere.

Ms TROWER: Anywhere.

Mr DAVID SHOEBRIDGE: Mr Mookhey's question was also: What has happened as a result of that? Has a complaint gone in? Has something changed?

Ms TROWER: I believe that this case has gone to the Ombudsman and then up through the ministerial chains. I do not know at this stage if that woman has had her children returned. We are about seven months into the process so I am hoping that that is the case. We know that there were delays, even though every party had done the right thing.

The Hon. DANIEL MOOKHEY: Perhaps on notice, if you could facilitate this with the relevant member organisation, you could provide us with details.

Ms TROWER: We can.

The Hon. DANIEL MOOKHEY: We can do things around confidentiality. If you could get us the details on that case as well as the latest information on where it is up to in the complaint process it would be very helpful.

Mr DAVID SHOEBRIDGE: You gave us that example. Is that a one-off, or is there, if you like, an institutional bias—

The Hon. Dr PETER PHELPS: In favour of removal.

Mr DAVID SHOEBRIDGE: —that is feeding that kind of distorted thinking?

Ms TROWER: I think you have nailed the issue. In some jurisdictions there is a culture of removal and a culture of victim blaming. The number of cases on Ms Baulch's desk which highlight this issue are far more than we would like to share.

The CHAIR: You said that there were different jurisdictions. Is it your submission that a particular tendency or approach is taken by the relevant authority in New South Wales to go a particular way in dealing with a particular—

Ms TROWER: I think some of our colleagues may have noted in previous hearings the idea of place shaping—the idea of what happens and what does not. Often it comes down to personalities and attitudes towards learning, particularly in domestic or family violence, where we know there is a significantly lower knowledge base across the board of people who understand the dynamics of domestic and family violence. It would not be unwarranted to say that that lack of knowledge has an impact. In some areas of the country the knowledge is good. In our survey many of our members say, "We have a sound, good knowledge, where we prioritise, and our expertise is valued." In other areas the complete opposite is reported, where their expertise is not valued.

Mr DAVID SHOEBRIDGE: Are you talking about parts of New South Wales or parts of the country?

Ms TROWER: Parts of New South Wales—our membership.

Mr DAVID SHOEBRIDGE: So there are regions or offices where it is more problematic. Is that right?

Ms BAULCH: It is only in the last couple of years that we have started challenging the victim blaming that sits throughout the system—not just within the child protection system but also within police responses, the Department of Education and a range of different places. What Sophie is referring to is the fact that we are seeing this playing out in range of different ways, whether it is going through the judicial system to get an AVO or in the family law system. It is a common example that she uses, but it is endemic in the family law system. There are a number of places where you have really good case workers or well-informed people who understand trauma. We do not have really well-embedded trauma specialist responses throughout the State. It is an expensive thing to train staff—not just so that they are trauma informed but so that they are specialists. As it says on the box, trauma is a specialist area of work. We need that across the State, because people are coming into contact with the system in a range of different places, not just child protection.

Mr DAVID SHOEBRIDGE: We had some evidence from the Deputy Ombudsman earlier that, I think, KPMG are doing the review for the quality assurance framework. I get the sense that there might be some tension there. Do you feel as if your members have enough involvement or enough respect in terms of your viewpoints as the quality assurance framework is established.

Ms BAULCH: Do you mean the quality assurance framework for child protection or for specialist—

Mr DAVID SHOEBRIDGE: For child protection, yes.

Ms BAULCH: I do not know enough about that.

Ms TROWER: The majority of our members are not in the core business of out-of-home care, so we sit on the periphery of understanding that. But there are quality assurance systems being brought into the homelessness space, which most of our members fall under. We feel, so far, that in the homelessness space—a

traditional, historical funded area that we are involved in—we would have a lot of involvement. In the out-of-home care system, not so much.

Mr DAVID SHOEBRIDGE: Within your space?

Ms BAULCH: In the domestic and family violence space we have been advocating for the last couple of years on behalf of members, thinking about standards in this space, because we do not have standards for the service delivery in domestic and family violence, let alone a framework or quality assurance. That is part of the problem.

Mr DAVID SHOEBRIDGE: So perhaps what is happening in the out-of-home care area is something you might want to emulate in yours.

Ms TROWER: Absolutely. There are lots of learnings in the out-of-home care space from the quality assurance systems that we could borrow—as we could from many others. In child protection in general there are lots of learnings. But we are an extremely small peak body—we are what you see—and we have many government departments to stay on top of, including the reforms, and the submissions we make to inquiries. So it is extremely difficult to influence change in some areas where we are not traditionally seen as experts.

Mr DAVID SHOEBRIDGE: You have the appearance of having a huge organisation behind you. That is how you present; that is terrific.

The CHAIR: I thank you both very much for coming along. Your oral submission has been very informative and it complements very nicely the submission that you provided to the inquiry. You may have taken a question on notice; in any event there may be some additional questions that members may provide to you. We have determined that 21 days should be enough to resolve those questions that we have placed on notice. The secretariat will liaise with you over those questions.

Ms BAULCH: Perfect. We will get back to you with details of that case.

(The witnesses withdrew)

JULIE HOURIGAN RUSE, Chief Executive Officer, FamS, sworn and examined

The CHAIR: Welcome. Thank you very much for making your time available this afternoon. We have received your submission. You may commence by making an opening statement. If you keep it relatively short it will maximise the opportunities for us to ask questions of you.

Ms RUSE: FamS contributes to safe children, strong families and supportive communities by providing services to implement and sustain outcomes measurement. We were established in the late 1980s and we provide membership support to about 200 services working with vulnerable children and families. FamS members are organisations that reflect the diversity of their communities. They can be small, medium or large in size. They are usually located in the most disadvantaged communities within their district, or they outreach into those areas. They provide early intervention services, not child protection services. But family services are critical players in a service system designed to protect children in New South Wales.

We should acknowledge the very significant work happening across New South Wales that is making a positive difference to the lives of vulnerable children and families. For example, the Australian Early Childhood Index shows that at a population level there has been an improvement in developmental outcomes for many children in New South Wales. Investment in early intervention programs has contributed to this improvement. FamS believes that all stakeholders need to be open to new ideas and ways of working, while at the same time building on the strengths, expertise and innovative work already happening. We must strengthen our systems in practice to ensure fewer children are entering the statutory out-of-home care system, that fewer children are deemed at risk of significant harm and that more children are thriving and happy.

We consider the service system should be built around the safety, health and wellbeing of children, young people and families, with a strong focus on prevention and early intervention focusing on measuring outcomes and engaging in continuous quality improvement using evidence-informed practices that we know work. The definition for early intervention is contentious and different across sectors and organisations. FamS understands the importance of early intervention and prevention programs having a clear focus on preventing children from escalating to being at risk of significant harm. But we are very concerned that early intervention and prevention funding is being eroded. Genuine early intervention approaches must be maintained, valued and adequately resourced. There is no doubt that there is a significant and deliberate shift for services in the child and family sector to be working with families closer to the child protection threshold than the traditional early intervention end of the continuum. But when children and families do not have the capacity to seek support themselves or are unaware of how to navigate the service system, they can remain invisible until they require crisis intervention.

We are extremely concerned by a genuine risk that the Government's continued focus on responding to child protection to the exclusion of lower risk children and families will result in a long-term failure to reduce the number of substantiated risk of significant harm [ROSH] reports. There is an urgent need for further investment in early intervention and prevention services. It is imperative that all child and family workers have skills and knowledge in areas such as domestic and family violence, mental illness, drug and alcohol misuse, trauma-informed care, having difficult conversations and good referral processes. Investment in upskilling all workers in evidence-based practice would contribute to breaking down some of the barriers that prevent families from receiving quality, client-centred services. We all know that the best program in the world will not be effective if it is delivered poorly. Investment in building the skills and knowledge of practitioners is imperative, particularly when non-government organisations [NGOs] are taking on larger numbers of highly complex families than ever before.

We believe that the priority at the heart of all of the work in the child and family sector should be the safety, health and wellbeing of children and young families. This underpins all of our work including our response to this inquiry. We need a system that protects children at every stage of their life, not just a child protection system.

The CHAIR: This Committee has members from across a range of parties, so if you are okay with it we will allow the questions to flow freely.

The Hon. BRONNIE TAYLOR: I particularly love the service coordination point that you put into your submission, something that is close to both of our hearts. You talk about collective impact initiatives and coordination, as well as education in schools. I found the last sentence in your opening statement really powerful. You also acknowledge that there are certain places where there are lots of programs and so some people are doing the same things in some communities while other communities do not have a program, and I

was pleased to see that acknowledged. Many people talk about wraparound services and say that perhaps we need a central point, such as in schools, where someone can investigate if educational outcomes are not being met whether there is something other than an education issue such as a health issue or domestic violence. Should we be looking at engaging people in one space to ensure that things can be targeted and that there would be early intervention, which has been suggested by some of your community members? Is it something we need to do better? That was a very long-winded to question, was it not?

Ms RUSE: Can I just say yes? The very short answer to that is yes. Schools are critical because they are the places where kids are supposed to be every day. Teachers are a central point in noticing attendance rates, and if kids are not turning up to school then that is usually a sign that something is not right—there is either a health issue or something is going on. Schools are a source of enormous knowledge. One of the challenges is that school teachers are not trained to respond to those issues. Whilst the schools have access to a lot of information, they need to be well connected to other services in the area to use the expertise that is available. We should not expect schools to be able to respond to every problem that crosses their paths. Schools are in the business of education, and there are other services that are in the business of working with families to support them.

That is why FamS is a great fan of collective impact initiatives. This is about recognising that no one person or no one organisation solves the problems of vulnerable children and families on their own. We all work together; we have a contribution to make and we make that contribution. We work together to solve the problems. Schools are perfectly placed to recognise issues arising for children and families. They are connected in their communities so they know what services are available that have the expertise to respond. They can pull those services in as and when they are needed for as long as they are needed to help families to keep on track.

The Hon. BRONNIE TAYLOR: Which cannot necessarily always be the teacher, because they are busy teaching.

Ms RUSE: And it is not the teacher's job. It is the teachers job to do the reading, writing and arithmetic. It is not the teachers job to be solving the domestic violence problem or undiagnosed mental health issues.

Mr DAVID SHOEBRIDGE: Is there are any kind of formal arrangements within Education or the private school system where schools are given the local resources, where they are told of the local NGOs and where they might want to refer parents who are having trouble? Is any of that being done on a systematic basis?

Ms RUSE: Not on a systematic basis. One of the challenges with localisation and local decision-making is a lot of decisions within schools have been given to the principal. Decisions therefore largely turn on the principal's discretion, whether they want to engage or not.

Mr DAVID SHOEBRIDGE: A sort of postcode lottery again?

Ms RUSE: Correct. Schools are mandatory reporters. I know my colleagues earlier spoke about the Mandatory Reporter Guide review. Schools are mandatory reporters, but one of the risks with being a mandatory reporter is all you need to do is to report. Unfortunately, we have created a culture of reporting not responding. We do not have a culture and a system of being mandatory responders. We have a culture of being a mandatory reporter, and that means that people complete the online guide, make the referral to the child protection hotline and then, in very strict terms, they have done what they needed to do. Schools have hundreds of children they need to respond to; the public system particularly in some areas is bursting at the seams. It is not the job of the teachers to take on that responsibility. In fairness, there are many schools and many teachers who are well connected to their community, and that is through local sporting clubs and lots of initiatives. But it is not a uniform response.

Mr DAVID SHOEBRIDGE: It is by luck, not design, or should we be looking at trying to design it?

Ms RUSE: Yes, we should.

The Hon. BRONNIE TAYLOR: Interestingly, Fairfield High School has just employed a nurse to do a lot of their wraparound service coordination. I was speaking to them this morning. That is getting some really terrific results.

Ms RUSE: There are some schools—I cannot tell you exactly which ones off the top of my head—who are working very closely with the Family Referral Service to have people who have those skills, whose job it is to be well connected. They are bringing them into the school to work in partnership.

Mr DAVID SHOEBRIDGE: What is so frustrating is that time and time again you see in one sector or another a terrific initiative or a great program, possibly run by a particularly enthusiastic teacher and an engaged principal, but the learning is not captured and it is not spread around. Is that happening in this space, good individual initiatives are not being captured?

Ms RUSE: Yes. The submission also talks about the use of results-based accountability. Again, we are very great advocates that there is a lot of money being spent in this space and services need to be accountable, both government services and non-government services. It is not just about capturing the outputs; it is about capturing the outcomes that are happening for clients. I know through FamS' involvement on the Social Innovation Council that work is being done on the New South Wales outcomes framework. Those sorts of initiatives will force the sector out of silos and make it start focusing on better outcomes for children.

Mr DAVID SHOEBRIDGE: The quality assurance framework is being negotiated at the moment. I think KPMG have a role in it. Have you had a role in that? Are your members being respected in that? Is it going in the right direction?

Ms RUSE: We have had no involvement in it. FamS is seen as an early intervention peak, so we have had no involvement in it at all. My members would have only had involvement in it if the funding arrangements for the services they deliver have both funding in out-of-home-care streams, child protection streams and early intervention streams.

Mr DAVID SHOEBRIDGE: But if we want to have good indicators to be informing outcomes surely your members should be part of designing the framework, should they not?

Ms RUSE: One would think, but that has not been the case.

The Hon. DANIEL MOOKHEY: Thank for you your submission. In terms of your discussion about early intervention programs, is a family in Bourke as likely to get access to the range of prevention programs that you mentioned as a family that lives in Blacktown?

Ms RUSE: Geography is certainly a challenge. That is not to say there are no services in Bourke; there certainly are. Bourke and a number of regions are towns with high densities of need and so it is possible that there are longer waiting lists in Bourke for some services. But it is always a challenge that the further you get away from the centre of Sydney the more difficult it is to deliver services.

The Hon. DANIEL MOOKHEY: Precisely. The problem is that we have data that says a huge concentration of people who are at the crisis point come from far west New South Wales. In fact, far west New South Wales is far more disproportionately represented in the system. It seems as though there is a bit of a disjuncture, because the service need is greatest in the places where it is most difficult to provide it. I understand that. Have you seen any initiatives or effort by the department or anyone to try to align the two?

Ms RUSE: FACS is currently going through what is known as targeted earlier intervention [TEI] reform. That is reform in the early intervention and prevention space. One of the outcomes that is being sought from that reform is to realign services to target those in the greatest area of need. Given that we have traditional funding arrangements, it will not happen easily overnight to pull money out of a district in central Sydney and move it to Bourke. That is because there are services that rely on a combination of funding streams. To move money from one area to another would require a period of transition for services to either work out how they as current providers can continue to operate but operate in a different geography to expand their reach, or whether services say they are not going to be able to survive in this new world order and they need to transition to close, they need to transition clients so that we do not have people falling through gaps, and then money could be realigned.

It is envisaged through the TEI reform that some of that realignment is a long-term strategy. FamS is supportive of that. There can be no argument that when we have very vulnerable communities we need to be targeting services to those most in need, but in order to make those decisions we need very sound data about where the need is and what the need is. We simply do not want to be picking up supported playgroup as an example of a service that my members provide and plonking more family supported playgroup in Bourke if that is not meeting the need. There needs to be some very rigorous interrogation of the data and the need and where the those pocketed areas of need are.

The Hon. DANIEL MOOKHEY: Surely you are not suggesting that the pocket of need in places like Bourke is a new development or something we have not known about?

Ms RUSE: I am not but in an era when government tell us all the time that there is no new money, if more money is going into Bourke it needs to come from somewhere. I am just suggesting that we need to be very careful about where we move money from because we do not want to just shift a problem or create some perverse unintended consequences.

The Hon. DANIEL MOOKHEY: There is a corollary to my question. Feel free to take it on notice if you need to. We would absolutely love some information about the nature of the prevention programs delivered by the people your organisation represents. If you are capable of providing a list of the programs explicitly focused on Indigenous families, their outcomes and how long they have been running that would be really great.

Ms RUSE: I am very happy to take that on notice.

The Hon. BRONNIE TAYLOR: When we took our inquiry into service coordination to Bourke and spoke to the government and non-government organisations one of the resounding messages was, "We don't want any more money or any more programs; we just want the people here to start working together." I thought that was extremely powerful and it was extremely brave of them to come out and say that. We cannot just think that throwing more money and doing more things is going to solve the problem. Are you familiar with the Just Reinvest program in Bourke?

Ms RUSE: I know of it.

The Hon. BRONNIE TAYLOR: It provides locally driven, local solutions. The jury is still out but there is actually some progress. I think a strong message for us in terms of service provision for children at risk is that when those things are driven by the communities themselves the outcomes have great potential. Would you agree with that?

Ms RUSE: I agree, but I think one of the key things about those initiatives too is that everybody is coming together as an equal player around the table and everybody is prepared to shift their turf a little bit. It is happening in the context that government and NGOs are equal players at the table and people are open to realigning their service delivery because they do not feel that their funding is under threat. People are being able to have a very mature conversation about, "You need me to do more of A and less of B and I can do that. This is how long it will take for me to ramp up A and transition out of B so that we do not lose clients we are engaged with." That requires a very mature conversation between government and the sector as equal partners.

The Hon. BRONNIE TAYLOR: Do you think there is that cultural shift that you are talking about and after all of these programs and money we are actually starting to have the conversation that we need to put the person we are trying to serve at the centre? It is no longer, "I do this. You do that. I get funding for this so you don't get funding." Do you think that shift is occurring? I sense there is a small shift and I am really excited about any shift. Do you think that is starting to happen in the government and non-government organisations? It is like there is an increased demand to get better outcomes than we are getting because the output is just continuing to rise.

Ms RUSE: I think it is. I think there is a growing sense of international evidence that you can measure outcomes and you can work differently, and I do think it is our moment in time to work differently, but it has taken a long time to get there. I think that is a reflection of work that the sector has done, and NCOSS has led a lot of that work to professionalise the sector. I think that has been key to some of that.

Mr DAVID SHOEBRIDGE: I thought you said in your opening statement that there was a real concern that a resourcing and emphasis shift is going towards child protection rather than prevention and assistance. Is that what is happening on the ground?

Ms RUSE: That is what is happening. The question from Ms Taylor, as I understood it specifically, was about the Justice Connect initiative, and that is a unique program.

Mr DAVID SHOEBRIDGE: Yes, in a discrete part of the State. But you seem to suggest that the other 99.7 per cent of the State is going in potentially the wrong direction in terms of resourcing.

Ms RUSE: It is very difficult to say it is going in the wrong direction. There is a record number of children in our child protection and out-of-home care systems who need a response. What the risk that others identified is that we cannot only focus on those children and not continue to have a strong early intervention response. Where government says there is no new funding, there are decisions being made about who gets a service and who does not and the focus is very much shifting along the continuum to a child protection focus.

Mr DAVID SHOEBRIDGE: It is much harder to repair something that is broken rather than stop it from being broken in the first place, is it not?

Ms RUSE: It is far more expensive and takes much longer, yes.

Mr DAVID SHOEBRIDGE: How do you recommend we shift that focus within FACS as a starting point? I assume with all these NGOs that are there now and taking over the role of what was traditionally FACS, it is almost like a resource magnet going in that direction. How do we address that?

Ms RUSE: I think there are numbers of evidence-based early intervention programs that work and, when we are looking at the service system as a whole, we need to be ensuring that services continue to be funded to do genuine early intervention. When we are looking a client cohort we need to make sure there is a strong universal system that has soft entry points. Some of my members get quite cranky with me when I use the phrase "soft entry points" because they tell me that the work they do is not soft, but the non-stigmatised—

Mr DAVID SHOEBRIDGE: The previous submission also talked about soft entry points.

Ms RUSE: It is those entry points for families who will not walk through the door of a domestic violence service or a service that is badged as being a mental health service. The work that is done in universal services through playgroup and those parenting programs, those non-stigmatised programs, is work that families can engage with. Through connection with the services, once they are having conversations and building relationships, many issues come to the surface that they can then access support for. We need to continue to ensure that we support and we value a universal service system that has universal entry points as well as those targeted services that are needed in high-needs communities and also the tertiary statutory responses.

Mr DAVID SHOEBRIDGE: My real concern is that we can do a quality assurance framework for the NGO sector in out-of-home care. It will look entirely at the length of time a child is in care and how quickly they are returned but not looking at that community and saying, "How do we reduce the number of children in care in that community?". You cannot do that if you are only looking at out-of-home care. We need to have your services in that framework, do we not?

Ms RUSE: Yes. You need to have the whole system in the framework. You do have education in there and health and early childhood providers. You need to have everybody in the community at that table to have that conversation.

The Hon. DANIEL MOOKHEY: How should we measure that? Mr Shoebridge makes a point about the quality assurance framework being designed to measure some clear things. Whether they are the right things or the wrong things, they are measurable. The issue about early prevention is that wonderful "correlation is causation" problem. How do we actually measure that your intervention was the reason they were kept out of the next stage of the child protection system? Do you have a view as to how you are—

Mr DAVID SHOEBRIDGE: That is not what you are measuring, though.

The Hon. DANIEL MOOKHEY: Do you actually have a measurement system for these things that you think the committee should be endorsing when it comes to evaluating prevention programs?

Ms RUSE: Internationally there are performance measures to measure early intervention. That is not a new thing. It is not something that is strong in New South Wales. We certainly support our members using the results-based accountability framework. Where people get stuck around the causation with the outcomes is that you cannot ever say that a family attending my service achieved this outcome, because while they were attending my service, they were working with many. What you work to achieve are some community—

The Hon. DANIEL MOOKHEY: Because you are not selling a consumer good. It is not a product.

Ms RUSE: That is exactly right.

Mr DAVID SHOEBRIDGE: But you were going to talk about the collaboration and the outcome of collaboration rather than just—

Ms RUSE: Yes, community outcomes. That is right. When you put the client at the centre, it is about contribution and attribution. The client is at the centre and they are receiving the services that they need for as long as they need to get them through to the other side. My service might be engaged to a parenting program for only six weeks. Another service, like a domestic violence service which is responding to years of trauma, might be involved for 12 months.

The Hon. DANIEL MOOKHEY: But surely with the grant funding that your organisation has received, attached to that is some accountability mechanism, some reporting framework—that is, you have to demonstrate that you have done X, Y or Z in order to obtain something by a certain point in time. Is the

assurance framework in those contracts aligned to the international research that you were referring to? What I am asking is: Are the accountability mechanisms attached to your existing funding best practice?

Ms RUSE: No. For my members, in the early intervention space, the reporting is attached to outputs.

The Hon. DANIEL MOOKHEY: Not outcome.

Ms RUSE: No.

Mr DAVID SHOEBRIDGE: Client numbers, face-to-face hours—

Ms RUSE: How many clients did you see? Satisfaction surveys: did they feel welcome and would they recommend your service to a friend? They are what we would call "how much and how well" outcomes: How much did you do and how well did you do it? There are no better-offs in there. There are no client outcomes in there.

The Hon. DANIEL MOOKHEY: That is against the evolution of everybody else's accountability framework, which is towards outcomes.

Ms RUSE: Yes.

The Hon. DANIEL MOOKHEY: Are you seeing that there is a bit of a catch-up? Is there evidence that there is a shift happening from output to outcomes in your space or are you lagging behind?

Ms RUSE: It is flagged in the TEI reform that I mentioned earlier. It is not happening as fast as we would like. We think it should be happening for contracts that are due to expire on 30 June 2017. We think there is time between now and then to be gearing up the sector to be ready to move to measuring outcomes from 1 July 2017. It needs to be taught how to do it, but there is no reason why it could not. The evidence is that it will take significantly longer to gear up its end of systems and reporting mechanisms to be able to transition to outcomes.

The Hon. DANIEL MOOKHEY: Is that the barrier: FACS is not equipped to measure you in that way? You are equipped to measure it and to report in that way, but it is not necessarily equipped to receive that. Is that accurate, or is that a gross simplification?

Ms RUSE: It is accurate, but it is a little more complex than that.

The Hon. DANIEL MOOKHEY: It could be both.

Ms RUSE: That is accurate. There is a shift. To move from outputs to outcomes requires new learning. I think the sector is far more ready and willing to engage in that learning than FACS is but I think that is a reflection of government more broadly than FACS. I think the sector has been moving towards outcomes measurement for the last five years. It is a new thing for government to be catching up, so at the moment the sector and government are moving on parallel paths.

Mr DAVID SHOEBRIDGE: Surely if you are going to be outcome focused we have to get rid of these six-month and 12-month contract periods. If you are seriously going to measure outcomes, it would be over a couple of years at least, I would have thought.

Ms RUSE: For very vulnerable families, yes.

The Hon. BRONNIE TAYLOR: But that is because you have to look at the person. If you are running four-week and six-week programs, it is not going to give you that long-term output. That is the problem, I think.

Ms RUSE: But in an early intervention space you may be able to see the outcomes in six to 12 weeks, because what you might be looking for is increased parenting confidence or increased attachment for new parents who are just struggling and feel like they are out of their depth.

Mr DAVID SHOEBRIDGE: Or moving out of the car and into a home.

Ms RUSE: Yes, that is true.

The CHAIR: Various terms and phrases in your submission have the trademark label—TM. To what does that relate? Can you explain what program?

Ms RUSE: Results-based Accountability is an international outcomes measurement framework.

The CHAIR: But who authorises it? Who has the imprimatur in terms of this methodology? It is internationally recognised, but who runs it?

Ms RUSE: It was developed by Mark Friedman. The framework is owned by Clear Impact, which is an American organisation. FamS is the only accredited organisation in Australia to train in Results-based Accountability as a framework. There is a number of outcomes measurement frameworks in the world, and Results-based Accountability is one.

The CHAIR: If you are the only trainer in the Australia, there would not be a capacity to get out of the blocks any time soon to use a methodology like this. Putting aside the government departments, the providers may have heard of it or have an awareness of it, but that would be about as far as it went. Would that be your submission?

Ms RUSE: No, not at all. Many organisations across Australia are already using it. It is being used in the Aboriginal Housing Office.

The CHAIR: Forgive me for my ignorance. I am simply trying to understand this clearly.

Ms RUSE: A number of government agencies and non-government organisations are using it.

The Hon. PAUL GREEN: You made some comments earlier about mandatory reporting and mandatory responding. Are you suggesting that the person making a mandatory report becomes the mandatory responder? If so, would it not be a concern that due to the lack of resources and the time it takes to fill out forms and so on that a person would be cautious if they were required to be the responder as well as the reporter?

Ms RUSE: Yes. However, historically, before the mandatory report guide came into existence, that is what services did. They would make an assessment of what the client or the family needed and they would make a judgement call based on their professional expertise about whether they were best placed to provide support to the family or whether they should be referred to someone else. It is commonly accepted that over the years of the use of the mandatory reporter guide there have been pockets of the sector that have become quite risk averse and they believe that in responding they have done their job. Making a call to the helpline is not an outcome for a family. Given the tens of thousands of calls which are made and which are not receiving a response, it is becoming accepted within the sector that perhaps the pendulum has swung too far the other way. In trying to solve a problem, we have perhaps become overly cautious, and we need to come back to the middle and use our professional judgement to respond to the clients we see.

The Hon. PAUL GREEN: That is more risk averse. You hand it on so that you do not get the blame, or you did not have at capacity to deal with it.

Mr DAVID SHOEBRIDGE: Perhaps when a report of serious harm is made there should be an automated message stating, "In 71 per cent of cases we will do nothing." That is the state of play, is it not?

Ms RUSE: There are large numbers of calls that do not receive a response.

The CHAIR: It was a rhetorical question.

Mr DAVID SHOEBRIDGE: No, I think it might lead to behaviour change. If people got that message after making a report it might trigger them to realise that they have not fixed it.

The Hon. PAUL GREEN: I refer to outcomes versus output. Healthcare is a unique thing for every person. What might take someone 10 weeks might take someone else 12 months and another person might take 12 years. That comes to mind particularly with drug addiction and alcoholism. A person might do a 10 step program and never drink alcohol again, but others need a hand all the way. Does the fact that people are not robots explain why those programs are hard fund?

Ms RUSE: Yes, they are hard to fund because people are not robots. Families do not fit into boxes. It is very difficult for them to turn up at a service and to say, "I need to do this particular program." If a service is funded to deliver a six-week program, it can take three weeks of working with the family to work out what they need. There are many programmatic barriers in place. Services have asked for a number of years for greater flexibility to be able to respond to clients who walk through the door. To say that you are going to cure people within 12 weeks is naive.

The Hon. DANIEL MOOKHEY: How do people come to your services? Do the majority walk in off the street, or are you embedded in the FACS processes? In terms of people whom FACS deems not to be at risk of significant harm, is there a referral framework in place that triggers the activation of your services, or is it totally random?

Ms RUSE: It is a bit of both. There are many self-referrals into family support services. There are referrals from the Family Referral Services program, which is a Health-funded program. If a call is a made to the helpline and it does not meet the threshold for risk of significant harm, those families could be referred to Family Referral Services.

The Hon. DANIEL MOOKHEY: Is that common? I do not dispute the theoretical possibility that it is possible. I am asking what is most likely. In terms of the proportion of referrals that you get, are the majority self-referred? The thrust of my question is whether the left hand is talking to the right hand. Does someone make an assessment that there is no risk of significant harm, or that it does not reach the threshold but help is needed? Are you getting those referrals?

Ms RUSE: We certainly do get those referrals. It is becoming more common that they we would get them and would be expected to prioritise those clients over the clients that self-refer. There is a perception that the clients who self-refer are lower risk, which is not always the case. However, increasingly there is a shift towards accepting referrals that come either directly from FACS or through Family Referral Services.

The Hon. DANIEL MOOKHEY: I am just asking. You might need to take this question on notice. It would be helpful to have the proportions. If we are looking from a service coordination perspective and if we are talking about the efficacy of early prevention, it strikes me that the people who have contact, who get the information, may not able to act. That would be a pretty good way to coordinate services and therefore increase your return on investment as well as the system's. What I am trying to understand is the extent to which that is happening on the ground. Does it vary by regions of the State? We saw a wonderful co-designed management centre on the Central Coast where it would strike me as being pretty simple to put someone in from your organisation to be able to coordinate the early prevention work. This is the type of stuff we are trying to evaluate. If you have anything you can add, that would be great. Otherwise I would love to have that information on notice.

Ms RUSE: I am happy to take the question on notice.

The CHAIR: I refer to the page 17 of your submission. You have a heading "Workforce Development". Comments have been made in evidence to this inquiry suggesting a homogeneity with respect to the primary workforce at the coalface dealing with matters. They may not be well experienced, and this is not a criticism; it is simply a statement that people make. They may not be particularly old—they may be well under 30 and just out of university. They may be lacking what some might characterise as life experience or worldliness. Some people might go so far as to say that because they have not had children and that experience of raising children it does not give them insight into certain matters. With respect to your members and the profile of the workforce they are seeking to recruit, engage and develop, do they have particular cohort that they would look for or are they essentially looking for individuals who, through a screening process, seem to be people who may well be suited to this. In some sense their age or whether they have had a child is quite irrelevant. If you would like to give a more reflective response I am happy for you to take the question on notice. However, do you have a general comment?

Ms RUSE: As a general comment, I think more and more of the sector is university qualified. One of the things that we speak about when FamS members come together is that the further you get from the centre of Sydney the more difficult it is to attract and retain degree qualified staff. If you are in the regions you are more likely to have a workforce that is TAFE qualified. That is not to say that they are any less capable of doing the work and responding to the clients. In Sydney, when you have a degree you are more likely to get highly paid work outside the non-government organisation sector in metropolitan areas. As you move out into the regions it becomes harder and harder to attract degree qualified staff.

The CHAIR: Does the membership report about the challenge of the turnover of staff working in these face-to-face roles?

Ms RUSE: Not specifically. The sector talks a lot about passion for doing the work. People are in it because it is work that they are committed to doing.

The CHAIR: They have a sense of vocation about it?

Ms RUSE: Yes. Rather than a sense of staff turnover it is a sense of staff burnout in terms of caseloads and the number of families and clients that they need to see, simply because responding to demand can lead to a sense of being overwhelmed and the sector wanting a strong, professional support capacity to do that reflective practice, our own professional development and our self-care. So not leaving the sector, not a high staff turnover, but certainly a sense that as families become more complex there is a need to respond. As

the number of families continues to increase organisations in the sector need to have really strong processes and practices in place.

The CHAIR: Is that response manifesting and is support being provided? I presume there could be a cost associated with providing that. Is there a response?

Ms RUSE: There is a gap that has been recognised from members to FamS. One of the interesting things is that workers who are working in this early intervention space are often not degree qualified social workers, so they do not have that need for clinical supervision in the way that some professions do. Where you have tertiary qualified social workers on your team it is mandatory that they have an element of professional supervision that is provided either internally or externally. Where you have other qualifications it is not required, so the sector is being forced to look at itself to see how we provide that care and those opportunities for professional development, and also reflective practice for the sector as a whole.

The CHAIR: You have given very valuable evidence. The opportunity to ask you questions face-to-face and to hear from you directly complements very nicely FamS' submission. You have taken two questions on notice. The secretariat will liaise with you about them. Would you provide us with answers within 21 days.

Ms RUSE: Thank you.

(The witness withdrew)

(Short adjournment)

LYN BEVINGTON, Vice-President, Australian Services Union, affirmed and examined

NATALIE LANG, Branch Secretary, Australian Services Union, sworn and examined

The CHAIR: Thank you very much for coming along this afternoon and providing us an opportunity to hear from you directly. We have received your submission, which is a very good submission. I am sure you will add to that with the questions from us this afternoon. Do either of you wish to make an opening statement? I would invite you to keep it relatively brief because there are a lot of questions.

Ms LANG: Thank you, Chair, I will read out an opening statement that we prepared earlier. The Australian Services Union [ASU] represents workers throughout the not-for-profit and for-profit social and community services sector. Our members work throughout New South Wales and the ACT in local community services, regional and statewide organisations, community partnerships and hubs, all of the major charitable organisations and trusts, all of the social and community sector peak organisations, campaigning and advocacy organisations, and all the major faith-based organisations. A survey of our members indicates that there is almost no one who is not involved at some level in the protection of children and young people. The ASU is therefore in the unique position of representing workers in almost every non-government organisation in New South Wales that has any level of responsibility for the protection of children and young people. Many of our members and the organisations for which they work have made their own detailed submissions to this inquiry based on their professional expertise. We respect the experience and skill of our members expressed in those submissions.

Governments cannot be held responsible for many of the individual risk factors that exist for children and young people. Tragically, it is likely that there will always be a need for Government agencies to protect individual children and, in some instances, it will be necessary to remove those children from an unsafe place. However, in our view, the role and responsibility of Government in the protection of children is not only about crisis management. The role of a responsible Government is also to ensure, as far as possible, the absence or, at worst, the mitigation of the key risk factors defined by the Australian and international research, including poverty, homelessness, isolation, disability, mental health problems, alcohol and drugs of addition, and access to support that place children and young people at risk of harm or death. The union submission, therefore, addresses child protection, not as the sole responsibility of FACS or the Office of the Children's Guardian. In our view, protection of children and young people is a whole of government responsibility. The union's submission, therefore, focuses on issues of public policy while submissions by our members and the organisations for which they work address clinical and practical issues for which they are qualified, skilled and experienced.

In the wake of Federal, State, and likely local government cutbacks and reforms throughout the social and community services sector, this parliamentary inquiry comes at an important time for all vulnerable people and communities and, therefore, for all ASU members. We thank the Committee for conducting this very important inquiry and providing an opportunity for the ASU to appear today. We hope to make a positive and constructive contribution to your thinking and your work.

The CHAIR: Thank you very much for that concise and detailed opening statement. Ms Bevington, do you have an opening statement?

Ms BEVINGTON: No. I am really here to support Natalie. I manage a community organisation in the Blue Mountains called Mountains Outreach Community Service. I wish to say that our organisation works with families across the whole spectra, from prevention through to crisis, and you really do need services across that whole range in order to have an effective child protection system.

The CHAIR: Thank you.

The Hon. Dr PETER PHELPS: A lot of witnesses have come before this inquiry expressing their concern about the role that FACS caseworkers, in particular, play that the preponderant impetus is towards removal because it is an easier thing to do than a broad-based assessment of problems and solutions. What is your comment in relation to that?

Ms LANG: Thank you for the question. Our members work in the non-government sector, as I mentioned in my opening statement, in a wide range of community services. Our view very strongly, on behalf of members, is that the risk factors that lead to a child being at risk of maltreatment are so much broader than

factors affecting just the child or just the child's immediate family, and they are whole of community issues. The approach that our members take is to addressing and trying to mitigate those risk factors and that means working with whole of communities. That means working at some of the softest entry points, be they issues around health or addressing issues of social exclusion, social isolation, and the kind of factors that can then lead to a child being at risk of maltreatment. Our view, very strongly, is that Government needs to invest in a holistic approach to child protection. It is not just about how we deal with child protection once a child is being maltreated. It is how we can, as a community, invest in holistic support services that support an entire community to ensure that the risk factors that can lead to maltreatment of children are mitigated.

Ms BEVINGTON: I would like to say something that specifically goes to that question. My experience is in the Blue Mountains; I cannot speak beyond the Blue Mountains. The non-government organisations in the Blue Mountains have a really strong relationship with the FACS caseworkers. We work together to try to support the family's best interests and it works really well. I think that the FACS caseworkers do an excellent job with the complex cases that they are working with, and they work in well with the non-government sector in the Blue Mountains. I have seen the model work well.

The Hon. Dr PETER PHELPS: Is it your view that FACS caseworkers are, in fact, no more or no less likely to support removal as a first option?

Ms BEVINGTON: My experience is that the worker from my organisation and the FACS caseworker will have either a telephone or a face-to-face case conference about a particular family's needs and issues, and work out a case plan together. The reason we are involved is that we are trying to support the family so that there is not removal. So depending on how the case plan goes removal may or may not be necessary.

The Hon. Dr PETER PHELPS: I am just trying to get the relationship clear. NGOs are the downstream recipients of the decisions which FACS makes, are they not?

Ms BEVINGTON: Yes and no.

The Hon. Dr PETER PHELPS: It is always yes, is it not? It is yes for the case of risk of significant harm, and yes for early intervention where there is no significant harm.

Ms BEVINGTON: It is a little more complicated than that. Non-government organisations are not able to remove.

The Hon. Dr PETER PHELPS: That is correct.

Ms BEVINGTON: So we are different to FACS in that way. It depends on how the child's risk of significant harm has been assessed—the particular factors that are in that risk—as to how complex it is. It is really a very complex area of work, and it is very difficult to make one hard and fast statement in relation to it.

The Hon. Dr PETER PHELPS: My understanding is that NGOs are service providers—

Ms BEVINGTON: Yes.

The Hon. Dr PETER PHELPS: But they are also assessors of capability.

Ms BEVINGTON: Of whose capability?

The Hon. Dr PETER PHELPS: Of parental capability.

Ms BEVINGTON: They are partners with parents in working out the best supports that that particular family needs to mitigate the risks for that child.

The Hon. Dr PETER PHELPS: But you are also assessors of carer ability, for those organisations that have caring responsibilities, are you not?

Mr DAVID SHOEBRIDGE: You do section 82 reports and all sorts of things.

Ms BEVINGTON: Yes, that is true.

The Hon. Dr PETER PHELPS: How capable are NGOs of adequately assessing parents' and carers' parenting abilities?

Ms BEVINGTON: There are very experienced workers who work well together. So, if there is a complex case there will be a detailed discussion, bringing together all the different perspectives—the early childhood perspective if the child is in long day care or something. Non-government workers do the best they can to try and get as clear a picture as possible of what is happening in the family and of parental capabilities.

The Hon. DANIEL MOOKHEY: Thank you for your appearance today. Is this a sector that is flush with money?

Ms LANG: No, it is not. It is a sector that does incredible work on the limited funding that it receives. Our submission details quite a number of areas where our members have identified the sector would benefit from having additional funding. We have one particular case example in our submission where a member of ours working for an NGO saw a lot of benefit for an entire community if a small amount of funding had been received to hold a networking training day for all of the workers in the child protection field—the holistic protection field—where they could come together and talk about the different things that they are trying and doing, and what has been working. They were denied the funds for that. Little things like that would not cost a lot of money but would certainly bring significant benefits to the NGO sector. But it is very difficult to get those funds.

The Hon. DANIEL MOOKHEY: With respect to the funds that the sector does get, is it your view that the contract framework is too prescriptive or not prescriptive enough? Does it inhibit the innovations that you speak about or does it encourage innovations in the sector?

Ms LANG: There are a lot of concerns around funding. It is not just to do with amount in the envelope—there are concerns with that, as well—but also to do with the funding policy approach, and how the funding is passed on to the community sector. In our submission we talk extensively about our concerns about competitive tendering as a preferred funding model—and why that is incredibly destructive for the community sector and for the quest for best practice and best outcomes for children and young people. We are talking about a sector that relies very heavily on collaboration and I think it would go to Dr Phelps's concerns around how we can ensure that, where possible, children are able to stay in the family unit. The NGO sector is incredibly well placed to do a lot of the capacity-building work with families and with communities, which would ensure good outcomes for children and young people, but those rely very heavily on collaboration. The competitive tendering model certainly does not allow that to occur. Once you are tendering against another service you are not exactly encouraged to sit down and share your intellectual property and to collaborate for the best outcomes of the members in your community.

The short-term nature of funding in the community sector is another ongoing issue that the sector faces. There is a requirement to continually be writing tenders. There is a lack of certainty around funding, and we are seeing a lot of roll-over funding with the NGO sector. That is where you are told that the contract is until a particular period, but at one minute to midnight you are told, "We are going to roll that over for another year." That causes significant issues for the community sector. It affects their ability to do planning in terms of service delivery, investment in work with the community and having certainty for their employees. It is very difficult to attract and retain this skilled employees that we know are working in the community sector if those employees are not guaranteed job security or even security around their entitlements. This is a largely female dominated workforce who do not have portable long service leave currently in New South Wales. When you are talking about short-term funding contracts, a lot of these workers are prejudiced in their later years, and in their retirement savings, because of arrangements like that.

The Hon. DANIEL MOOKHEY: In the context of the scarcity which you mentioned—and, on top of that, the conditions under which resources are allocated—you made a very strong point in your submission about the introduction of for-profit providers. Can you talk us through whether that should be an objective that we encourage? If it is the case that for-profit come in and some of that scarce resource gets diverted towards the profit margins and the return on capital that for-profits would expect, what impact would that have on service delivery? What resources would have to be diverted in order to facilitate the payment of that return on capital?

Ms LANG: There are some things that we know very strongly about our industry in terms of where the money is spent. We submitted this as part of our evidence in our successful equal pay case. The industry is largely reliant on the award. Unlike most workforces, where enterprise bargaining tends to set the realities of what workers are paid and the conditions they enjoy, the community sector is reliant on the Social, Community, Home Care and Disability Services Industry Award, and the equal remuneration order that came out of our equal pay case. That genuinely sets the wages and conditions received by the community sector. The funding is so tightly linked to that, that there really is no room for profit without a provider not adopting best practice in terms of service delivery and staffing.

The CHAIR: When you say "so tightly linked", if a contract goes for two years, a substantial part of the calculation around the value of that contract would be wages and an anticipated increase in the second year of that contract through a Fair Work Australia determination. Is that what you are saying? So there would be very little margin for other things?

Ms LANG: Yes. We know down to the fine detail that we directly negotiate indexation of the funding that services receive, so that it can accommodate the equal remuneration order that employers are obliged to pay to community sector employees. There is a really fine margin, very little margin for discretionary funding. The not-for-profit sector invests that funding in areas like training and development to ensure that they have the best possible staffing profile for service delivery. We have a very serious concern about for-profit providers and where they are going to make their profit, because the only place we can possibly see is if they adopted staffing practices that were not best practice. I would be concerned about staffing levels, for example. I would be concerned about the for-profit providers and what they are doing industrially with their employees in terms of perhaps underclassifying their employees. Are they employing people who are entry-level and do not carry the skills and experience we know most of the sector do?

Mr DAVID SHOEBRIDGE: What are the big for-profits in the area?

Ms LANG: Thankfully there are very few currently in operation. I do not know that it would be appropriate for me to name them currently.

Mr DAVID SHOEBRIDGE: Please answer that on notice.

Ms LANG: Yes.

Mr DAVID SHOEBRIDGE: Should it be like the education sector, where government money is only available if the entity is a not-for-profit?

Ms LANG: Yes, we believe so. We believe absolutely that the Government should have a policy position that they will not fund for-profit providers in the delivery of these essential community services. We do not believe that anybody should be able to make a profit from vulnerable members of our community. We are gravely concerned about where that profit could possibly come from inside that funding envelope.

The Hon. DANIEL MOOKHEY: What is the median wage of a community service worker working in the sectors that we are inquiring into?

Ms LANG: It is actually really quite diverse. We have an eight-level classification structure in the community sector. In the areas that you are inquiring into currently, as we have scoped it in our submission on page 6, that would capture the entire gamut of those classifications from classification level 2 to classification level 8. I can take on notice to provide you those figures, but in terms of the medium wage it would be a question of where they are currently employed, which in youth would be around level 3, level 4, level 5.

The Hon. DANIEL MOOKHEY: Please take supplying those figures on notice. In general, we are not talking about millionaires, are we?

Ms LANG: No, we are not. I refer to the evidence accepted by a full bench of the Fair Work Commission. We are talking about low-paid workers.

The Hon. BRONNIE TAYLOR: You made some comments that you thought the only way NGOs could to it would be by cutting wages and conditions. Do you have evidence of that happening?

The CHAIR: I do not think that was quite what was said.

The Hon. BRONNIE TAYLOR: I am sorry if it was not.

The CHAIR: I do not think cutting wages and conditions was the evidence.

The Hon. BRONNIE TAYLOR: I thought that you said that you felt that that was the only way you could see that they could have any excess.

The CHAIR: To clarify the point, as I understand the evidence about the margin being thin and staffing numbers perhaps being the way—

Mr DAVID SHOEBRIDGE: Or underclassification or understaffing.

The Hon. BRONNIE TAYLOR: You talked about new graduates.

Ms LANG: In the circumstance of a for-profit provider being in the sector and whether they would find the profit margin when talking about government-funded service provision, yes, we would be concerned that the area where they would find that profit margin would be in not adopting the best practice in terms of staffing levels—to that I would talk about staff to client ratios—and not adopting best practice in terms of how they structure the work. Are they using a sleepover, for example, where an allowance is paid for a period instead of perhaps an awake shift where it would be more appropriate?

The Hon. BRONNIE TAYLOR: I understand that, but I wondered if you could provide any evidence that that is happening?

Ms LANG: We have had a dispute with at least one for-profit provider around the classification of employees. That was resolved through the Fair Work Commission.

The Hon. BRONNIE TAYLOR: You used the example of a group of service providers wanting to meet about making things better and placing clients at the centre of care but they did not get the funding to run a network meeting. What immediately got me worked up was wondering why they were not doing that anyway. Why did they need an extra funding grant to talk to other service providers about providing really good care? Surely there has to be some responsibility on service providers to work together, not looking for an extra grant to have a meeting that they should be holding anyway?

Ms LANG: Yes, certainly in our experience community sector organisations do heavily participate in those kinds of activities. They do a lot of work in terms of building partnerships, alliances and working arrangements and relationships with other services in the area. But I will go to the point that we have already discussed: These are not services that are flush with cash. There is not a massive line item for organisations based on the funding that they already receive to have significant resources to invest in that. This is certainly an area where—

Mr DAVID SHOEBRIDGE: Like $1,800 to hire the hall, do the catering and invite people.

The Hon. BRONNIE TAYLOR: I know.

Ms LANG: I will point out that a lot of members in our experience participate in those kinds of activities often in their own time. We need to support them. We have heard a lot about professional standards for the community sector. It is our experience that the community sector workers are professional workers. Again, this evidence was submitted to a full bench of the Fair Work Commission. It was interrogated and accepted by the full bench in our recent successful equal pay case. We do know empirically that largely the community sector workers are skilled and experienced workers. If the Government is genuinely committed to professional standards, that commitment needs to be met with the resources to enable that to occur. That means supporting the workforce to be able to participate in professional development opportunities.

The Hon. BRONNIE TAYLOR: Absolutely, I agree. I spent 20 years as a registered nurse dealing with people with very complex needs. I get it, but I am saying that when you talk about that there is a dual responsibility. When we start interrogating statements like, "We did not get funding to have a meeting", I know that I would pick up the phone and speak to the other people to help my client. I am just trying to draw some attention to the fact that there has to be dual responsibility. I note that in a lot of the funding applications, there is now a clear statement that you have to collaborate with other organisations. Providing services is about the work of providing the service but mainly it is about the clients for whom we are getting paid to provide the service.

Ms LANG: It is true. Thank you, Ms Taylor. I really appreciate your passion on this because it is something that we feel equally passionate about. We do know that the sector largely engages in collaborative arrangements and collaborative practices with other services. The issues that we wish to raise largely are around the funding models that are looking at being adopted or have been adopted—Going Home Staying Home being a very good example of that—here competitive tendering as a funding model actually destroys those relationships or makes them very difficult to continue to manage

The Hon. BRONNIE TAYLOR: I am glad you brought up competitive tendering because that was my last one. It comes up all the time, as does the length of funding because you cannot measure change in six or 12 months. I understand all that. I have not been in Parliament very long but I imagine people have been asking for longer service contracts ad infinitum. No matter who is in government they do not seem to get it; it seems to always be one or two years of funding whether they ask Labor, the Liberal Party, The Greens, The Nationals or whoever. You are not the first person to bring up competitive tendering.

Many people have brought it up in inquiries I have been on. Say we give out a five-year contract and we name it something amazing and give five years funding, what happens if is not working in some communities? If we did—hallelujah—move to some five-year funding models we will have to put something in there to say that you have been going 12 months and you are not getting any results, so we need to change the way you are doing that. Sometimes we do not want people to compete for tendering and we lock it in, but if is not working we do not want that money locked in there. Do you think that is an issue on the other side of that?

Ms LANG: In our experience we understand that the department does work with services where they have concerns about their performance and them delivering outputs. I believe that is a system that is already undertaken. I think it would be unfair to characterise that as something that does not occur and therefore would be a reason why we would not embark on longer term, stable funding arrangements.

Mr DAVID SHOEBRIDGE: It is not a five-year solitary maritime journey. Over those five years there is regular reporting with regular interaction.

Ms LANG: Correct.

Mr DAVID SHOEBRIDGE: You build that into the contract.

Ms LANG: Exactly.

The Hon. DANIEL MOOKHEY: Your concern is that organisations that are deemed to be exceptional, fantastic and performing well have their funding cut off at the end of 12 months regardless of the fact that there are no performance issues. Your point is that disturbs their ability to undertake the longer term planning and the longer term investment.

Ms LANG: Absolutely. It is not even where it is necessarily cut off but it is where it is not certain. It is where they have the great unknown—that minute to midnight and being told it is rolled over. The great unknown is a very big impediment to those services being able to do the planning and to retain the skilled and professional workforce. Clearly we need to increase funding into the community sector and there is always going to be that need. You are probably going to hear that from me for a while.

The Hon. BRONNIE TAYLOR: You are not alone.

Ms LANG: Absolutely. I feel like I am joined by many in that call. But simple practices like insecure funding greatly undermine so much of what could be achieved with the current funding, with what we have currently got.

The Hon. BRONNIE TAYLOR: Do you think we should move towards accrediting NGOs in some sort of capacity where they are all working towards that? If you have an NGO that is really performing well on two-year contracts and it gets a certain evaluation government could say that those guys are fivers, whereas these guys are just starting out so we might start them on two years of funding.

Ms LANG: I think that is something that would be incredibly well received if it was developed jointly with the community sector and with what programs that would be appropriate in. It will vary. But we definitely need longer term funding as a general rule. The model for that, like I said, will vary and need to be developed in collaboration with the community sector.

The Hon. Dr PETER PHELPS: Are you aware of the Scottish National Party Government's Getting It Right for Every Child framework, which provides every child with a social worker?

Ms LANG: No, I am not.

The Hon. Dr PETER PHELPS: Would you be in favour of a program which provided every child in New South Wales with a designated social worker?

Ms LANG: I am not an expert in the service delivery and the practice. I am not a practitioner in child protection, so I am afraid I would not be able to give you a response on that. I could take it on notice and speak to our members if you would like me to.

The Hon. Dr PETER PHELPS: Yes, please.

The Hon. DANIEL MOOKHEY: Are you aware that the Government is currently developing an assurance framework for the out-of-home care sector?

Ms LANG: Yes.

The Hon. DANIEL MOOKHEY: Do you think that ought to include workforce standards?

Ms LANG: I think workforce standards are very good and very important but we cannot look at them in isolation. We need to talk about what it takes to be able to truly achieve workforce standards. Simply imposing particular minimums I do not believe would achieve genuine workforce standards and what it is in terms of best practice that we would be seeking to achieve through workforce standards. We know that in our experience, and again as submitted in our equal pay case, largely the workforce does carry qualifications. In addition to formal qualifications is significant experience and expertise that the workforce has developed often

over decades of working in the sector. I think if we are going to approach professional standards we need to do so holistically. That is simply not about imposing a minimum but also looking at the industrial implications, about how we can recognise and reward professional standards and investment in all of the professional standards supports—things like professional supervision, professional development. We talk in our submission about vicarious trauma, which is often experienced by workers working in child protection and how we provide support to the workforce in those particular areas that are by their nature issues facing a professional workforce.

The Hon. DANIEL MOOKHEY: Perhaps rather than using the term "standards" the thematic area of workforce development ought to be legitimately included in the assurance framework so there can be a plan that is reflected to upskill and professionalise the sector and reward professionalism. Is that something you would support?

Mr DAVID SHOEBRIDGE: And to respect the workforce.

The Hon. DANIEL MOOKHEY: And of course to respect the workforce.

Ms LANG: Absolutely we would support that but we would want to also be involved in its development because since 2009 the ASU has had a position around accreditation and professional standards. It is not something that is new on our radar for the workforce but it needs to be developed properly so that it is real and meaningful in terms of service delivery and real and meaningful in terms of industrial outcomes for the workforce.

Mr DAVID SHOEBRIDGE: Did you know it is being developed now for the out-of-home care sector for the non-government organisations? They are in the process of doing it now. You have not been contacted?

Ms LANG: We have not been consulted on that to my knowledge, but I am also fresh back from maternity leave.

Mr DAVID SHOEBRIDGE: I am not directing this as a criticism of your organisation. I am simply pointing out it is happening now.

Ms LANG: We would absolutely welcome the opportunity to be involved in that.

Mr DAVID SHOEBRIDGE: I think you should pick up the phone tomorrow and make sure you are. We have had many, many submissions deeply critical of FACS and individual caseworkers and structures and resistance to change. Do you acknowledge that there are problems within FACS and that change has to be brought about? Is the union a willing participant in change if that is the case?

Ms LANG: I think in our experience we go off the evidence from the many inquiries into the best approach to child protection, mostly recently in New South Wales being the Wood royal commission. We value the recommendations of those reports around the role of the community sector and the important role that the community sector can play as service providers. But that is our area of expertise. I am afraid it is not FACS.

Mr DAVID SHOEBRIDGE: The criticism has not been just directed at FACS. There has been criticism of the NGO sector too and its not being, if you like, focused on family strength but more about picking apart weakness. Do you recognise that reform is required there to have a strength-based approach to child protection?

Ms LANG: In our experience the community sector is absolutely committed to a strengths-based approach in service delivery. I hear that every day from our members across the many sectors in the community sector. That is certainly what our experience is in terms of the attitude of the community sector. It is fair to say that there is a lot of reform underway for the community sector at both the State and Federal levels. It is quite constant. The community sector needs to be supported to be able to engage constructively in those reform discussions.

The Hon. DANIEL MOOKHEY: You spoke in detail about the need for a portable leave scheme and you also spoke about the need to recognise vicarious trauma. Is it the case that employment is unstable from the perspective of the caseworker? Is there a lot of mobility between organisations? Are there a lot of changes which mean that the regular model where leave entitlements are held between an employer and an employee does not apply?

Ms LANG: Are you speaking specifically about the portable long service leave issue?

The Hon. DANIEL MOOKHEY: Yes.

Ms LANG: Yes, that is our experience. We were involved in the development of the portability of long service leave scheme in the ACT, which applies to the community sector. We do not have a similar scheme here in New South Wales. Some of the reasons for the development of the ACT scheme were in recognition of the instability of employment that arises out of periodic refunded organisations, even though programs inside organisations are periodically funded. A worker might be engaged to work on a specific project which would have time constraints around it. It is a largely transient workforce; it does have a lot of turnover. Those workers, though, do not tend to leave the actual industry or the actual sector; they move to other organisations in the sector. One of the reasons for that is how career paths are approached in the sector. There may not be career paths inside organisations themselves where organisations are smaller, so often those opportunities do not arise and an employee does need to move to another service provider to be able to develop that career path. But largely the workers do remain in the sector for the period that would give them an entitlement to long service leave however it is moved around between different employers, be it because they are moving because of career path reasons or because of the nature of the periodic funding of the industry.

The Hon. BRONNIE TAYLOR: They cannot bring their leave with them.

Ms LANG: That is correct.

Mr DAVID SHOEBRIDGE: You say that, in the same way that cleaners and building workers have portable long service leave, your members should as well.

Ms LANG: That is correct. In the ACT, that is the model that we have, and the portable long service leave board that administers the portable long service leave entitlements to our members in the ACT is actually the same board that administers it to building workers and childcare workers.

The Hon. DANIEL MOOKHEY: Is it excessively onerous from the perspective of the employer?

Ms LANG: No, it is not. Not in our experience. It is paid as a levy to a board and it is held there so that it can follow the worker around. It is a simple measure. It is not a high-cost measure, but it is a measure that properly recognises the value of workers in the sector. It is a gender issue. We are talking about a largely female dominated workforce in a country where we know that women are retiring with significantly lower retirement incomes, and it is an investment in the sector to keep these really great workers in the sector.

The Hon. DANIEL MOOKHEY: Do you find that, because employers no longer have to put aside provisions on their balance sheet to pay this leave out, they are capable of actually spending more of their cash flow investing in service delivery?

Ms LANG: I am afraid I do not have any experience of that particular dialogue with service providers.

The Hon. PAUL GREEN: I just have one question, after an extensive—

The CHAIR: He has been listening very intently.

The Hon. PAUL GREEN: I want to ask about the recommendations at the end of your report where you talk about Victoria being a best-practice model.

Ms LANG: May I ask which page? We have recommendations scattered throughout the report. Which page in particular?

The Hon. PAUL GREEN: Page 42, at the end of your report. You talk about the different groups: the Aboriginal Legal Service, the NSW Women's Alliance and Domestic Violence NSW. Then you go on to say:

> … establishment of specialist family violence courts, including specialist workers and facilities for children and young people affected by violence, based upon experience and best practice models developed in other jurisdictions such as Victoria

Do you know anything about those models, and can you tell us why they are good models to follow?

Ms LANG: I could take that on notice. This is feedback very much from our members who work in the area based on their experience working with their colleagues in Victoria and other jurisdictions. I would be happy to take that on notice and provide information to the Committee.

The Hon. PAUL GREEN: Thank you. That would be great.

The CHAIR: As it has just gone 4 o'clock, I thank you on behalf of the Committee for providing us with this opportunity to ask you questions directly and augment what was already some detailed information provided in your submission. There are questions on notice and we have resolved that you have 21 days to return those answers. Would that be all right?

Ms LANG: That would be very agreeable.

The CHAIR: The secretariat will liaise with you directly over those questions and assist in the process of returning them. Thank you for attending and for your great work on behalf of your members.

(The witnesses withdrew)

ROBYN MILLER, Chief Executive Officer, Mackillop Family Services, sworn and examined

PETER GRACE, State Coordinator – Student Wellbeing, Catholic Education Commission NSW, sworn and examined

TAMARA HUGHES, Child Protection Team Leader, Catholic Schools Office—Diocese of Broken Bay, sworn and examined

ROSEANNE PLUNKETT, Manager, School Student and Family Program, CatholicCare Wollongong, sworn and examined

The CHAIR: Welcome. Thank you for attending this afternoon. It provides us an opportunity to ask you some questions directly to supplement what you have provided to us if you have made a submission. We appreciate your time as we know you are very busy.

The CHAIR: The Committee has received two submissions: Submission No. 86 from the Catholic organisation representing Mackillop Family Services, and submission No. 67, which picks up the differences in the organisations. Members will be asking questions that will enable witnesses to leverage off those submissions. You can take it that your submissions have been read. Would any of you like to make an opening statement? Please be brief so that we can make maximise the time for questions.

Dr MILLER: I thank the Committee for inviting me to this hearing. I begin by acknowledging the Gadigal people of the Eora Nation, and pay my respects to elders past and present. Mackillop Family Services works in Victoria, New South Wales, and Western Australia. It provides services to children and young people in vulnerable families. We provide foster care, kinship care, and residential care to approximately 170 children in western metropolitan Sydney, the Illawarra-Shoalhaven region, the Nepean-Blue Mountains region, and the far South Coast. We also provide youth and family support and specialist homelessness services in the western metropolitan area and a family referral service on the far South Coast. We have provided services for more than 1,000 individuals in that program.

In Victoria, we are one of the largest providers of residential and foster care, and we are currently implementing innovative foster care programs in Western Australia. MacKillop Family Services is a Sanctuary-accredited organisation and the sole provider of Sanctuary training and consultation in Australia. This means we have adopted a therapeutic and trauma-informed way of working throughout the organisation. Sanctuary focuses on organisational change and the building up of positive relationships between staff, and then between staff and children and families. Essentially, it is designed to get better outcomes. We are very committed to the therapeutic residential care we provided in Victoria, and we are also committed to providing it in New South Wales.

In our submission, we focused on the need for organisations to become child safe. The royal commission has provided firm guidance on the need for strong leadership, children's participation in decision-making, strong recruitment, education and training, staff supervision mechanisms, thorough complaints processes, and safe physical and online environments, all of which we are now working on. We also discuss the role of programs that prevent entry into out-of-home care. I note that in the past decade nationally there has been an 82 per cent growth in the number of children in out-of-home care, while the population of children has increased by only 9 per cent in that same decade. That is clearly unsustainable. At MacKillop Family Services we are focusing very clearly on what we can do to prevent entry to care and to more effectively restore children and young people.

Nationally, we have information from the Australian Institute of Health and Welfare stating that one in 35 Australian children receive child protection attention in the form of an investigation or a care and protection order, and/or were placed in out-of-home care. However, almost three-quarters of them—that is, 73 per cent—were previously known and reported. Again, it is very challenging to think about how we can more effectively provide a service to the children we know are already at risk. We have implemented initiatives that support Aboriginal community-controlled agencies to work within New South Wales, Victoria and Western Australia. In our submission, we have detailed our successful partnership on the South Coast with the Aboriginal Medical Service. We remain committed to working in this way.

Mr GRACE: I begin by thanking the Committee for the opportunity to contribute to this inquiry. It is a crucial area of public policy in New South Wales, particularly for our most vulnerable children. The Catholic Education Commission NSW [CECNSW] , on behalf of the Catholic bishops of NSW/ACT, is the agent and advocate for 588 New South Wales Catholic schools, which enrol 255,397 students and employ 19,580 teachers

with 8,000 support staff. In addition, 20 per cent of students in New South Wales attend a Catholic school. These students reflect the full range of socioeconomic status as well as metropolitan, rural and remote locations. One-third of Catholic schools have a Socio Economic Status [SES] score of 93 or lower, ad are recognised as schools with the greatest disadvantage and social vulnerability. Of the 588 Catholic Schools in New South Wales, 543 are owned and operated by diocesan offices while the remaining 45 schools are congregational schools, which are self-governing, operating either independently or managed by a religious institute or their agent. CECNSW is not an owner or line manager of any of these 588 diocesan and congregational schools.

For the purposes of this inquiry, and in keeping with our written submission, I will detail our main points. CECNSW believes that the area of child protection has proven to be amongst the most difficult areas of public policy for successive governments. While the CECNSW submission focuses on some of the problem areas, the challenges and complexities of this difficult area have, generally speaking, been handled well by public policy-makers and others in the field. Catholic schools take most seriously their legal and ethical responsibilities to protect children. All staff are required to promote child safety, to undertake regular child protection training, and operate under a system of centralised reporting with respect to reports of children at risk of significant harm [RoSH], which is in accordance with the joint Memorandum of Understanding for Centralised Mandatory Reporting shared by CECNSW, the Association of Independent Schools NSW, and the Department of Family and Community Services [FACS]. Indeed, the interests of students in New South Wales Catholic schools intersect significantly with the role of FACS.

Catholic schools do not have access to a child wellbeing unit and must use the FACS Mandatory Reporting Guide to assist in making decisions about when a report to FACS is required. The Catholic Systemic Schools Child Protection Practitioners' Group provides advice to the Catholic sector on policy and operational matters pertaining to child protection and offers other professional network and support services to child protection personnel. My colleague Tamara Hughes, from the Diocese of Broken Bay, is the chair of that group. Catholic schools approach child protection as a partnership involving families, church agencies and secular agencies. My colleague Roseanne Plunkett is the manager of the School Student and Family Program for Catholic Care in the Diocese of Wollongong.

The core function of Catholic schools is education. Education systems do not have the statutory authority to investigate RoSH issues. School principals have neither the expertise nor the time to do so. The amount of legal knowledge school principals now require has grown steadily over time; in fact, they need to be across in excess of 80 State and Federal Acts. Since 2009, CECNSW has focused its child protection efforts through the complementary lenses of both the National Framework for Child Protection and the New South Wales Keep Them Safe policy. CECNSW has adopted and implemented Keep Them Safe as the framework within which child protection operates in the New South Wales Catholic school sector. These guidelines and related advice can be found on the CECNSW website.

While supporting the agreed policy directions, the evidence arising from the experience of New South Wales Catholic schools suggests that more needs to be done if the agreed policy objectives are to be achieved. Although the threshold for reporting children at risk of significant harm has been raised, the field evidence gives rise to the question: Are we still spreading the net too wide? School counsellors and pastoral staff in schools are highly dedicated to supporting the needs of vulnerable students, and in general do an excellent job. However, when a student at RoSH receives no intervention from FACS, significant pressures are placed on staff and schools. Only 28 per cent of RoSH cases are responded to and 39 per cent closed due to competing priorities. Therefore, many schools take up the burden of supporting these students. We are not shying away from fulfilling our duty of care but we feel there must be more of a shared responsibility and a collaborative approach if we are to achieve the best outcomes for our most vulnerable students.

Successful child protection intervention requires the development of a realistic interagency model which fully acknowledges the particular roles and skills base of each agency. Too often, schools are being asked to act outside their areas of expertise by responding to situations of children at risk when they have no statutory authority to do so. As has been stated, the primary role of schools is education. Successful child protection intervention also requires provision of access for non-government schools to essential child protection support services, such as a Child Wellbeing Unit, the Home School Liaison Service and Out-of-Home Care Coordinators. The Child Wellbeing Unit for instance, to which non-government schools do not have access, is a protected space in which information can be shared without infringing on privacy legislation. Extending access to the Department of Education's Child Wellbeing Unit to non-government schools would be beneficial to child protection in New South Wales.

The intervention also requires implementation of internal FACS assessment processes in respect of responses to reports of significant harm [ROSH] that are transparent and appealable and appropriate resourcing of post-ROSH response services—this is an area in which all governments have struggled. There needs to be greater resourcing from the wider community if the needs of at-risk children are to be met.

The Hon. Dr PETER PHELPS: I notice you are not fans of FamS and some of the statements that were being made by FamS. Would you indicate your disagreement with FamS in relation to the testimony that was given earlier?

Ms PLUNKETT: We did agree in part with some of the things that were said that much of the responsibility does fall onto schools. But I think the statement that schools are just reporting rather than also responding was a little unfair. As you are aware, I manage school counselling and a key component of the role of the school counsellor is to report and respond, to monitor and ensure safety for students in the school system. Our pastoral care systems and our principal also work tirelessly to support the safety and wellbeing of students especially when a ROSH report has been made and there has not been a response.

The Hon. PAUL GREEN: When you say "counsellor" is that through counsellors or through chaplains in those schools?

Ms PLUNKETT: No. We are referring to school counsellors. School counsellors take on the role of clinical and mental health support, and a safety role within the schools.

The Hon. PAUL GREEN: What is their education?

Ms PLUNKETT: Their education can be via three different pathways. They may be registered psychologists, registered with the Australian Association of Social Workers [AASW], as social workers or clinically trained counsellors.

The CHAIR: With respect to the schools that fall within the domain of the Wollongong diocese, do all Catholic schools, primary and high schools, have counsellors?

Ms PLUNKETT: Yes.

The Hon. Dr PETER PHELPS: How do you know that the ROSH reports have not been followed up? Are you told? Is it part of the requirement to tell you that?

Ms PLUNKETT: Yes. When a ROSH report is made information often comes back as to whether or not it has been taken up.

Mr DAVID SHOEBRIDGE: Often comes back?

Ms HUGHES: No, we do receive a letter from the Child Protection Helpline informing us as to whether it has been allocated to a Community Services Centre or it is a non-ROSH report. We do receive that feedback. Sometimes there is a time delay in receiving that feedback of a couple of days, sometimes up to a week. During that time it is difficult to know how we can support a family at risk.

The Hon. DANIEL MOOKHEY: Just as a matter of practicality, after a ROSH report is made is it tracked inside the Catholic systemic system? If so, at what level—at the school, the office, the diocese office or more centrally?

Ms HUGHES: Most of the metropolitan diocese have access to a Child Protection Unit. I lead the diocese of Broken Bay Catholic Schools Office, Child Protection Unit. So we have specialised staff in child protection which principals can consult with in terms of making a ROSH report. So we provide support to principals on that. Absolutely then whether we have or have not consulted with the principal on making a mandatory report, the principal follows through with the outcome of that report to Community Services. If there is no direct response in a timely manner we often will follow up directly with the Community Services Centre.

The Hon. DANIEL MOOKHEY: Essentially it is double logged. So the principal would log it with the helpline of FACS and then log it with you as well?

Ms HUGHES: Yes.

The Hon. DANIEL MOOKHEY: Is that common practice?

Ms HUGHES: Each diocese operates slightly differently. In my diocese we require all principals to notify the child protection team when a ROSH report is made to Community Services. For example, my team

consults with principals in about 200 ROSH consultations. Some of those do not meet the threshold for reporting to FACS and some do. But we do have a mandatory requirement for our principals to inform the CSC.

The Hon. DANIEL MOOKHEY: In your diocese?

Ms HUGHES: Yes, and most other diocese I believe have that as well.

Mr DAVID SHOEBRIDGE: You spoke about legal and ethical obligations. Who ultimately is legally responsible for an individual school in the Catholic systemic system? You said very clearly it is not your office. It is not the Catholic Education Commission, so who is it?

Mr GRACE: Ultimately it would be the trustees of the diocese.

Mr DAVID SHOEBRIDGE: The trustees from time to time of the diocese. Are you aware of any kind of effective measures that are put in place across the system to ensure that those trustees understand their legal obligations and are putting in place child-safe practices?

Ms HUGHES: Yes. For example, with non-government schools we go through a school review and development process with the Board of Studies. So we have a three yearly audit of every single school to make sure we are meeting those safe and supportive environment requirements of the legislation, as well as being oversighted by the NSW Ombudsman in reportable conduct matters. Does that answer your question?

The Hon. PAUL GREEN: How does compliance work? Do they make sure you are ticking the boxes along the way?

Mr DAVID SHOEBRIDGE: Is there a sector-wide ruling for the education sector which is different to other sectors when it comes to reportable conduct with the Ombudsman?

Ms HUGHES: Yes, we are a designated agency under the NSW Ombudsman legislation. So we are required to report matters of reportable conduct to the NSW Ombudsman who oversees our investigation.

Mr DAVID SHOEBRIDGE: In that regard you do your own investigations and the Ombudsman oversees it as opposed to in other circumstances where the Ombudsman will do the investigation?

Ms HUGHES: That is right.

Mr DAVID SHOEBRIDGE: Would you explain that difference to the Committee?

Ms HUGHES: The Ombudsman legislation requires designated agencies to conduct their own investigations when an allegation of reportable conduct has been made. So we are required within 30 days of becoming aware of an allegation of reportable conduct to inform the Ombudsman of that matter. We do that through a notification to the office. We are then required to undertake the child protection investigation ourselves. Reportable conduct matters are investigated by the Catholic Schools Office. My team has trained investigators so we will investigate the child protection allegation and then we report back to the NSW Ombudsman at the end of that investigation. They also monitor and check in with us at various points of time.

Mr DAVID SHOEBRIDGE: When there is an allegation of abuse happening within the school environment do you investigate it yourself?

Ms HUGHES: That is correct.

Mr DAVID SHOEBRIDGE: Given all the concerns that have been raised about the way in which the Catholic Church has historically not done that well, what steps have you taken in the past few years—in light of what we see from the royal commission—to address your own internal practices?

Ms HUGHES: Absolutely, there have been many failures in the past with the Catholic Church and I will not sit here and pretend that has not happened. The legislation and our requirement to adhere to that legislation is very, very strict. The benchmarks that are applied to all other designated agencies are also applied to us. We have many mechanisms in place to ensure that we are a safe and supportive environment for students. We conduct annual training with all of our school principals and all of our teaching staff in relation to the reportable conduct scheme and managing risk of significant harm issues. We upskill our principals in other areas of child protection around how to handle disclosures. As I said, we undertake school review and development audits of each school and report that back to the board of studies. There is a range of different measures that we have in place.

Mr DAVID SHOEBRIDGE: What, if any role, do priests have at a school level in respect of authority over of the school, authority over the principal? What is the situation?

Ms HUGHES: There is usually a parish priest associated with each of our schools, but they have very little involvement, from my knowledge, in respect of governance over a school or in respect of day-to-day decision-making. They certainly can have some involvement with the school, but in relation to responding to these types of matters, they do not have direct involvement.

Mr DAVID SHOEBRIDGE: I will come back to this.

The Hon. Dr PETER PHELPS: One final question to Ms Hughes. You are in the diocese of Broken Bay. Have you had any dealings with the new joint FACS multi-agency at Wyong?

Ms HUGHES: The response centre.

The Hon. Dr PETER PHELPS: What are your views of that arrangement?

Ms HUGHES: We do have involvement with them on many different occasions. We are working really hard at developing good relationships with the community service centres and Mark in our area. Indeed, I am meeting with them on Wednesday to further develop our relationship with them. They will quite often contact my team directly to inquire about what support we can offer to a family that has been referred to Mark. I think it is an excellent initiative to have that multi-agency response, which has been lacking in the past. I think it is a positive initiative.

The Hon. Dr PETER PHELPS: Generally speaking, does that mean that there is a greater identification of ROSH or a greater removal of ROSH reports that are not ROSH? In other words, by the collaboration do you find out more risk of harm or do you put a stop at risk of harm reports, which might not actually be risk of harm, or both?

Ms HUGHES: Our involvement mainly with Mark would be after a ROSH report has been made to them. So then they will contact us to determine whether there is any—particularly if they are intending to close the matter, they may contact us to inquiry as to what support we would be able to put in place. They have asked for our assistance in making inquiries before they respond. We work collaboratively with them in that regard. They would not be aware of a non-ROSH report. It would not get to their level, so we do not generally find out about those matters from them.

The Hon. DANIEL MOOKHEY: Mr Grace, in your opening statement, forgive me if I understood it incorrectly, but you made a point that the time is right to ask a question about whether the net has been cast to wide, or something to that effect, which might have been a reference to ROSH and ROSH reporting, is that correct?

Mr GRACE: Yes, specifically the threshold.

The Hon. DANIEL MOOKHEY: It is too low?

Mr GRACE: The threshold was increased a few years ago following the Wood special inquiry, and yet there still seems to an overwhelming number, according to FACS personnel, of these reports coming in. I am putting that question out there: Is the threshold too low? When it was increased, was it increased enough?

The Hon. DANIEL MOOKHEY: Thank you. My question now arises as a result of that. In respect of all of the reports that you see and we have established there is an element of central coordination, are you able to give us an example—and you can provide it on notice if you so wish, but we would prefer an answer now—of the type of things you have had to report because the threshold has been adjusted, which perhaps before the threshold was adjusted you would not have had to report? What is the nature of the cases that have been captured by the adjustment of the threshold?

Mr GRACE: I will take that on notice, unless either of my colleagues would like to contribute. What I will say is that in respect of the thresholds we have the ROSH threshold as per the mandatory reporter guide. That is not in alignment with the threshold that FACS helpline personnel are using. Quite often the practitioners in the field of mandatory reporters, people in schools, will make a report because, using the mandatory reporter guide, it has reached the threshold.

The Hon. DANIEL MOOKHEY: What is the discrepancy? Is the helpline lower than the guide, or is the guide lower than the helpline?

Mr GRACE: The helpline threshold is higher than the guide. School practitioners will make a report and think, yes, this is ROSH, this will get a response, but then in the internal machinations of the helpline, it does not meet their threshold. We do not actually have access to the tools that FACS personnel use to know exactly where that threshold is.

Mr DAVID SHOEBRIDGE: Then you are left in the extremely almost impossible situation of you thinking it meets reportable conduct, them not acting, and, as you say with a number of your case studies, the obligation being thrown back on the school to do something.

Ms HUGHES: Yes.

Mr GRACE: That is correct, yes.

Ms HUGHES: When the threshold changed from risk of harm to risk of significant harm, there was a significant difference in what we were required to report as a mandatory reporter. I understand the latest figures from the department is that there are still 50 per cent of reports that go to the child protection helpline that are non-ROSH reports, so they are being inundated with reports that are not risk of significant harm. I believe there is some education that still is required for reporters about what is that threshold of risk of significant harm.

The Hon. DANIEL MOOKHEY: What are the examples? I understand these are legal terms. Obviously it is very difficult because people have to litigate on them. What are we talking about? Are we talking about kids who do not come with lunch?

Mr DAVID SHOEBRIDGE: There is a series of case studies.

Ms HUGHES: We have provided a lot case studies.

The Hon. DANIEL MOOKHEY: I am talking about the ones in the adjusted category.

Ms HUGHES: Physical harm is a good example. In the mandatory reporters guideline, it directs a principal to report a child who has been hit by a parent, but there are rules. If they are hit with a belt, you only need to report they were hit with a belt if the buckle end was used. If it was the other end of the belt, it did not meet the threshold of risk of significant harm, or if there was no injury, if it was only a red mark, not a bruise. There are anomalies like that in terms of the reporting threshold, which has changed.

The Hon. MATTHEW MASON-COX: Would you agree that the threshold that you have to operate with for ROSH reports should be the same as the threshold that the helpline should use in accepting a ROSH report?

Ms HUGHES: It would be extremely helpful for us to be aware of the threshold they are reporting against. As Peter suggested, there is an expectation that there is going to be a response if we are informed about an immediate report to community services, and when the helpline caseworker screens it, they screen it out. There is that discrepancy, but, yes, that would be useful.

The Hon. MATTHEW MASON-COX: Has the helpline said to you that they have a different threshold?

Ms HUGHES: Community services are now starting to communicate that to mandatory reporters. Recently the behavioural insights unit, I understand, is trialling a new response letter to mandatory reporters and in that it indicates that they screen at a different level. They have just started doing that recently.

Mr DAVID SHOEBRIDGE: You have known that for ages as a result of the practice, it just has not been admitted from FACS,

Ms HUGHES: That is true.

Ms PLUNKETT: One of the other issues we are finding is that adolescent students, so those students in high schools, when it is quite clearly meeting the threshold the response rate is extremely low. It seems to be that for our very vulnerable adolescent students there is a large amount of support and investment of resources that needs to be put in that high school setting. That is one of the key issues of our submission. Students who are in distress manifest their distress in negative ways, whether lashing out at school, or self-harming, or engaging in criminal behaviour, or taking drugs, and often the schools are left very much to carry the burden of supporting these young people.

Mr DAVID SHOEBRIDGE: Ms Miller, your submission deals with that one particular case study about a 16-year-old who had come into your service with very high needs. There really was not a funding formula that addressed the needs and you had to seek top-up. Is there a position from the department that by the time a child is 13, 14, 15, or 16 they are too broken to fix and they are going to process them out? That is a pretty brutal summary to put.

Ms HUGHES: There is no open statement by the department that says that, but our experience is that that is the case.

Ms MILLER: In the submission from Mackillop Family Services we have put the case that with greater attention to a wider response that includes a therapeutic specialist, we would be able to achieve more consistent outcomes for young people. There do seem to be some young people that are referred to the youth homelessness programs that in other states would be referred to child protection and out-of-home care services.

Mr DAVID SHOEBRIDGE: That is why I asked the question. It is not my view—I want to be very clear—that children are too old and too broken to be fixed, but the fact that children are being referred to homelessness services rather than specific residential child focused services almost makes me think that there is a conclusion behind that, from the department, that we are not going to fix this child—we are just going to be dealing with long-term chronic homelessness.

Ms HUGHES: There is a view, also, that adolescents can self protect. They are a lot older so if they are in immediate danger they could leave the home. They have access to a mobile phone so they can call for help. I think that is often a rationale for the lack of response to adolescents, as well. It is not just because they see that there is no hope for change, perhaps.

Mr DAVID SHOEBRIDGE: Ms Miller, is that an unfunded need? Is there a need for additional focus on adolescents?

Ms MILLER: Yes. In our submission we would say that there would be a need for additional focus on very complex adolescents with, often, a very long history of trauma. We are hopeful that we would be able to be more creative. We have been able to achieve very good outcomes for young people with the right way of working with them.

The Hon. MATTHEW MASON-COX: Mr Grace, you have a great name to be in the Catholic Education Commission—I have to say that!

The CHAIR: He should keep his day job as a politician, shouldn't he? That is what you are really saying with that smile.

The Hon. MATTHEW MASON-COX: I think you mentioned that 39 per cent of ROSH reports are closed due to competing priorities.

Mr GRACE: Yes.

The Hon. MATTHEW MASON-COX: And was it 28 per cent not responded to by the help line? That is 67 per cent—am I right?—of all ROSH reports made by your organisations.

Mr DAVID SHOEBRIDGE: I think they are different figures.

The Hon. MATTHEW MASON-COX: Are these different figures?

Mr GRACE: The 28 per cent plus 39 per cent?

The Hon. MATTHEW MASON-COX: Yes. Were those cumulative or are they figures which should be dealt with in a different context?

Mr GRACE: I would need to check that. I will take it on notice.

The Hon. MATTHEW MASON-COX: If you could check that, it would be good.

Mr GRACE: I will speak about the question that I think you are getting to. The feedback that we receive is that the threshold does seem to vary depending upon capacity to address the required responses. So whether or not a response is made is often a reflection of the capacity at the community services centre involved.

The Hon. MATTHEW MASON-COX: That is exactly what I was trying to get to. Does that vary on a regional basis, from your understanding of the patterns that you have seen across the State? Do you see that as being across the State or are particular regions that are more stressed—where this is happening more often?

Ms HUGHES: Where a community services centre closed things due to competing priorities?

The Hon. MATTHEW MASON-COX: Yes.

Ms HUGHES: It is not a regional issue, particularly. The busier CSCs in south-western Sydney, for example, will often need to close things because they literally have so much work. It is certainly not reflective of a regional situation; it is spread across the State.

The Hon. MATTHEW MASON-COX: How many ROSH reports do you make a year? Can you give us a break-down?

Ms HUGHES: I have statistics which we can provide.

The Hon. MATTHEW MASON-COX: By region?

Ms HUGHES: Yes, by diocese. It probably is not completely accurate. As I said, we have a centralised reporting system. Principals report directly to FACS. They are required to report it to the Catholic Schools Office or Catholic Education Office, but that may not always be the case. We certainly collect data at the Catholic Schools Office in my diocese and other dioceses.

Mr GRACE: This is certainly illustrative of what is happening out there.

The Hon. MATTHEW MASON-COX: Also, would you have data about repeat reports in relation to particular students?

Ms HUGHES: We could gather that data.

The Hon. MATTHEW MASON-COX: That would be very useful to understanding.

Ms HUGHES: We certainly have the breakdown of approximately how many reports. Do you want me to give you some figures right now, or would you like to—

The Hon. MATTHEW MASON-COX: If you could give us those on notice that would be fine.

Mr DAVID SHOEBRIDGE: The second part of that question is: have you got an analysis of the responses? Is there a distinct difference in the response from diocese to diocese?

Ms HUGHES: We do not collect that data specifically in terms of whether a ROSH report gets a response from community services. A response is very varied. The response could be that they phone to say that they are going to look into it and then we never hear from community services again; or we might work very closely over a number of weeks or a month in managing a family that is at significant risk. We do not collect the data directly to determine how many of our reports are responded to. We could ask for that data and then provide that analysis. But it would take some time to gather that.

Mr DAVID SHOEBRIDGE: It would be helpful if you could.

The Hon. MATTHEW MASON-COX: I imagine that you would have serious cases where the local FACS region has said, "I am sorry; we will close that one," but you are left holding the baby, so to speak. What do you do in that situation? If it is a very serious situation you could go back and report it again, or report it to the police. What do you do in a situation where it is very serious?

Ms HUGHES: Some of the case studies in our submission highlight some of the examples where that has happened. It is a significant problem when it is a risk-of-significant-harm issue and we are required to undertake a statutory response. It is a very difficult, complex and time-consuming response. Thankfully it is often the case that we have skilled counsellors and skilled child protection specialists. The question is whether it is our role to undertake that statutory response. We do not have the same authority to require families to engage in support services where there is a clear need for that to occur. It is a very difficult area. It is one which, as our submission highlights, that we are expected to take up more and more.

The Hon. MATTHEW MASON-COX: It would be interesting to know where this happens. It would be interesting to know the statistics about where you are left holding the baby. It would be very handy to have that as part of our decisions.

Ms HUGHES: We can take that on notice, and for the case studies that we have put in our submission I can give you the details in terms of what diocese that was.

The Hon. PAUL GREEN: Further to that, I would like to know what your solution is to that.

Ms HUGHES: How we manage?

The Hon. PAUL GREEN: Not just how you manage it but how we have got to manage it, because it is not right that we leave you in that compromised situation. The Government has to take responsibility.

The Hon. MATTHEW MASON-COX: And the family is in that compromised situation, as well.

The Hon. PAUL GREEN: That is right. The child is the one that is being compromised. And it is unfair to leave you just short of being able to make a decision. That could compromise the whole organisation,

as Mr Shoebridge says. There is a lot of scrutiny over the Catholic church right now. The last thing you need is to be set up to fail. So I would like some further solutions on how we could deal with that.

Ms HUGHES: I certainly have some. It is very broad-ranging. There is no one magical solution that can solve this problem. There is obviously a lot of talk with regard to early intervention services needing to be available. I believe the statutory authority—the department—also needs to bring back family support services. They have closed a lot—Montrose House, Kings Cross Adolescent Unit, Cabramatta Street Team. They were services that were working at the ground level in a very intensive way. Those types of services within the department have been closed down. There is a big place for NGOs to play that role in family support but there is also a place for the department to go back to playing more of a family support role, as well.

Mr DAVID SHOEBRIDGE: Can I ask you about one case study. I want to know what happened. It was case study No. 8—the 14-year-old female student. Her parents were separated, she was living with her mother and had contact with the father on the weekends. The father is blind. There were allegations about the paternal grandfather inappropriately observing her during bathing and commenting on her sexual development and wanting to wash her back. That is reported to FACS but FACS says, "We are not going to take any action. You should get the counsellor to bring the father and the grandfather in for a counselling session". What actually happened in that case? How can you act in that case? It is almost impossible.

Ms HUGHES: I can respond to that because the matter was under my management. One of the difficulties that occurs is that when the department finds out that there is a child protection team with very skilled and very experienced child protection specialists working there, they believe that you can to the work. It is not that we cannot do the work, it is that we should not be doing the work. It affects our ongoing relationship. On that case study, I very firmly rang up the casework manager and said we would not undertake that role. I am not sure what the outcome was and whether they followed up. Obviously, the student remained in our care and I understand that her contact with her father is now being under the supervision of the mother, so she did not have ongoing further contact with the grandfather. But we certainly did not facilitate that conversation; it is not appropriate for us to do so. Even though I have a lot of trust, respect and faith in our school counselling service and child protection officers in our dioceses, it is not appropriate for us to undertake those types of conversations.

Mr DAVID SHOEBRIDGE: Ms Plunkett, are you getting reports from your counsellors saying that this kind of inappropriate responsibility is being handed to them on a regular basis?

Ms PLUNKETT: Yes, it is a fairly regular basis—as I said, especially when we are dealing with adolescent students. School counsellors are often working with children and young people for significant periods of time, often years. They hold an enormous amount of skill, expertise and knowledge about the family and the child and they act in the child's best interest. One of the key requests in our submission is that the role of the school counsellor, their advice and their information are given due consideration. When we get feedback to say the situation is not meeting the risk of significant harm, if the school counsellor feels very strongly, based on their expertise, that it does then there should be some sort of right of appeal. Really they are often only dealing with a small sliver of information when making an assessment as to whether they will take up an intervention or not. The collaborative work, sharing of information, having ongoing dialogue are fundamentally important.

Mr DAVID SHOEBRIDGE: Or even having that at least trigger some support services being provided to the family. Hopefully we are not talking about the child removal concept, but the idea that that should trigger some sort of support to the family.

Ms PLUNKETT: It definitely does, and that is a key role of the school counsellors. We are called the School Student and Family Program because we work with the family in a holistic way. We work tirelessly to engage referral services. However, as you would be aware, when a student or family is at risk of significant harm, they have very limited capacity to access the services, especially when they are on a voluntary basis. Getting families to make that leap to engage is difficult.

Mr DAVID SHOEBRIDGE: Going back to case study 8, you do not know what has happened?

Ms HUGHES: I do not personally know what has happened. The school counsellor may have further information and I could provide you with an update, if you would like. It was a very concerning case, but it is not an infrequent example of what we are encountering.

Mr DAVID SHOEBRIDGE: Could you give us some recommendations to assist getting out of this sort of cul-de-sac?

Ms HUGHES: In my humble opinion, the department is obviously under-resourced for it not to be to responding to the referrals being received.

The Hon. PAUL GREEN: Another problem I see in your submission is the capacity and effectiveness of systems, procedures and practices to notify, investigate and assess reports of children and young people at risk of harm. You speak about the school principal making a call to FACS having consulted the counsellors because of the ROSH. Answers do not come through quickly, so this adversely affects the report as well as the school duties. The resourcing takes the attention off the principal's main duty. A principal is not trained to investigate one case for most of a day—that is just crazy. That process needs to be changed so that principals can offload to a responsible person following making a phone call about their concern. That surely meets some trigger point to get a peer assessment on a helpline. The principal knows the family, the carers, the school counsellor and the kid. You cannot transfer that knowledge and clinical message on the phone. What do you do to fix that sort of situation with the lapse in time? How do you address that? Also, that uses school time and school resources, which is using money that could be allocated to teaching practices.

Ms PLUNKETT: That is absolutely true and it is not an isolated case. This is the daily task of the school counsellor and principal in a busy school. Sometimes we underestimate the impact on them personally. I think there was some reference to vicarious trauma. Principals wear an enormous amount of stress, especially coming into the school holiday period. There are some children we have grave concerns about with their safety; they fear the school holidays. One of the roles of schools is to monitor those kids on a daily basis. We have concerns about some of those kids for those two weeks.

The Hon. PAUL GREEN: That is a good point to put on record. We must not overlook the relationship between teacher and students. I can only reflect on my child's school where two young people committed suicide and the devastating effect on the teachers, never mind the principal, who carry a real burden for that school. It tore apart the emotional fabric of the school, but the principal the next day might have been dealing with other ROSH situations. It must be heartbreaking.

Ms HUGHES: We have a lot of data on the wellbeing of principals and the impact of this on them. That is a significant issue.

The Hon. BRONNIE TAYLOR: That is why we need more support services in the schools. Obviously, schools are all about education, but for them to function we are relying on one profession when really we need a myriad professions.

Ms HUGHES: That is right. These take up a significant amount of resources. In saying that, when a matter is not deemed to be risk of significant harm and it is what we consider a wellbeing concern, they still take up a significant amount of time and principals and school counsellors spend a lot of time dealing with them. The CSOs now have trained psychologists who can support schools in these matters. There is a lot of support available through the Catholic school system, but there is also a limit. Our core function is education, and it is very time-consuming.

Mr GRACE: That is also why the comment earlier about schools reporting but not responding was perhaps out of line.

Mr DAVID SHOEBRIDGE: I think that is a simplification of the submission. Undoubtedly, there are cases where schools report but do not take any further action. You have highlighted where that happens and you are putting it in context.

Ms HUGHES: That would happen across every mandatory report. There may be mandatory reporters who take the view that once you have submitted the report to community services you no longer have the responsibility. We do not take that view at all. I understand child protection is a shared responsibility. It cannot fall on the statutory authority to do everything.

Mr DAVID SHOEBRIDGE: In large part you and FamS are furiously agreeing that there is a problem that needs to be addressed.

Ms HUGHES: Absolutely. We do not disagree at all. We agree that schools are central places where kids come and feel safe. We have a lot of knowledge and connections with the community, but we are already doing so much we would need extra resourcing to respond if there was an extra requirement.

The Hon. PAUL GREEN: And you need the authority because scrutiny by the media—and rightly so—is so great.

Ms HUGHES: That is right.

The Hon. PAUL GREEN: It is not fair to give you the responsibility without the accountability. You need to have both, responsibility and accountability.

Ms HUGHES: Absolutely.

Mr DAVID SHOEBRIDGE: One of the other case studies that deeply troubled me was the 11-year-old female student in case study No. 6 were there had been a disclosure of rape by the brother. There appeared to be some confusion at least in the hearsay report from another child about what rape was. The principal then reported it back to FACS and FACS said that the principal should interview the student to find out what the student meant about rape. Where are the police in this?

Ms HUGHES: The circumstances for that matter which I can talk to directly as well were that I actually made the report myself directly to FACS on that. I would have expected that it would have had an immediately response because this student had access to her brother on the weekend. This was Friday afternoon at five o'clock. I would have expected a 24-hour response from the department given that she had access to the alleged perpetrator. It was not screened. I was expecting a call potentially over the weekend. I had given them my work mobile to be contacted for the after-hours team at FACS to respond if they needed information or for JIRT or the child abuse squad. That did not occur.

On Monday we still had not received a feedback letter from the helpline and we followed up. A number of different phone calls were required before we were informed that it had gone to the JIRT referral unit. From the helpline it goes to the JIRT referral unit where it is again assessed as to whether it meets the criteria for JIRT, or the child abuse squad as they are now called. Then I was able to contact the JIRT referral unit and ask them what was the response going to be. The request that I received back from the JIRT referral unit was, "Could you please get your principal to go and ask the student what her understanding of rape is?"

Mr DAVID SHOEBRIDGE: When you say the JIRT referral unit, is that the FACS component of the JIRT referral unit or is it the actual JIRT? You have the police and FACS.

Ms HUGHES: The JIRT referral unit is an assessment centre which consists of police, FACS and Health. After the Child Protection Helpline screens the matter it goes to the JIRT referral unit and it consists of all those interagencies and then they determine whether it again meets the threshold and then it gets referred to a child abuse squad.

Mr DAVID SHOEBRIDGE: It is staggering to think that JIRT would say you get an untrained principal to take probably the key interview of a victim in a sexual abuse case. Think of the contamination that could happen to the evidence.

Ms HUGHES: That is right. Interestingly the matter was also screened as a less than 72-hour response, which I found astounding given, as I said, that the victim had access to the alleged perpetrator. I spoke to the JIRT referral unit and I said that the principal cannot undertake that function. They still really wanted that to occur, so the outcome of that was that I sent my child protection officer to the school the following morning and my child protection officer undertook an interview. She is trained in how to do JIRT interviews. Thankfully, we have this resource available to us. She made a full disclosure of rape. The difficulty in that in terms of the long-term court process is the initial disclosure is now not undertaken by the child abuse squad, there is not an audio-visual interview. It then did get a response from JIRT and they did then respond to the matter.

Mr DAVID SHOEBRIDGE: And it is extremely vulnerable if it is tested in court.

Ms HUGHES: Absolutely, so we now have two different statements from the student and if there are inconsistencies of course that will reflect the potential outcome.

The Hon. DANIEL MOOKHEY: Either now or on notice is it possible for you to provide us with a summary of the training programs that you provide your staff such as teachers, counsellors, principals and people who are connected?

Ms HUGHES: Absolutely.

The Hon. DANIEL MOOKHEY: Also any views you have about additional training that you think would be beneficial to you and to the sector in general. Finally, at the risk of this being the opportunity for you to provide a wish list, could you provide a wish list and tell us how to fund it and where there are possible savings that you have spotted as well?

The CHAIR: You can take those questions on notice. They will come to you in articulated detail.

The Hon. MATTHEW MASON-COX: You might want to take this on notice too: Do you have counsellors at every school?

Ms HUGHES: No.

The Hon. MATTHEW MASON-COX: Could you give us a breakdown of that?

Ms HUGHES: We certainly do have that.

The Hon. MATTHEW MASON-COX: And what criteria you use to determine whether you should have a counsellor at a school or not. It might be the number of students or whatever. Can you also give us some information about the central unit, if you like, that you run? The full scope of the resource you have in this area and where it is deployed would be useful. Any recommendations you have in relation to the more effective use of resources or what you need over and above what you already provide and the cost to you of providing that service would be useful as well.

Ms HUGHES: Yes. We have that data.

The Hon. PAUL GREEN: Are counsellors in your terms the same as chaplains and, if not, could you provide how many chaplains you have across your area as well?

Ms PLUNKETT: They are very distinct.

Ms HUGHES: We do have that data and I have some figures here prepared, but we will take it on notice and give you a more detailed analysis.

Mr DAVID SHOEBRIDGE: I will give you one more task on notice. Concerns have been raised with my office about the potential parallel role of canon law in the operation of schools. Could you take on notice what the role of canon law is and whether or not and in what circumstances it empowers non-professional educators and non-professional administrators like priests and others to have a role and have authority when it comes to child protection matters and the running of schools?

Ms HUGHES: We will certainly take that on notice.

Mr GRACE: Can I clarify, Deputy Chair, were you referring to the National Schools Chaplaincy Program?

The Hon. PAUL GREEN: Chaplains in general. If it is in that context yes and if it is self-funded yes.

The CHAIR: Thank you for coming in this afternoon. It has been very useful to have an opportunity to ask you questions to add additional detail and information to your submissions. I am sure it will be taken into consideration when we are developing our report and recommendations. Thank you very much.

(The witnesses withdrew)

(The Committee adjourned at 5.01 p.m.)