GENERAL PURPOSE STANDING COMMITTEE NO. 2

Tuesday, 27 September 2016

CHILD PROTECTION

The Committee met at 9:00 am

CORRECTED PROOF

MEMBERS

The Hon. Greg Donnelly

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

The CHAIR: Good morning, and welcome to anyone who may be joining us on the web this morning. Welcome to the third hearing of General Purpose Standing Committee No. 2 Inquiry into Child Protection. Before I commence I would like to acknowledge the Gadigal people, who are the traditional custodians of this land, and I would like to pay my respects to elders past and present of the Eora nation, and extend that respect to other Aboriginals present here today or who may be joining us on the net.

This inquiry is examining the procedures, practices and systems that operate in the area of child protection. Due to the sensitive nature of this inquiry it is important that individuals, including children, are not named or easily identified in evidence. Any examples or case studies should be in generalised form. Today we will be hearing from a number of witnesses, including caseworkers—our first witnesses—who work directly with vulnerable families, children and young people; the Public Service Association; Youth Action; the Children's Court of New South Wales, the Association of Children's Welfare Agencies and the Department of Family and Community Services.

Before we commence I would like to make some brief comments about the procedure for the hearing today. Today's hearing is open to the public and is being broadcast, as I have already mentioned, via the Parliament's website. A transcript of today's hearings will be placed on the Committee's website when it becomes available. In accordance with the broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography.

I also remind media representatives who may be present here, or who may be here later on today, that you must take responsibility for what you publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence at the hearing. So I urge witnesses to be careful about any comments that they may make to the media or to others after they complete their evidence today, as such comments would not be protected by parliamentary privilege if another person decides to take an action for defamation.

The guidelines for the broadcast of proceedings are available from the secretariat. There may be some questions that a witness could only answer if they had more time or had certain documents at hand. In these circumstances witnesses are advised that they can take a question on notice and provide an answer within 21 days. I remind everybody here today that the Committee hearing is 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 or cases, we also wish to protect people's privacy. I therefore request that witnesses focus on the issues raise in the inquiry's terms of reference, and avoid naming individuals unnecessarily. Witnesses are advised that any messages should be delivered to Committee members through one of the Committee staff. Finally, I invite everyone to turn your mobile phones off or to silent for the duration of the hearing.

WITNESS F, Caseworker, Queanbeyan Community Service Centre, Department of Family and Community Services, affirmed and examined

WITNESS G, Caseworker, St George Community Service Centre, Department of Family and Community Services, affirmed and examined

DYLAN KENNEDY, Team Leader, Brighter Futures Program, Benevolent Society, affirmed and examined

The CHAIR: I welcome you all to this hearing. Before we commence with questions would any of you like to make a brief opening statement? We will commence with Ms Kennedy.

Ms KENNEDY: I will defer to my colleagues from the Department of Family and Community Services [FACS].

WITNESS G: I begin by acknowledging the traditional owners of the land, past and present. I thank the Committee members for the opportunity to give evidence here today. I work at the St George Community Service Centre. I have been working in the community sector for approximately 20 years, in both government and non-government services. I have qualifications in social work and I have been with FACS since 2001. My experience in FACS has been as a caseworker in the perinatal casework intake, out-of-home care and child protection areas, and also in management roles. In my current role as a multicultural caseworker I use my community and cultural knowledge to assist my colleagues to understand the cultural and religious context of our clients, which could impact on parenting norms. My experience as a multicultural caseworker in FACS and other sectors gives me a unique insight into many of the challenges our clients and staff can face, and how important it is to understand the context and factors that influence attitude and behaviour. I am pleased to be able to share my insight, knowledge and experience with the Committee.

WITNESS F: I pay my respect and acknowledge the traditional custodians of the land on which this meeting is taking place. I also pay respect to elders, both past and present. I thank the Committee members for the opportunity to give evidence here today. I am a caseworker based at the Queanbeyan Community Service Centre. I have a qualification in sociology and welfare. Since commencing at FACS I have completed a postgraduate diploma in child protection and additional training in a number of areas, including drug and alcohol, permanency planning, child sexual assault, caseworker development and interviewing. In general, case managing and supporting the families in less intrusive ways, including training in how best to engage with Aboriginal families, children and young people.

I commenced at FACS in 2002, after working as a residential youth worker also in Queanbeyan, which was run by Anglicare at that time. During my time at FACS I have held a range of roles and responsibilities, all of them on the front line in out-of-home care, child protection and early intervention. I have always worked in regional locations and I have been based at Cooma, Goulburn and Queanbeyan, which is part of the Southern Region. My casework and management experience means I have seen firsthand the challenges our clients and staff face and how FACS and our non-government partners can make a positive impact on the lives of children, families and carers. I am pleased to be able to share my insights, knowledge and experience with the Committee today and I hope this will assist members to understand the child protection system in New South Wales.

The Hon. PAUL GREEN: I am thankful that you are all here because we often hear from parents and those on the other side of the story who are trying to survive and keep their kids and homes intact as they struggle with addictions and/or marital and relationship breakdowns. Some of these individuals, who are super vulnerable and basically grasping at the caseworker's strength, at a trusting moment will give information over that will eventually work against them. Do you have a comment as to how this Committee can address the situation because it seems as if only the bad ever appears in the reports to the department as they are trying to hold their worlds together?

WITNESS F: I am happy to answer that question and I am also happy to invite my colleagues to give their insight. As a FACS caseworker when I start to work with families for me it is really important from day one how I am going to start my first involvement with that family. What I am referring to is a less intrusive way of communication. It is about looking to the strength that can be observed on day one working with families and trying to use my skills and knowledge to understand exactly what has been going on for this person. Mr Green mentioned drug and alcohol, drug and alcohol does not come in isolation because as a caseworker with skills I need to understand what are the background issues that the person might have faced in the past or currently. As understanding this as a caseworker I am developing a case plan where we invite all other professionals to work together. For example, a drug and alcohol counsellor will support a parent with drug and alcohol issues and

continuation with working with parents, day by day, talking to children individually and looking at the family relationship. It is a very, very global area. It is very complex.

Why am I mentioning all these factors? Maybe I cannot mention what is in the report but when we look back and look at our case management and case plan which we did with the family, there are a lot of things mentioned there from day one when we start to work with families. What are our goals? Our goal is to help the child and the young person to remain with families, not to be removed. A strength-based approach is very significant. At every single part of improvement that we see during case plan reviews meeting or at a home meeting what I say to my client is, "I am very proud of you. You did this and I can see positive progress since last time", which helps a person to motivate and to achieve the goals. Therefore I think the whole scenario we have, our process during case management, does involve acknowledgement and strength-based practice as well as working with families. Thank you.

Ms KENNEDY: If I can add to my colleague's words—and thank you for those words: Just to preface my comments, I have a statutory background but I am currently working in the voluntary program called Brighter Futures, which is a program that supports families to keep their children happy and safe. We are primarily working with families that have come to the attention of the department due to risk of significant harm [ROSH] concerns. It is a very important question that you have asked. Just to sort of underpin, I guess, the strength-based approach, what is crucial to setting up families to succeed and to keep the children safe in their homes is being incredibly transparent about how we talk about the risk of significant harm concerns that have led to the ROSH reports being made.

In the Brighter Futures context, which is where I will talk to my experience, from the first home visit it is about most of our families being referred from our colleagues in Community Services as cold call referrals. That means that reports have come in. They have not met the threshold to receive a statutory response due to competing priorities, so the family is not aware that these reports have been made. Because of the backload since 2011 when competing priorities first came into play, we are now receiving a lot of referrals where families may have had five, 10, 15 previous reports that have met threshold but have been closed at the helpline or at the community service centre [CSC] because the system is quite overburdened. When we are going into the home, often unannounced—the family has no idea that a report has been made—it is about making sure that we can try to discuss the concerns clearly, build a rapport and trust from the first visit and hear from the parents what they think they are doing well to keep their children happy and safe. What can we lean on?

At the end of the day we are seeing a family maybe one-two hours a week. The family is keeping the child safe a lot of the time outside of that context and so it is incredibly important to make sure that we are being honest about what we are worried about, the consequences if things do not change and safety is not increased for the family, which could result in a statutory intervention. At this point that tends to mean out-of-home care. It is very important that we are able, if we do have to make a review report, to tell our families, from that first visit, "You know, we are going to have to have conversations about the domestic violence. It has been going on. You have told me it has been going on for 10 years. It is not likely to go away overnight. We are going to put safety plans in place and we will check in each week to see how these are working for you and what other services we may need to tag in to support increasing your child's safety.

However, it is really important that we know what is going on in the home. It is great that you are saying you have left dad now, but it is really important, if dad does come back into the home—we are not going to tell you not to have a relationship with dad. That is a very difficult decision you may have to make at some point. What we care about is knowing who is in the home so that we can adjust our safety plan accordingly. If we are worried for you or your child's welfare, we will have to have a conversation with Family and Community Services [FACS]. That does mean making a helpline report. However, that does not mean that we are going to have to stop working together. We might just have to ask FACS to come in and help us increase the safety in the meantime."

We find from having those conversations in a transparent way and being up-front we tend to be able to do that reparative work when reports are made. In the Brighter Futures space, we do need to make a lot of ROSH reports for cases that are open to us, but we find that initially there is the anger and the frustration and, like you mentioned, that lack of trust. You know, they have divulged very personal information. But if we can maintain our transparency and keep, through the relationship that is built from the first contact, maintaining that our goal is their goal—keeping the child safe in their care—we find that we are able to repair those relationships to continue the casework cycle. Thanks.

The CHAIR: WITNESS G, do you wish to make a contribution in this opening part?

WITNESS G: I just wanted to add that, as part of our reporting structure—whether it be initiating care applications or any type of court document in terms of reporting what we have worked on with the family—it is previous interventions and it is about strengths. But when we talk about assessing risk, it is about what the parents have not done to ensure that the children's immediate safety is met.

The Hon. BRONNIE TAYLOR: Ms Kennedy, can we just go back over what you have said? We have had a lot of evidence in the last couple of days. You just described a situation where you went in because it was not a notifiable—I am sorry, I do not have the terminology because it is not my background.

Ms KENNEDY: Sure.

The Hon. BRONNIE TAYLOR: Then you go in and you need to make sure that the children are safe, which is absolutely paramount. But just the way you said that and you said that the mother may perhaps still be having a relationship with the father, who is seen as the risk because of domestic violence, to me the way you sort of sounded just then it was all the mother's responsibility to keep the children safe and even though she has left the father and you are at home, where is the responsibility of the organisation is to say that if the risk is the father re-entering the home, she is actually done everything she can to leave that? Where is that accountability in the system?

Ms KENNEDY: Thank you, Ms Taylor, for your question. If that is what you heard, I am sorry; that was not my intention—to skim over.

The Hon. BRONNIE TAYLOR: It is not just you. It has been over the last days.

Ms KENNEDY: I guess where I am coming from is that we know that apprehended violence orders [AVOs] are only as effective as they are enforceable. We know that it is quite difficult for women; on average, it takes approximately seven attempts to leave and sustain leaving a domestic violence relationship. When it comes to the Brighter Futures space, we are a voluntary program. Our goal is to get in and discuss the concerns around the incidents that have taken place and to try to look at how safe are these kids there now and what can we do to increase their safety? If there is an AVO we are absolutely 110 per cent always trying to support mums, if they are able to sustain their separation and enforce the AVO. That is always a recommendation as well. Having engaged the domestic violence liaison officers [DVLO], we will arrange meetings for mum to come into the police station or for the DVLO to come into the home to explain the process.

The Hon. BRONNIE TAYLOR: Sure. I understand that and I can see very much that that is incredible support. But what about the action about the person who is actually the perpetrator?

Ms KENNEDY: The piece of work that is missing, I think—the gap that you are highlighting—is working with perpetrators in New South Wales. There is an absence. Baptistcare run an effective program but it is a voluntary program as well. There is an absence of programs for male perpetrators of domestic violence in this State. In Brighter Futures 110 per cent attempt to work with fathers. We are voluntary, so it is difficult to get the father's consent to work in the program. That is because, even though dad is not in the home, fathers play an important part in the lives of children. Historically, this sector has been appalling at including the voice of dads, not only about their violence, if they are perpetrating domestic violence [DV], but also their views, wishes and feelings as a father.

The Hon. BRONNIE TAYLOR: Hypothetically, if you had a situation as you described—the mother had done everything she could, she left but he is still coming back and he is still the father and he has that right and obligation—if something happened in that situation and your organisation was involved because you had a referral from FACS would that be a trigger to remove the children, even though she had gone through every step to keep her and the children safe?

Ms KENNEDY: I guess I am talking generally. I am not talking about a particular situation.

The Hon. BRONNIE TAYLOR: I know, and I am sorry to ask it like that. But it is just really concerning me with what I have been hearing over the past couple of days.

Ms KENNEDY: No, that is okay. Absolutely, and I can appreciate your concern. What I might talk about, I guess in response to your query, is it is a very difficult context to be working on.

The Hon. BRONNIE TAYLOR: I understand.

Ms KENNEDY: It does not sit very well, I think, for a lot of us working in the sector at the moment. I do think that sometimes previously in my background, which is the statutory context, we can place a lot of

pressure on the women in these situations to either remove themselves and their children or face the risk of having their children placed into out-of-home care.

Mr DAVID SHOEBRIDGE: You get a choice: Your partner or your kids.

Ms KENNEDY: Yes, absolutely.

Mr DAVID SHOEBRIDGE: Which is impossible for most women.

Ms KENNEDY: It is an impossible situation and I guess that is where my comment was coming from. That is why it is my standpoint: that if it is safe to do so. Each case is different. Domestic violence is different suburb to suburb, family to family. What that looks like for the child, I guess, is our biggest priority. We find that it can be very detrimental if we come in and say, "Okay, you absolutely have to leave him", because we know from practice experience that we will highlight the safety issues around that relationship, but we do not have any statutory powers.

The Hon. BRONNIE TAYLOR: I am actually talking about the scenario where she actually has left. She has tried to do all of those things but the father is still coming in. I guess I am looking for solutions. I guess I need to reframe.

Ms KENNEDY: I guess that is a common scenario that we would all face, but I guess my point here is that we need to work with the mums that are in these situations that are trying to do everything to keep their children safe. If we are aware, if we know that is coming over, we get a lot of phone calls, "Hey, he's turned up. I think he's out the front. What should we do?" A hundred per cent it is always, "Okay. Look, that is really great that you have told us. It is really important that you give the police a call. Who can you stay with temporarily while we try to get a better and more robust safety plan in place?"

Unfortunately I think that the current system places women in that no-win situation that you have described, Mr Shoebridge, where they are forced to make that decision between their partner and their children. We know that, with the absence of intervention and any behavioural change programs, it is very difficult for an entrenched issue like domestic violence to be redressed, where dads can be in the home safely. Until there is a focus on supporting men who are perpetrators of domestic violence to be able to work through the issues that have contributed to their behaviour and receive that support, we are just going to see the cycle that you have mentioned continue. What I might do is defer to my Family and Community Services [FACS] colleagues who can talk about the point of statutory intervention.

The Hon. BRONNIE TAYLOR: Thank you. I think you guys do an incredible job and I am not questioning that. I am just trying to look for solutions because, to me, it is becoming a bit of a theme. It is great to talk about, yes we definitely have got to do more in that space but it is about the immediate space, it is not going to take a ten-week program. In the meantime someone is doing everything they can to keep their children with them and to keep them safe. But that is out of their control. They cannot control the uncontrollable.

The Hon. PAUL GREEN: The point is that, if you do not have services for these perpetrators and if you do not have somewhere for them to go, of course the natural thing is to go back home.

The Hon. Dr PETER PHELPS: Point of order: We are straying a long way. Domestic violence [DV] is tangential to the issue of child protection. This is not an inquiry about DV per se, it is an inquiry about child protection and when we are talking about offender programs, I think we are straying a little from the remit of what we are looking at.

Mr DAVID SHOEBRIDGE: To the point of order: Domestic violence is essential to the issue and it has been a continuing theme. Yes, admittedly it is not the whole of it but we clearly have to be able to talk about it.

The CHAIR: Clearly there is overlap and we need to deal appropriately with that level of overlap between the two without giving an extraordinary bias towards one. But there clearly is an overlap.

The Hon. PAUL GREEN: One of our major themes of children in out-of-home care and kids being removed because of risk of significant harm [ROSH] is because the perpetrator remains at large in the home. It would be my hope that this inquiry will come out with a very strong recommendation to address the lack of services or opportunities for those perpetrators to find somewhere safe to be mentored, trained, to look at their issue and to delve deeply into why this exists.

The CHAIR: That is a matter for our deliberation but that is clearly understood.

The Hon. PAUL GREEN: I am going to go on the line of questioning that supports my recommendation.

The CHAIR: We are going to share the questions. Mr David Shoebridge next and then Dr Phelps.

Mr DAVID SHOEBRIDGE: Thank you for coming. You have a hard task of representing the thousands of case workers in New South Wales. I admire you for coming here today and I appreciate it. Going to the concept of being strength-based and looking at a family's strengths, WITNESS G, you were saying that when there is a risk of serious harm you end up inevitably focusing upon and reporting on the risk factors. Is that correct?

WITNESS G: I think it is a matter of weighing up what are the strengths of the family, what are the risk factors and how we can remediate the risks using the strengths of the family. Primarily our focus is on the risk however we have to assess holistically what is happening for this family, what are the issues they are facing and then, in that sense, we can look at formulating plans. For a case where the mother has done everything we have requested, which is quite strengths based, we would not go in there and remove the child, we would look at what other planning needs to be put in place in order to support that family to remain together.

Mr DAVID SHOEBRIDGE: I do not hear that as being strength-based, I hear that as being risk-based risk-focused and then the strengths are something you might consider down the track that may put some context upon the risks. It does not sound to me like a strength-based analysis.

WITNESS G: Well, we walk into a home looking at the risks and we incorporate the strengths of the family because ultimately our aim is to maintain the family unit where possible. There are cases where you cannot do that and the strengths come into plan and we work with those strengths.

Mr DAVID SHOEBRIDGE: The repeated concerns and complaints that we have had is say, for example, if there is a decision to remove a child and some evidence is then presented to the court by FACS or by a non-government organisation, that pretty much all that is presented to the court is the risk and the parts of a report that identify a risk. But the other large slabs of the report that identify strengths are either edited out or not referred to. Can I ask you then, in terms of preparing reports for court and preparing a case for court, do you focus on the risks and present the risks probably to the near exclusion of the strengths when you are presenting the cases?

WITNESS G: No from my experience I try to present both.

Mr DAVID SHOEBRIDGE: But you focus on the risks?

WITNESS G: We have to focus on the risks because that is ultimately what we are going in to assess.

Mr DAVID SHOEBRIDGE: They are very short hearings. You do not have long to talk to the judge. Are you really saying that it is your experience in court that you actually give the full context to the judge? You have a short period of time and you have got to explain the risks, are you really giving adequate time to the strengths in those cases?

WITNESS G: As I said previously, our actual formats, our policies and our procedures look at the previous work we have undertaken with the family and, within that, the strengths are highlighted.

Mr DAVID SHOEBRIDGE: I am asking about when you are talking to the judge and the judge is making a child removal decision, do you seriously say that you are saying to the judge—and you have five to ten minutes to do it normally—"Here are all the risks but now I am going to take you through the strengths". Is that really what happens in the court? You go there more than I do. Is that really what really happens in the court?

WITNESS G: Well we do not directly talk to the judge.

Mr DAVID SHOEBRIDGE: No, you are sitting there watching your solicitor talk.

WITNESS G: We present it in our affidavits but they would have looked at the strengths.

Mr DAVID SHOEBRIDGE: I am asking about the case that is presented to the court. Perhaps WITNESS F can help. WITNESS F, you have done this a lot. In your experience, what is actually presented to the judge? Is it risks and then a whole bunch of strengths or, realistically, is it the risks that are focused upon and the strengths that are often not even mentioned in the case presented?

WITNESS F: According to my view and my belief, I think it is a combination of both because, if we have to present our case to the court, we need to provide evidence of what we did with the family from day one.

We usually attach as annexures the case plan meeting, our records of case plans and what was discussed and I believe that in some of the documents some of the strengths would be acknowledged.

Mr DAVID SHOEBRIDGE: You see, there I think we have it: "In some of the documents some of the strength is acknowledged"

The Hon. Dr PETER PHELPS: "May be acknowledged".

Mr DAVID SHOEBRIDGE: "May be acknowledged". But the case that is presented, the documents that are highlighted to the court, are all about the risks, are they not? WITNESS G, WITNESS F, Ms Kennedy?

WITNESS G: I do not think that is the case at all because when we are working with a family we go in with the strengths base, so therefore what we present to the court is a balance of both. But yes, we need to go in there and say: These are the reasons why we think this child cannot remain in the home.

Mr DAVID SHOEBRIDGE: And it is "risk, risk, risk, risk, risk".

WITNESS G: That is the role I think we play.

Mr DAVID SHOEBRIDGE: And in that presentation there is no place for "strengths, strengths, strengths, strengths, strengths" is there?

WITNESS G: There is a place within the documents, yes.

Mr DAVID SHOEBRIDGE: But I am talking about the presentation to the court, because the judge will go to the documents that you tell the judge to go to.

The CHAIR: Order! Propositions need to be put and then a response and then the next question. Please allow people to answer.

Mr DAVID SHOEBRIDGE: I am talking about the presentation and the documents you direct the judge to. There may be something buried away in there but the documents you or your solicitor take the judge to are all about the risks, are they not? Be honest with us on this—it is all about the risks.

The CHAIR: Order!

Mr DAVID SHOEBRIDGE: I withdraw that. You go to the court; we do not go to the court. I want to know what happens.

The CHAIR: Order, Mr Shoebridge! I think it is very clear from the line of questioning what you are presenting.

Mr DAVID SHOEBRIDGE: I just want an answer.

The CHAIR: With the greatest respect, I think the witnesses are endeavouring to put forward their response. We will provide them with further opportunity to respond to Mr David Shoebridge, but other members wish to ask questions.

Mr DAVID SHOEBRIDGE: Consider it a blank canvas. Just tell us what happens.

WITNESS F: If I may add, as caseworker first of all I have a responsibility and duty of care in relation to legal requirements to present the grounds for why a child was removed. That is number one. When we go to court we have to have reasonable, truthful grounds, reasons why a child was removed. That is part of our evidence, which risk was involved with the child.

WITNESS G: What we present to the court is the risk, section 79. We do not present a case to the court where we are working with the family. We present to the court the cases where actually a removal has taken place. In that sense, we have to show to the court what the risks were and what work we have conducted with them, which includes the strengths, and from that perspective.

The Hon. PAUL GREEN: If you were there as the parent and you are hearing that report being given to the judge on behalf of the solicitor, do you not think you would feel really let down? You would only hear all the negatives and not the strengths. Do not think you would wish your solicitor was saying something good about what hope there is in the family, all the good bits?

The CHAIR: You are welcome to respond to that question before other questions are asked.

The Hon. PAUL GREEN: You really do not have to answer. I was just feeling for the folks who have to sit in court hearing about the risks, all the negatives being unravelled before the judge, and not hearing that there is a hope of keeping the family together.

WITNESS F: I do not have power to tell which questions the solicitor or legal representative are going to ask. As caseworker, I always attach annexures to court documents that are relevant to that case, which include all other reports and home visits in which strengths are identified. Every case is not the same; different experiences apply to individual cases. It is very difficult for me as caseworker to put formula in place which will apply to every single case. Yes, in some cases we need to add strengths as evidence in our report proceedings.

Ms KENNEDY: To go back to Mr David Shoebridge's original question, removing a child, in my experience both in statutory and in the Brighter Futures space as a non-government work, is always a last resort. The steps that maybe you do not see or hear about much that take place before my colleagues are presenting their evidence in court include all the work that goes on in the strengths and needs base assessment. With programs like Brighter Futures the whole focus is on a strengths-based approach. We have an assessment tool called the Resilience Practice Framework that focuses on identifying the safety concerns we have for the family, the needs for the children and for both parents and what is working well to keep the children happy and safe. What are the parents doing? It could be as little as the child getting to school each day. My point around that is that I do think it is really important that any reports being tabled are balanced, which is what our assessments aim to do. I also agree with Mr Green's comment that ideally no report should be tabled in court where parents are hearing things that they have not had conversations about previously. I would be really upset if I were in that situation.

The Hon. Dr PETER PHELPS: I want to go to in-service training. What sort of in-service training is made available to you in relation to keeping up-to-date with best techniques for the job you have to do?

WITNESS G: It is continual. Initially, when caseworkers begin, there is a program that they go through on a monthly basis. Then there is continual week-to -week training.

The Hon. Dr PETER PHELPS: What is the format? Is that basically teaching yourself or do you have two-day courses? What is the format of that additional training?

WITNESS G: There usually are casework specialists that provide the training, and the programs are developed at the operations level.

The Hon. Dr PETER PHELPS: How does it actually get transferred to the people? Do they visit you and you spend two days doing the course?

WITNESS G: Correct.

The Hon. Dr PETER PHELPS: How many caseworkers have the time available that they can spend two days upskilling and off their caseload?

WITNESS G: It is not necessarily two days; it could be half a day, it could be three hours. It depends on what they are presenting.

The Hon. Dr PETER PHELPS: How many caseworkers can afford to spend that period of time away from their work, when we have heard that they are already overburdened and that 70-odd per cent of ROSH cases are not investigated? Do you believe that there is a lack of ability for caseworkers to receive up-to-date training because of the caseload that is placed on them?

WITNESS F: I will answer the question if I may. Our agency, Family and Community Services, has allocated Thursday mornings for practice solution, where we all go into the training room or conference room and different training is provided to us. It could be from internal—psychologists or specialists—or occasionally we have external professionals who help us to improve our knowledge about drug and alcohol or domestic violence or services available, adoption, all relevant services. We also attend a conference here in Sydney. I think it runs every second year and it gives caseworkers an opportunity to further develop. The conference also has international speakers. I think there are other opportunities for professional improvement. We also obtain training from our managers in our unit during supervision and a number of different options for ongoing training for each caseworker.

The Hon. Dr PETER PHELPS: If the Public Service Association were to say that the caseload makes it virtually impossible for caseworkers to receive necessary in-service skills training, that would be incorrect? If the PSA were to claim that your caseload was such that it makes it virtually impossible for caseworkers to receive in-service skills training, would that be correct or incorrect?

WITNESS F: Incorrect.

The Hon. Dr PETER PHELPS: I believe Ms Kennedy said removal is the last resort. Given that New South Wales has the highest rate of removal and that we are the country with the highest rate of removal in the Western world, does that mean that we literally have in New South Wales the worst families in the entire Western world, if it is a last resort?

The CHAIR: Feel free to answer the question as best you can if you wish.

Ms KENNEDY: No, I do not think that it means that we have the worst families. I have practice experience in the United Kingdom [UK] for two years in a statutory context and I have also worked in Alice Springs. What I would say, though, from my experience as a social worker in New South Wales in a non-government setting in the Brighter Futures space, is we are trying to move forward with a system that has not been the most congruent and coherent. I think that a big gap in our system at the moment is the absence of recognising cumulative harm, which if it was picked up on and identified earlier, we may be able to support families earlier before the crucial points turn into a crisis point, where we do have children who are unsafe and require statutory intervention and out-of-home care.

The Hon. Dr PETER PHELPS: Is it your view that other countries are failing to remove children who are at risk of serious harm?

Ms KENNEDY: I do not think I am qualified to speak for other countries. But what I will say from my time in the UK is that definitely I was trained and it was my practice that we would work very hard to support the parents to address the concerns that had led to us being involved in their lives. Going to court you had to absolutely demonstrate that it was paramount to the child's wellbeing and safety and likelihood of fulfilling their potential across their life-cycle that removal was necessary.

Mr DAVID SHOEBRIDGE: Is there a better test in the UK, from your experience, and a better threshold to set?

Ms KENNEDY: Absolutely.

The Hon. Dr PETER PHELPS: So the ROSH threshold in New South Wales is too low?

Ms KENNEDY: No, I would say that the ROSH threshold is too high—

The Hon. Dr PETER PHELPS: Sorry, the threshold for removal is set at too low a level?

Ms KENNEDY: I am not sure if that is correct. What I would say is that it is very difficult when we have had a system of outsourcing what were once statutory responsibilities under section 23 of the legislation to a number of agencies where perhaps there has not been the remit to have that open and transparent communication with Community Services when situations with cases in the voluntary remit do go awry, which means that if a family does decline a service, we have to close and quite often there is no recourse to sending the family back to Family and Community Services, which means that eventually the family will just bounce back through the system in a few months.

Mr DAVID SHOEBRIDGE: Support is just turned off, is it?

Ms KENNEDY: Yes, in terms of what happens once a family declines my program. We are voluntary, we do not have any statutory powers; so if a family does decline to work with us at any point, the case is closed and unless the case comes to the attention of the triage team again it is not likely to be reopened.

The Hon. Dr PETER PHELPS: The Benevolent Society is not part of it; it is FACS which makes the decision and presents the case for removal.

Ms KENNEDY: If we have been involved with a family we might have our file subpoenaed, we might be asked to provide evidence supporting Family and Community Services' case, but—

The Hon. Dr PETER PHELPS: It is Family and Community Services' case, which leads me back to the Family and Community Services workers. How do you account for the fact that New South Wales has the highest rate of removal in the western world? How do you account for this fact? Either we are applying an unreasonably high standard on what family life should look like or, alternatively, the rest of the world is letting children fall into serious risk of harm.

WITNESS F: I am happy to put my views forward.

The CHAIR: If you can, and then it is the Hon. Daniel Mookhey's turn to ask questions.

WITNESS F: I can only speak about my own experiences as caseworker. As I mentioned before, I started to work with Family and Community Services in 2002 and I am pleased to say that more than 80 per cent of families that I work with I was able to support a child or a young person who was not removed from the families. In 20 per cent, which I believe I have to because when child safety is paramount and after work on trying to support family, when I have the evidence that a child is actually unsafe that removal was taken place in 20 per cent of cases which I presented to Children's Court. Eighty per cent of those cases I was able to restore children back.

I am only talking about my own personal experiences as caseworker and, as we mentioned before, when we go to court we do not present only our evidence. Family and Community Services do not work in isolation. We work with partnership agencies including non-government agencies, doctors, psychiatrists, psychologists, drug and alcohol counsellors. That means in relation to what we present as evidence to court we present reports from other professionals as well. I am back to that evidence, information, what we do present to court.

The Hon. DANIEL MOOKHEY: Do each of your respective organisations impose the maximum caseload per worker? What is it?

Ms KENNEDY: In my team in Brighter Futures our caseworkers have a caseload of 11 cases and senior caseworkers have a caseload of eight cases.

The CHAIR: Just to clarify that. They are full-time equivalent—they are working full-time?

Ms KENNEDY: Full-time equivalent, yes.

The Hon. DANIEL MOOKHEY: Eight cases over what period? At any one time?

Ms KENNEDY: At any one time, yes.

The Hon. DANIEL MOOKHEY: Can I ask the other two witnesses, do you have respective ratios like that?

WITNESS G: I am aware that there are numbers flagged around for child protection anywhere between eight and 10, but then depending on cases, and then there could be multiple children in each family.

The Hon. DANIEL MOOKHEY: So that eight, is that eight families?

Ms KENNEDY: Yes, that is correct.

WITNESS G: Ours would be eight plans; however, there could be multiple children in each family, which means you are looking at the needs of more than one child.

The Hon. DANIEL MOOKHEY: So when you say that it is a figure that is bandied about, does that mean it is a loose figure, it is an actual mandated ratio, it is aspirational?

WITNESS G: I cannot comment whether it is mandated or not, from my experience.

The Hon. DANIEL MOOKHEY: So you do not know whether there is a mandated figure?

WITNESS G: No, but that is the figure that we aim for, and in out-of-home care there is anywhere between 12 and 15 cases.

The CHAIR: That is on top of or—

WITNESS G: No. The out-of-home care team is a separate team, and then child protection is one team.

WITNESS F: Really we do not have formula for that. It all depends on the complexity of cases, on issues that we face, which supports we have to put in place for families, how many children and their ages are in families. We do not have the formula of how many cases will be allocated to each caseworker. Also, how we do that, we have monthly workload planners with managers when managers discuss every task, each individual task, that we need to complete to each family. Each task has set up hours of time and in accordance to that the manager is able to decide how many cases will be allocated to individual caseworker.

The CHAIR: So is it your testimony, WITNESS F, that you have not heard the figure of between eight and 10? That is not a figure you have heard of?

WITNESS F: It all depend on complexity of cases.

The Hon. DANIEL MOOKHEY: How many families are you currently managing, effectively?

Ms KENNEDY: Across my team of six caseworkers I currently have 63 active cases.

Mr DAVID SHOEBRIDGE: Slightly more than the maximum—just marginally?

Ms KENNEDY: Just marginally, yes.

The Hon. DANIEL MOOKHEY: WITNESS G?

WITNESS G: I have a caseload of six, but I am a part-time worker.

The Hon. DANIEL MOOKHEY: Six part-time?

WITNESS G: Yes.

The Hon. DANIEL MOOKHEY: What is your full-time equivalent? Are you 0.4, are you 0.6? When you say part-time—

WITNESS G: It is 0.6.

WITNESS F: I recently returned back from Europe and I am now building up my cases, but at the moment I have around seven, eight cases allocated to me. But I recently returned back from holidays.

The Hon. PAUL GREEN: In nursing, for instance, they have a weighting of different procedures. You could have a patient load of 30 one day and you could have one the next if you are in ICU. Do you have a grading or a weighting that is given towards the neediness of your caseload? Is there some sort of system where you go, "That person has adjusted and is doing well", so that is one, but the other scale, number five might be taking all your time. Do you have a sort of weighting there?

WITNESS F: I think we have to have skills to prioritise our work.

Mr DAVID SHOEBRIDGE: But do you have a formal system? I think that is what Mr Green's question is asking.

The Hon. PAUL GREEN: Yes. Is there a formal system that your agency says, "We have a caseload of maybe 10, but we know that case number nine is a one-on-one, whereas cases two, three and four can be handled by one person"?

WITNESS F: Definitely, we have a system. What I mentioned before, it is workload planner, discussions with manager and also supervision where we discuss the cases and review the cases and which case will take higher priorities.

The CHAIR: So it is done on a sort of one-on-one informal basis as opposed to looking at a scale and making a determination. It is, essentially, a subjective judgement?

WITNESS F: That is correct.

The Hon. PAUL GREEN: Can I just understand this? Even in nursing they had a list that you could tick the different needs of that person and you came up with a score that was roughly right—it was not always; most of the time it was terrible—for nurse to patient ratio. That was a check list that you go through, you add up the score and that gave you a weighting of how many staff you needed. You do not have anything like that whatsoever where you can tick the needs of that sort of person roughly and know whether the weighting of that caseload is quite heavy or light?

WITNESS G: No, I do not think we do.

WITNESS F: It is a different process.

The Hon. DANIEL MOOKHEY: But the thrust of it is that you have to apply your subjective judgement as to how to apply your time and you work with your manager to do that?

WITNESS F: That is correct. It is transparent and in discussion with manager.

The Hon. DANIEL MOOKHEY: Of course. We are not judging, we are just trying to explore your work processes.

The CHAIR: We are trying to understand.

The Hon. DANIEL MOOKHEY: Ms Kennedy, you said before that when you get a referral it is usually a cold referral for the bulk of your referrals?

Ms KENNEDY: Yes, that is correct.

The Hon. DANIEL MOOKHEY: And usually when you receive a referral like that, do you see the case history of earlier reports?

Ms KENNEDY: Ideally, yes.

The Hon. DANIEL MOOKHEY: When you say "ideally" what does that mean?

Ms KENNEDY: I am about to explain that. Basically, the process for my program is that Community Services—there is a triage hub in the district that I work in and for all the reports that come in and that are not able to be allocated for a statutory response, they are referred to programs like Brighter Futures and Youth Hope. What happens with that is that we upload the referral onto what is called the DOCS connect portal, which then triggers a response from the Brighter Futures Assessment Unit. Are you familiar with the Brighter Futures Assessment Unit? That is basically a branch of FACS that the job is to actually gather a history and a summary of the family that has been referred to Brighter Futures and send through an email with any relevant reports.

The problem with this is that the Brighter Futures Assessment Unit is historically quite under-resourced and it has had a lot of staffing issues. So the timeliness in getting that response which tells us the family is eligible for Brighter Futures—it can be quite a lengthy delay when it is supposed to be within 24 to 48 hours. Often what we are finding is that a lot of the reports are being minimised or omitted from the record. It will just have a date and "report screened in, domestic violence, closed at helpline".

The Hon. DANIEL MOOKHEY: You can see a frequent pattern of contact, but not necessarily the nature?

Ms KENNEDY: We can see a pattern. When we are screening referrals our other mechanisms at the point of intake is completing iAsk checks through the police, so we can get the relevant history.

The Hon. DANIEL MOOKHEY: For the purposes of *Hansard*, what is iAsk?

Ms KENNEDY: Through the NSW Police Force an iAsk request provides any relevant information pertaining to the mother, the father and the children, which helps us understand a bit more. We might know the family has been referred due to domestic violence. We often find that what is on the actual referral form versus the Brighter Futures information, versus the iAsk information could be completely different. That could change how we approach that case or whether it is a case that is suitable for our program.

The Hon. DANIEL MOOKHEY: Is it common for you to arrive on the doorstep of a family in circumstances where they are not expecting contact?

Ms KENNEDY: That is common. A lot of the referrals we have incorrect phone numbers or maybe just the first name of mum and/or dad.

The Hon. Dr PETER PHELPS: I know how I would react if a social worker turned up on my doorstep and told me my family was being—

The Hon. DANIEL MOOKHEY: That is a segue to my next question.

The Hon. BRONNIE TAYLOR: Another one?

Mr DAVID SHOEBRIDGE: That is what we are trying to find out, the reason why.

Ms KENNEDY: Ideally we have a working phone number and we are able to have that conversation over the phone first. We acknowledge, "Look, it must be a shock to hear from us. Can we talk about why we have received this information and where it has come from and what we would like to do to support you and your family?" Our aim at that point is to get a foot in the door, because we can see from the information that we have and the Brighter Futures summary that there have been several reports made. Often we are seeing a frequent pattern of re-reporting, but no action from community services. Our aim is to get in and sight the child to assess how safe is the child and what can we report back to family and community services, or can we sign the family on to the program and start to address what are often longstanding child protection concerns.

The Hon. Dr PETER PHELPS: Except what you have in New South Wales is a situation where the moment you start speaking to social workers it is all going on to a record with the seemingly inevitable end of child removal. You are told if you are questioned by police do not say anything. Why would you bother seeking help from a social worker in New South Wales over a family matter if you have a reasonable expectation that it will lead to the removal of your children?

Mr DAVID SHOEBRIDGE: Or a very real fear.

The Hon. DANIEL MOOKHEY: The last question I was going to ask: When you arrive at that point for what you could anticipate to be a hostile response, do you have access to security, police or other forms of duress assistance?

Ms KENNEDY: No, we do not. We have local procedures in place with a security word that all caseworkers are aware of. We do attend in pairs. Before we enter a home we complete the work health and safety checks with the police to make sure there is no firearms or has dad been bailed and is he likely to return to the address if there has been domestic violence. We have on occasion asked police to wait outside for us because we have been fearful for our safety. Typically we are going in cold to the homes.

The Hon. DANIEL MOOKHEY: Is that reflective of your experience outside the Brighter Futures framework?

WITNESS F: We have an assessment consultation with our manager prior to going out. We address and discuss any possible risk to workers. Also we apply 16A, a request for information to obtain any further information from local police. I believe in other scenarios we do not use police very often. I think that refers to knowledge and skills and training of caseworkers. We are more confident to go into the house and approach the family without police presence.

The Hon. DANIEL MOOKHEY: I do understand there is a reason why you do not turn up with police when you are knocking on doors to help families. Do you have access to duress support?

Mr DAVID SHOEBRIDGE: We are going to get "however".

WITNESS F: However, only if it comes to serious concerns for safety the police will go with us.

Mr DAVID SHOEBRIDGE: Or on child removal it would not be unusual to have police?

WITNESS F: It depends, every case is not the same. We need to balance if there is risk to a worker.

The CHAIR: Do you have any response?

WITNESS G: No.

The Hon. BRONNIE TAYLOR: It is really great to have you guys here to talk to people on the ground. Thank you. I have a question following on from the Hon. Daniel Mookhey. Do you get many vexatious complaints where people are ringing up and doing reports and you get to a house and everything is okay?

WITNESS F: On many occasions.

The Hon. BRONNIE TAYLOR: Ms Kennedy, when you talked about your experience overseas and in the Territory you were alluding to the fact that perhaps—I do not wish to put words in your mouth—it is a lot of early intervention work to prevent child removal. I think it is important. There are a lot of things going on in these inquiries. I like to look for solutions to the problems. You talked about outsourcing. I will get to my question. You talk about the different groups with great names like Brighter Futures; if all those organisations that are providing the services that have been outsourced, such as non-government organisations, shared their information and put the client first and shared the information as professionals do you think we would get better outcomes? So, when you go somewhere people would not slam the door and say, "get out of here"?

Ms KENNEDY: I would agree with you. What I would add is that when Brighter Futures first started it was pure early intervention. With the changes to the capacity issues with community services we have seen the program go from early intervention to targeted early intervention through to what is now a secondary child protection program in a voluntary remit. I am hoping that reforms to the sector will refocus on the early intervention services that support families before they reach the need for programs such as Brighter Futures. That communication and sharing of information is a barrier to effective practice. I can only talk to my experience in my district. My experience with my community services colleagues there has been a prioritisation on sharing of information and collaboration when it comes to keeping children safe.

When it does pertain to the welfare of a child it is a barrier being a non-government organisation despite having chapter 16A to lean upon in gathering information. If there was a greater knowledge around what that legislation can do to support information sharing and assessment and analysis of safety for children we would see improved collaboration. Another gap I would like to take the opportunity to highlight is programs that I can speak to in Brighter Futures. A case load of 11 when you have early intervention families was manageable and sustainable. We have seen a shift towards cases more suited to intensive family support programs and 11

cases becomes highly unmanageable and stressful for workers and families who might not get the type of flexible support they need.

The Hon. BRONNIE TAYLOR: Nothing should be a barrier if we are putting the children and families first. To say that information sharing is a barrier—it has to stop. It is outrageous if it is effecting the outcomes of people.

Mr DAVID SHOEBRIDGE: Ms Kennedy, you said in your opening that sometimes it is five, 10 or 15 reports of serious harm that have not been actioned that eventually see your service being triggered. Is that number unusual?

Ms KENNEDY: No, it is quite common.

Mr DAVID SHOEBRIDGE: Once you get to the fifteenth report of serious harm, there could be a long delay between the first and the fifteenth?

Ms KENNEDY: It would be case by case. I am thinking of a little child now where we first came to know about this child's situation when they were a newborn and the child is now seven. There has not been any intervention prior to Brighter Futures. What we see are issues that families were grappling with seven years ago have become entrenched. Ultimately that flows on to how that child interacts in the education system and if you have had seven years of entrenched child protection issues it is difficult for families to invite the friendly Brighter Futures social worker who rocks up to the doorstep inside to begin that conversation, because they have been living that experience for seven years without any support or any help.

Mr DAVID SHOEBRIDGE: I think of it like a glass or a cup that has been pushed to the edge of a desk. It is so much easier to fix it before you push it off the edge, is it not, and it smashes on the ground?

Ms KENNEDY: Absolutely.

Mr DAVID SHOEBRIDGE: Therefore if we just want to have a rational allocation of resources, if we are sending in your program much earlier, it might be quicker, more effective and much more readily accepted by the family?

Ms KENNEDY: I would agree with you.

The Hon. BRONNIE TAYLOR: For how long does the Brighter Futures happy family last? What is your time frame?

Ms KENNEDY: We can work with families however long they need. At the moment we still have 24 months. That might change as the program is under reform.

The Hon. BRONNIE TAYLOR: I know all that. You say you get your funding for, say, the three years you can run the program. You do not have to tick them in and out. Once that finishes and the funding is not reallocated what happens?

Ms KENNEDY: We have not had to face that situation yet. I guess we do not get paid per family. We might fund families for only three months, six month, nine months or 12 months.

The Hon. BRONNIE TAYLOR: What about the continuity—

Mr DAVID SHOEBRIDGE: I think that has finished.

Ms KENNEDY: I would say that the difficulties that we are facing is that, like Mr Shoebridge identified, a lot of the families that are being, I guess, streamed through to Brighter Futures are families that have had entrenched child protection concerns going on for several years. We are a voluntary program and so that can work in our favour as we are often seen as a nice alternative to My Family, Community Services and colleagues but it can also be barrier when it comes to implementing sustainable change for children and ensuring that the child's voice is paramount and central to all the work that is being undertaken.

I do think that continuity in this sector as a whole is problematic. If a family does decline Brighter Futures there is no recourse for us to have FACS tag back in. We do a lot of advocacy. It is getting better but it does come down to the Community Services Centre [CSC] manager and what culture that CSC has. The consistency around the application of the structured decision-making tool and what children receive, a statutory response versus what children do not, I cannot work it out and I have been working in Brighter Futures for four years.

The ideal though I would say that we strive towards in the Brighter Futures program, we do have a lot of situations where we have been able to divert families from the out-of-home care path where things might flare up again. We can tag FACS in for another 28-day assessment and then work together as a whole bringing in the school, bringing in the child care, bringing in the GP and any other service working with the family is necessary to redress the concerns and ensure that prolonged statutory intervention is not required. There are some success stories. I appreciate that what you have been hearing as part of this inquiry, I guess is the other side.

WITNESS F: I think we need to look at it from both angles because we have a number of cases which we refer to Brighter Futures and they come back because families did not progress at all. We need to look at this scenario from both angles.

The Hon. MATTHEW MASON-COX: I refer to the culture of the Community Service Centre which you mentioned was a factor. What do you mean by "the culture"? Do you notice differences in culture in different Community Services Centres?

Ms KENNEDY: Yes, I have been very privileged to work with a number of different Community Services Centres in the Brighter Futures space. When I talk about "culture" what I mean is, I guess, that certain centres have a particular focus on the child and the child's voice being paramount and supporting the rights of the child through intervention—so working with the parents to keep the children safe. When we have a centre which is child-focused we know that when the safety and risk assessments are being conducted the children have been sighted and interviewed and their views, wishes and feelings about their experiences are being taken into account in decisions that are made about their wellbeing and their welfare.

Some centres are really great. There are activities called the Three House Activity which helps a child. You can apply it to any issue. It might be domestic violence—we use it in Brighter Futures as well—mental health or drug and alcohol. It is basically asking the child to think about the good things that are going on at home with mum and dad. "What are the things that you are worried about? When mum is unwell or when mum and dad start fighting, what is that like for you? How do you feel about that?" Then if we can work really hard with mum and dad to work on these things and change home, "What would that look like for you in the future?" Those centres where the caseworkers have the time and the capacity to do those pieces of work we find it is actually a powerful agent for change.

The flip side of that are centres where the workload is untenable, children are not being sighted, safety assessments are being half completed and, indeed, when we request those safety assessments to continue our work with those families under chapter 16A of the legislation we are not being provided with copies of the work done by Community Services which obviously places us in a bit of a predicament with families when we cannot review the safety plan that was put in place with the families and have those bottom lines made very clear to sustain the families in Brighter Futures to prevent those cases bouncing back that my colleague has spoken about.

The Hon. DANIEL MOOKHEY: Why do the standards vary so much from centre to centre?

Ms KENNEDY: I can speculate.

Mr DAVID SHOEBRIDGE: But you do not work in them.

Ms KENNEDY: No.

Mr DAVID SHOEBRIDGE: If you remove children from their school and you take them out of their familiar school environment and move them to another school, there is a risk of harm to their education, is there not?

WITNESS F: The child will need ongoing support, and liaison with the school is crucial.

Mr DAVID SHOEBRIDGE: If you take children away from their parents and their familiar home there is a real risk of harm to those children from the break of the emotional bond and of all their familiar attachments?

WITNESS F: Grief and loss.

Mr DAVID SHOEBRIDGE: If you take children away from their siblings and you break them up and put them in a different place to their siblings, there is a real risk of harm to those children, is there not?

WITNESS F: Exactly. That is why we have a sibling placement policy.

Mr DAVID SHOEBRIDGE: When you are making a decision about the risk to a child of staying in a home where there may be some entrenched domestic violence there is clearly risk to the child being in an environment with domestic violence. But when you are making the decision is there a rationale or a policy in place that says you must weigh up the risk of moving the child from a school, the risk in breaking up the siblings, the risk in removing from their parents and the risk in moving from the safe environment? If so, will you provide it to the Committee?

WITNESS F: Yes, we do in every case scenario.

The CHAIR: I think the question was: Is there a policy expressly written down or provided for in the procedures?

WITNESS F: It is part of case management policy. It fits under case planning where all relevant supports are important for a child including wellbeing, supporting the emotional state, supporting educational needs and supporting health needs. It is part of case management policy.

Mr DAVID SHOEBRIDGE: When you are presenting a case to the Children's Court and you say to the judge you have a psychiatric report that says there is a risk to the child staying there because of domestic violence, is there also a psychiatrist's report, or a just a standard set of considerations that are presented to the judge that say, "We know for a fact"—not a risk—"that if we pull children out of their homes, their school environment and their familiar things, damage will occur. We want you to take that into account as well." Is that presented to the judge?

WITNESS F: Every case is different. It all depends on the needs of the individual child. The needs of the individual child will be put into the court documents.

Mr DAVID SHOEBRIDGE: You say every case is different but you know for a fact that every time you remove children, you take them out of their school, their familiar home and their connections with their siblings and with their parents, there will be damage. How is that being weighed up in the system?

WITNESS G: We attempt to try to keep the children with other family members and so we undergo placement assessments. If they cannot remain with mum and dad in the immediacy while we work with them, restoration is always considered and is part of our planning. If children need to be removed because there is an immediate risk and they need to be removed, we will try to keep them within their own family unit as our first port of call.

The Hon. Dr PETER PHELPS: I refer to FACS oversight of out-of-home care. Complaints have been raised with me about unnecessary interference in the running of family life in out-of-home care. There is a high turnover of FACS workers assessing the provision of out-of-home care—interference, if you like—and alternative heads of power. You already have the biological parents as one potential head of power, FACS workers as another potential head of power and then the foster carers—the people who should have the real head of power in the upbringing of that child for the time that they are with them. Will you talk about your experience of how FACS deals with out-of-home care supervision?

WITNESS F: Out-of-home care is a very crucial role in our work and it requires a number of responsibilities, including close working relationships with carers and other professionals. It also requires transparent communication with parents because they are in difficult situations and need things explained and to be given information about what is happening with their child. We also need to inform parents that the child is safe and inform parents about progress. We do that through transparency and sharing information. After a child is removed from the parents we have monthly case meetings where parents, carers and other service providers are present and we all work together to provide the best outcome for the child.

The Hon. Dr PETER PHELPS: But the allegations which have been raised with us is, firstly, it is difficult to create a bond because there is a high turnover of caseworkers dealing with particular families and, secondly, there are a number of caseworkers who happen to think that it is their role to instruct the parents on how to be better parents for those in their care. Is there official guidance on where you set the line? You might not think that the carers are providing the best possible care that you could provide but is there guidance on how far you are supposed to micromanage the parental responsibilities of the caring parents?

WITNESS G: You mean the foster carers or the kinship carers?

The Hon. Dr PETER PHELPS: Yes.

WITNESS G: There is a guide in how we work with our carers. They have the day-to-day care and control of the child, so there are minor decisions that they can make such as whether they sleep over at a friend's

house. Foster carers can take those decisions. For travel interstate manager caseworkers need to give that approval. There are clear boundaries and lines in place.

The Hon. Dr PETER PHELPS: Are those written down? Would you be able to provide them on notice to the Committee?

WITNESS G: Yes.

The CHAIR: Ms Kennedy, you said that with cases where you had to manage a higher level of detail or greater elements of complexity the idea of having 10 or 11 cases would be in fact impossible to deal with. If one had the task to manage only complex cases do you have a view about what would be a reasonable number that could be managed on an ongoing basis by an individual? I know it is a generalised question and there is no such thing as a strict average but in your detailed experience what would be a reasonable number of complex cases a full-time equivalent individual could manage?

Ms KENNEDY: I guess every family is different and it would depend on how many children and the complexities of the case history, but based on my experience I would say between four and six. If we are looking at intensive casework four to six would be a good ballpark figure.

The CHAIR: Would our other witnesses agree that roughly four to six complex cases could be managed at once in your experience?

WITNESS G: I think so, yes. You are dealing with the parents' issues and the children's safety. It is very complex.

The CHAIR: In your experience, specifically the representatives from the Department of Family and Community Services, how long do you spend briefing a solicitor before they go off to court so that he or she is prepared to present the case? Is it half an hour or one hour, just on average? How much time do you need to spend to provide that briefing?

WITNESS F: In my unit my manager is the one who briefs the solicitor.

The CHAIR: You do not do any briefing yourself?

WITNESS F: My manager does that.

The Hon. Dr PETER PHELPS: You would do a written deposition, would you not?

WITNESS F: An affidavit, yes.

WITNESS G: From my experience if it is an ongoing case we start at the point we are considering removal in terms of the circumstances and it is ongoing throughout.

The Hon. DANIEL MOOKHEY: Prior to any hint or discussion of removal—that is, prior to you forming your opinion that removal might be an option—how many times would you see the family?

WITNESS G: It really depends on the length of the involvement and it depends on the case plan, what we have been working with. Obviously there are sometimes where you walk into a home for the first time and there is evident risk of harm. We try to still then work with the family in whatever way, but I cannot give you a—

The Hon. DANIEL MOOKHEY: For how long in general would a family remain under your management? Is it three months typically, six months or a very long period of time for the intensive management you were describing?

WITNESS F: It could be up to 12 months.

The Hon. DANIEL MOOKHEY: Is that typical or is that the exception?

WITNESS F: When we put supports in place for families, because our aim is to support families, we try to work in partnership with other agencies and put case plans in place. We review case plans at first monthly and then every two or three months to see if families are making progress. Again, the case is not the same. In some instances it would be three months until risk reassessment, but in the majority of cases that I work with it is longer than three months.

The Hon. DANIEL MOOKHEY: In general the checking period to determine progress or lack of progress is a month, it is not a week? That is generally the period of time you set aside?

WITNESS F: When working with families with higher needs we try to conduct weekly home visits.

The Hon. DANIEL MOOKHEY: Putting aside the cases where it is so obvious that removal is immediately and urgently necessary, do the other cases generally follow a pattern of contact which can be weekly to monthly over a sustained period of time?

WITNESS G: I think it really is dependent on the case but, yes, there would be ongoing work with the parents of the children and the children and then the support services. Part of it would be review meetings.

The Hon. DANIEL MOOKHEY: When you say removal is a last resort what you mean is that removal is triggered after those case management plans have been created, time has been put aside for them be operated and then someone has formed an opinion that they have failed?

WITNESS G: Yes, we do the work with the family first to remediate the child protection concerns and the risks and then if that has not worked—

The Hon. DANIEL MOOKHEY: Should that not work that is when you have to make the decision to refer it for a statutory response?

WITNESS F: That is correct.

The Hon. PAUL GREEN: Ms Kennedy, the last page of the submission from the Benevolent Society talks about the New Zealand actuary approach. Are you familiar with that and do you want to make comment on it, particularly regarding the last couple of lines that say:

> The Benevolent Society encourages exploration of any reforms which seek to extend and improve access to universal services and targeted prevention and intensive support for families, and which directly fund the needs of the children in an attempt to keep them from out of home care where safe to do so.

Ms KENNEDY: I apologise. I might need to take that question on notice.

The Hon. Dr PETER PHELPS: Are you aware of situations where the family has met all requests for change but FACS still recommends removal of the children? Have families met all the requests made to them but ultimately FACS still sought the removal of a child?

WITNESS F: Personally I am not aware of any cases.

WITNESS G: I can only speak from my own experiences and the cases I have managed, and that is generally not the case.

Mr DAVID SHOEBRIDGE: It is more than non-return. A child has been removed, there is a whole series of criteria—12 months of clear urine tests, parenting responsibility courses, financial responsibilities, drug and alcohol counselling—and parents do everything they can to meet every criteria.

The Hon. Dr PETER PHELPS: Everything they are told they have to do—

The CHAIR: That is a conversation to be had between members. What is the question?

Mr DAVID SHOEBRIDGE: The primary complaint is not having the child returned.

WITNESS F: In accordance with my own experience I am not aware of any case. It did not apply to me.

The Hon. BRONNIE TAYLOR: I used to be a nurse; I worked in primary care. For example, if I had a patient diagnosed with cancer who had recovered, even though a policy said they should be treated for X long, because I stayed in my job for 20 years—I lived rurally—I would ring people up every six or 12 months and ask, "How are you going? Is everything okay?" You want to make sure that there are no side effects or things have happened. If they were fine, I would hang up and leave it. Where does that happen with these families? They do the Brighter Futures program for three years and there are risks—you talked about someone who had no intervention until the child was seven—but who is following those people up?

Ms KENNEDY: That is where the collaborative casework comes in. So we can work with the family up until 24 months but typically, on average, around 12 months. So by six weeks of being signed onto the program you have got your case plan in place and you have had your professionals meeting. That means what we are slowly doing is building social support networks for the family. So who else in the family's network can be a part of this case plan? Is mum linked up with the mother's group? Is the child visible in the community? Because we know from evidence in the sector that if we can deal with the family's own support structures and link them up with universal services they are less likely when they experience stress or another crisis to actually need to rely on services such as Brighter Futures or FACS. So the whole aim is building and sustainability in our casework. Unfortunately, we do not have the capacity to do the follow-up phone calls that you have

mentioned. We have explored that, but it is unmanageable with a case load of 11 in the current space. I would agree with you though that having that provision—

The Hon. BRONNIE TAYLOR: You set all that up and then everything could go astray—they may not go to mother's group or do that—and they fall through again.

Ms KENNEDY: What we do find is that we have got all the other professionals.

Mr DAVID SHOEBRIDGE: Perhaps you could take this question on notice. My question is about soft entry points to services. I cannot think of a harder entry point than turning up cold at someone's door, knocking on the door and saying, "There have been 15 reports and I am just here to help." That is a pretty hard entry point. A number of submissions talk about services being available through soft entry points—mothers' groups, the local gym. Could you provide your thoughts on how we could target services through soft entry points rather than hard entry points?

Ms KENNEDY: I can take that question on notice but what I can say so far though is that we do run community playgroups in the Miller locality in Liverpool. The aim of those playgroups is to reach families—it is run through two public schools—who may not have come into contact with services but who, through becoming involved and engaged with the playgroup workers, start to feel confident and start talking about some of their concerns.

The Hon. DANIEL MOOKHEY: You can also take this question on notice. Can you tell us how many hours the people with whom you work, the teams, work after standard business hours and on weekends?

Ms KENNEDY: Yes, I can do that.

The CHAIR: Time has bet us but your evidence has been most informative. The Committee appreciates the frank way in which you have answered the questions asked of you. You are dealing with some of the most vulnerable people in this State and from the way in which you have given your evidence your commitment is apparent and the organisations for which you work are doing their very best. We will take your evidence into our considerations and recommendations. You have 21 days in which to answer the questions you have taken on notice. The secretariat will be able to assist you in that regard.

Ms KENNEDY: Thank you. It was a privilege to be here.

(The witnesses withdrew)

(Short adjournment)

STEVE TURNER, Assistant General-Secretary, Public Service Association of New South Wales, affirmed and examined

RAY WILTON, Child Protection Casework Manager, Department of Community Services, currently on secondment to the Public Service Association [PSA] as a Regional Organiser, sworn and examined

The CHAIR: An opening statement can be provided by one or both of you, whatever you choose.

Mr TURNER: I do not intend to make a big opening statement. Our members are working in the Department of Community Services and Family and Community Services [FACS] in this State do a fantastic job. They are extremely professional and working in the interests of children. Everyone has the interest and the safety of children at heart. We try to work with the Department very closely on ensuring that FACS and the Department of Community Services do their jobs effectively and as well as possible so that the safety of children in the State is dealt with in the best possible way.

The CHAIR: Your submission has been received, it is submission No. 66. It is a detailed submission and we thank you for providing that. You can take it as read and the committee members will ask questions perhaps associated with elements of that but also their own line of questioning as well. Joining us at the table are members from a range of parties, so we will share the questions in a fluid way, moving between committee members.

Mr DAVID SHOEBRIDGE: Mr Wilton, did not want to give an opening statement?

Mr WILTON: No, thank you.

The Hon. DANIEL MOOKHEY: Mr Wilton, when not seconded you are a Casework Manager at the Department of Family and Community Services?

Mr WILTON: That is correct. I have been an employee of the Department of Community Services since 8 August 1977. My most recent posting was Manager Casework at the Ballina Community Services Centre. I still hold the position there but I am currently on loan to the Public Service Association.

The Hon. DANIEL MOOKHEY: How many people did you manage at Ballina?

Mr WILTON: At varying times, the limit of caseworkers that should have been under my sphere of influence were approximately six. There were occasions, however, when that number moved up to nine or 10, depending on whether or not the department had made a decision to back-fill other managers who had gone on leave.

The Hon. Daniel MOOKHEY: Is there a ratio of managers to caseworkers that is formally applied?

Mr WILTON: The formula that is agreed to by the department is a 1:6 formula, with a casework manager and six caseworkers.

The Hon. DANIEL MOOKHEY: But the range can be up to nine?

Mr WILTON: Well, because in the past it used to be good practice that when somebody went on extended leave that somebody else would act in that position and support that team. In more recent times the department does not do that, it just asks managers to take on more caseworkers.

The Hon. DANIEL MOOKHEY: How many cases would a caseworker be responsible for, what is the case load?

Mr WILTON: An example might be out-of-home care. For out-of-home care caseworkers the approximate number is 13. For child protection caseworkers the approximate number is between six and eight, because of the complexity of the child protection work.

The Hon. DANIEL MOOKHEY: Is that too low?

Mr WILTON: Not in my view. What has always been the determiner is the degree of complexity. For example, a caseworker might have two cases and still have too much work for that month because of the amount of tasks associated with Children's Court activity and other courts where we are involved as well.

The Hon. DANIEL MOOKHEY: Let us go to the out-of-home scenario, the 13 number to which you referred, is that too high?

Mr WILTON: Sometimes it can be because, when one is dealing with a young person who is particularly challenging and where there are all kinds of self-harm issues or issues that relate to harming other people who may be working with that young person and where there is no placement to be immediately located, one spends a lot of time trying to negotiate with people and trying to set up supports to keep that child off the street and, at the same time, moving towards a case solution that provides the safety that that child needs. There have been examples where, when we have been unsuccessful, that child may turn up having suicided or seriously self-harmed.

The Hon. DANIEL MOOKHEY: Before I hand over to my colleagues, the 13 in the out-of-home care scenario, practically what does that mean in terms of frequency of contact with the children in out-of-home care? How often would you be able to sight them, see them, in that scenario per week and per month.

Mr WILTON: I am going to add a little more data because things have changed. What has happened is that while we are outsourcing the out-of-home care program, the agencies that are taking that responsibility on are saying that they are at capacity. And the difficult children in their care they hand back to us because they cannot solve the problems. Added to that, because we are still in the caring game, the Office of the Children's Guardian wants us to meet the same standards that everybody else is required to meet. The difficulty is that when we started privatising the out-of-home care program we also got rid of a number of staff in the process. So now, when we are trying to pick the slack up again and meet the accreditation requirements, caseworkers, not just out-of-home care but child protection also, are spending more time gathering the data to meet the standards than they are in fact going out and visiting kids, both in the child protection and the out-of-home care program.

It is very much an administration-driven process. If you can imagine that every aspect of a child's life in care, from vaccinations all the way through to psychological evaluations, dental care and school—every part of that has to be recorded and maintained and kept up to date on file within every 12-month cycle. The minute you get past the 12-month cycle, if you are not going back to those places and getting all that information for that 12-month period, you start to fall behind. That is what has happened with our out-of-home care program. Those caseworkers are busy trying to get that data together now because of the pressure to comply with the requirement, the standard. So what is happening at this point in time is that caseworkers are being pushed through a process where, from day to day, they do not know whether they are going to be doing a child protection case or whether they are going to be responding to some pressure from another administration person or a director who is requiring or demanding that that out-of-home care work or that particular piece of work is done within the required time frame.

The Hon. DANIEL MOOKHEY: Just to clarify, the administrative gap that you are referring to, is that gap arising from the fact that the NGOs to whom the work has been outsourced have not done that or is it arising because they cannot absorb the capacity and you have to do it for them?

Mr WILTON: It is part of the standard. With the out-of-home care program in the non-government office's hands they rightly say, "We are not taking the case until you have got the work up to date and that the work is maintained". The other side of that, of course, is that when you consider how much child protection work and how many cases are not being investigated, there are two parts to it: one, child protection caseworkers responding to initial or ongoing reports coming in about a child, and then children in care where there are allegations of harm—and we get quite a lot of those as well—that have to be investigated, as well as maintaining all of that data, that information that is required by the Office of the Children's Guardian [OCG].

If you go back a little bit in time, the department went through a process earlier, about four years ago where they rolled out a thing called RAM—resource allocation model—and in that model they did a comparison of the various resources within your community. If I can use my office as an example, we had five child protection teams. When they finished with the RAM we had three. They had known for some time that it was coming so they did not replace staff as they left, and where it got urgent they put in somebody temporarily. But after the RAM we lost 12 caseworkers' and two managers' casework because the argument was that the out-of-home care program was being privatised, but, in fact, most of our out-of-home care program is still in our care; we just did not have the staff anymore to complete the data that was required. Now it is desperate because if we do not meet that requirement then we lose that work to the non-government agencies and we will lose the workers that were there, what is left of those workers, to support that. Does that make sense?

The Hon. DANIEL MOOKHEY: Yes. I am getting from your answer that because of all these other requirements you are not able to give us an estimate as to the frequency of contact with children in out-of-home care.

Mr WILTON: I am saying it is markedly less than it was.

The Hon. Dr PETER PHELPS: Mr Turner, in a press release last week you ostensibly blamed the problems in the foster care system on the Baird Government. Would you like to expand on that and whether you believe that that is actually the case?

Mr TURNER: What I was talking about was the transfer of out-of-home care, the foster care arrangements from FACS to the NGOs, was first started under the previous Labor Government. It followed the recommendations of the inquiry approximately eight years ago by Justice James Wood. He recommended the NGOs complementing and carrying out some of the out-of-home care work so that caseworkers internally within FACS could be freed up to deal with the more emergency face-to-face child protection work. When the Coalition Government got elected it moved from a movement towards putting some of the out-of-home care to the NGO sector to making a decision to outsource it 100 per cent. They have been moving towards that; it currently stands at about 67 per cent of that work outsourced now to the NGO sector.

Part of the press release was talking about the Auditor-General having no overlook of those contracts, of the money involved in those contracts, or putting any monitoring in place of what should be achieved by that outsourcing and what should go on and giving the Auditor-General, like most other States have, the power to follow the money to make sure that is happening. But also, coming back slightly to Ray's answers to the previous question, to put it in lay terms, people in Community Services see that if you list a child from one to 10—one being a very minor case and 10 being the most extreme case—if a child goes off to out-of-home care, to the NGOs, and they are a five or a six, they tend to come back within a very short time because the NGOs do not seem to be able to handle the more extreme or more urgent or more needy cases. That is a thing that is not being looked after properly.

Secondly, moving out-of-home care to the NGO sector was supposed to free up caseworkers to be more available to carry out the work, much of the work that was just talked about in the last few questions. But, in fact, Community Services then started laying off those caseworkers and the caseworker numbers have dropped around the State. So the whole purpose of outsourcing the out-of-home care to the NGOs has been undermined because there are not now more resources remaining in Community Services to deal with the more urgent work.

The Hon. Dr PETER PHELPS: You say that Justice Wood recommended that some work be provided to the non-government sector. Can you point to me anywhere in recommendation 16.2 of the Wood report which indicates Wood envisaging any government role other than an oversight role in relation to out-of-home care.

Mr DAVID SHOEBRIDGE: Point of order: If the member is going to ask about a specific recommendation he should at least have the courtesy of reading it onto the record.

The Hon. Dr PETER PHELPS: Could you take it on notice then?

Mr TURNER: I was going to say I will take that question on notice and give a reply.

The Hon. Dr PETER PHELPS: I put it to you that recommendation 16.2 envisages no role in the provision of out-of-home care services.

Mr TURNER: I will take that on notice.

The Hon. Dr PETER PHELPS: The other thing you said was that, "We know these NGOs are not looking for kinship arrangements for these Aboriginal children". Could you provide any evidence you have which indicates that NGOs are not looking for kinship arrangements for Aboriginal children?

Mr TURNER: I will take the question about can I provide any evidence on notice, but I would like to say that Community Services has a legal obligation to look for kinship placements in community placements for Aboriginal children. The anecdotal evidence we are hearing is that when Aboriginal children go to the NGOs they are not taking those steps to place Aboriginal children within their community with kinship arrangements. In fact, I have gone as far as to say if we are not careful I think we will be having another stolen generation over coming years and unless that is addressed we have got a big problem approaching.

The Hon. Dr PETER PHELPS: So you stand by your statement that NGOs are not looking for kinship arrangements for these Aboriginal children?

Mr TURNER: Yes, I stand by those statements—not looking for them to the degree that—

The Hon. Dr PETER PHELPS: That is not what you say. You are saying "are not looking for kinship arrangements".

Mr DAVID SHOEBRIDGE: Point of order.

The CHAIR: Do you want the question restated so you can hear it clearly?

The Hon. Dr PETER PHELPS: Would you like to clarify your statement in relation to NGOs and Aboriginal kinship arrangements?

The CHAIR: The question has been put. Do you want the question that was originally put put again so you can clearly hear it and answer it?

Mr TURNER: As I said, I will take the question on notice and I can add to it there. But, clearly, we believe there is evidence that carers and kinship arrangements in community placements are not being searched for an Aboriginal placed in those arrangements, to the degree that, one, it used to happen under Community Services and, two, to the degree that is necessary to ensure that Aboriginal children are cared for within their own communities.

The Hon. Dr PETER PHELPS: My final question is, you stand by your view that the entire problem of out-of-home care is the fault of the Baird Government?

Mr TURNER: I am not sure the word to say is that it is the fault of the Baird Government. The point I was making in that press release is that out-of-home care should not be being outsourced to the degree it is being outsourced. Two, there are issues arising from that outsourcing. Three, the fact that this Government wants to outsource it 100 per cent but it is stuck at around the 67 per cent mark is demonstrating the problems arising in finding enough carers and the NGOs being able to carry out that function properly.

The Hon. Dr PETER PHELPS: But would you agree that Justice Wood found that it would be preferable to outsource because at that time DOCS, as it then was, was doing such a poor job of caring for children that it would be better to be outsourced to the private sector?

Mr TURNER: No, I do not think Justice James Wood found that.

Mr DAVID SHOEBRIDGE: To either you, Mr Walton, or Mr Turner, the figures about the risk of serious harm, or ROSH, reports, are some 124,000 reports in the last financial year, but the number of face-to-face assessments was just 35,000. There must be staff then in the department whose job it is to routinely say, "This child is not going to get a face-to-face assessment".

Mr WILTON: That is correct.

Mr DAVID SHOEBRIDGE: Where is that decision being made? Who is making those decisions?

Mr WILTON: As a casework manager, one part of it is called the workload allocation meetings [WAM]. Another part of it is made at the helpline when information is coming in. If you can imagine that work that gets filtered through the helpline to the frontline, which I refer to as the community service centre [CSC], is considered the most serious work. Of the most serious work coming to us, where we have no capacity to allocate those cases we hold on to them for no longer than four weeks and then we close them because we cannot provide a response, even when there have been multiple reports made on that child or those children.

Mr TURNER: It is not necessarily true that people make a decision that they should not be visited, it is that resources do not allow the visitations to occur.

Mr DAVID SHOEBRIDGE: I am trying to get a sense of the decision-making. The helpline is contacted?

Mr WILTON: Yes.

Mr DAVID SHOEBRIDGE: Do they make an initial cull?

Mr WILTON: What the helpline does is sort through the information and work out what is risk of significant harm allegations and it works out what the history is and provides us with a lot of information that they have.

Mr DAVID SHOEBRIDGE: They make a binary decision, it is either risk of serious harm or it is not, and if it is risk of serious harm it goes through to you. If it is not risk of serious harm what happens to it?

Mr WILTON: There are other steps the helpline can take. Can I then say that once they arrive at the community service centre the meeting occurs, usually every Monday, involving all the manager's case work and usually an admin person who has been keeping track of the new reports coming in. We agonisingly go through and read the reports in all their content and make a decision about whether or not we can do anything with it.

Mr DAVID SHOEBRIDGE: That is the next step I want to ask about. Once the helpline has determined that there is a risk of serious harm, it is a valid report on the criteria, it is then basically one day a week, every Monday, that you will sit and go through them?

Mr WILTON: Yes.

Mr DAVID SHOEBRIDGE: There is an administrative officer who is looking at them as they come in?

Mr WILTON: It is a member of the admin team. Not every centre will use an admin worker. What we are trying to do is make sure that we are tracking the cases that we cannot respond to and we can demonstrate we were fully aware of what was in them and demonstrate whatever steps we took. There are other things we try to do if there are lines of inquiry we can take without getting into the case fully, we will try to do that as well.

Mr DAVID SHOEBRIDGE: That Monday meeting, I assume the majority of cases you do not have the resources to follow up and investigate, is that right?

Mr WILTON: That is true.

Mr DAVID SHOEBRIDGE: That must be extraordinarily stressful and distressing for staff to see all these cases and know they cannot do anything about it.

Mr WILTON: It is one of the most soul destroying things to be a manager who cares about child protection and who has been in it for a while to look at those decisions. At one stage, we have been doing this for a long time, I was heard saying that I was getting better at processing what we could not get to than the work we were actually needing to do on the cases we could actively involve ourselves in.

Mr TURNER: There was an event in Wollongong approximately four years ago where, following one of those meetings, a tragic but avoidable event occurred and the caseworkers involved in that event, or should have been involved in that event, were so destroyed that the office walked out for the day because they did not want to be blamed for that event because of the resourcing and lack of support. The Coniston office walked out for an hour to demonstrate the lack of resources and support they had. That led to 37 other officers around the State, over the next seven months, walking to demonstrate the lack of resourcing and support they were having for child protection.

Mr DAVID SHOEBRIDGE: On the figures you put in your submission it has got worse since then not better.

Mr TURNER: It has, yes. One of the other things that is becoming of serious concern is that we started raising the issue of only three out of 10 children notified as being at risk of significant harm were getting a face-to-face visit. Ministers and the department have put in place statistics, a dashboard they call it, of reporting. One of the things we now know is those figures look like visits with face-to-face are improving. It is now up to four in 10. But one of the issues is case staff put a record of what they have assessed into the computer and that is then considered to have been an appropriate follow up, therefore it shows as a face-to-face visit when it is not a face-to-face visit.

Mr DAVID SHOEBRIDGE: Is that your understanding?

Mr WILTON: Absolutely. Yes. Statistically it shows up as something it is not. It looks like a face-to-face contact has occurred but it has not.

Mr DAVID SHOEBRIDGE: If you had to do your best, what proportion of those that appear to be face-to-face on the dashboard involve sitting down face-to-face with children?

Mr WILTON: That is a really good question. It is not that simple. I cannot give you a percentage type answer to that. What I can say to you is that we receive reports—sometimes different issues reported multiple times. We have had reports on children that have numbered 20 or 30 reports but we have not been able to respond because the work we are dealing with is more serious.

The Hon. DANIEL MOOKHEY: When you get the referrals and you get the history that Mr Turner referred to earlier. Are you judging accumulative harm or the incident report?

Mr WILTON: It is about the incident, which changed from what it used to be. It comes back to what Mr Shoebridge was saying. We have to assess whether or not we can intervene. Once we do that we have to

decide can we intervene in such a way as to keep the child in the home to deal with the risk factors and get the risk factors down quickly.

The Hon. DANIEL MOOKHEY: When you said "changed", when did it change?

Mr WILTON: It is a bit like a pot where the heat has been going up, it has been gradual.

The Hon. DANIEL MOOKHEY: Is the idea of waiting for a critical incident itself a rationing device to determine how you invest your time?

Mr TURNER: No, it is not. One of the issues with not being able to do immediate follow-ups and face-to-face visits with all of the children reported as at risk of significant harm is the earlier you visit and intervene the more chance you have of working with the family and resolving issues arising to keep the family together. Because there cannot be and there are not the immediate follow-ups it might be that by the time you get to the child who is reported a second or third time—

Mr DAVID SHOEBRIDGE: Or twentieth time.

Mr TURNER: —it is too late to intervene to keep the family together. That means there are more separations occurring because of the lack of resourcing to do the immediate follow-up and the early intervention work, which would actually be better for the children and family.

The Hon. MATTHEW MASON-COX: When the risk of significant harm [ROSH] report comes to the community services centre and you do your initial assessment, you are saying that you do not get through all of the ROSH reports, some are closed and not looked at. Do you do an initial triage?

Mr WILTON: We have officers in the centre, that team is called the triage team. They go through and do the groundwork and gathering that evidence before it gets to the workload allocation meeting.

The Hon. MATTHEW MASON-COX: There is an assessment done of the serious cases.

Mr WILTON: Yes.

The Hon. MATTHEW MASON-COX: That comes to the WAM?

Mr WILTON: With a recommendation that they be actioned.

The Hon. MATTHEW MASON-COX: Then what happens to those serious cases?

Mr WILTON: If we cannot allocate them, if there is no capacity, we hold on to them for four weeks and close them with no further response.

Mr DAVID SHOEBRIDGE: There is triage by the helpline, then there is another triage within before it gets to the WAM. The ones that you have not been able to action have been considered by two separate trigger points to be of serious merit to investigate?

Mr WILTON: Absolutely.

Mr DAVID SHOEBRIDGE: And you still have not got the resources?

Mr WILTON: Can I drop back to something Mr Turner said that is compelling. If you are a caseworker you have information, you get in your car, you drive out to the home and you sit down and meet with the family. You interview the child. If you have got in there relatively early and your engagement skills and ability to negotiate the issues around the risks for that child are effective you can probably—it is my experience that we often do—prevent that evolving to multiple reports with more serious things happening that are more difficult to recover from later on. If you get in early enough you may only have to be there for a short time and everybody gets the message and people start to involve themselves in things we set up for them and the problem diminishes, things improve and the risk factors disappear. The longer we take to get to it, the more the reports, the more serious the harm, the harder it is. Imagine yourself if you are parent and you have lost control and over a period you have gone on to make worse decisions and you have actually caused bruising, breakages—

Mr DAVID SHOEBRIDGE: Schooling has deteriorated, behaviour has deteriorated.

Mr WILTON: It is very difficult to recover from that place. As a parent, looking into the eyes of your child and knowing you have caused that kind of harm changes the whole dynamic. There is so much in that stuff.

The Hon. MATTHEW MASON-COX: You would struggle to call that a child protection system, would you not?

Mr WILTON: I would.

The Hon. MATTHEW MASON-COX: Mr Turner, you note in recommendation 4 of your submission that there be an increase in the number of funded caseworker positions, and a commensurate level of system and support staff to ensure that no ROSH reports are closed because of competing priorities and that at least half of those reports result in a face-to-face assessment by Community Services caseworkers. Have you done an assessment of how many caseworkers will be required to meet that recommendation and what resources would be required to satisfy that recommendation as well?

Mr TURNER: No. I have been asked that question a few times. We cannot give a finite number. It is not just caseworkers but psychologists, administration support staff and specialist staff. Also there was a huge problem with the computer system for a long time. The previous Labor Government allocated some money to it, and that got stopped but it is now being rebuilt and it is getting better. But then there are other issues as well. Just this morning on the way here I was told that the new printing system, the IT system is not working. We have not got a finite number of caseworkers, specialist staff, administration staff that are necessary but we need an increase in staff. We work with the department all the time on these issues as they come up.

I just recently travelled the State—I know it is not quite the answer to your question—and I visited eight offices. In seven of those eight offices, before the meeting finished that I had with them, someone or several people in that meeting were crying from the stress of the work and what is going on. The staff within FACS are suffering from extreme vicarious and secondary trauma because of reporting, or not being able to deal with reports. Certainly there needs to be better resourcing, more resourcing of staffing and support facilities.

The Hon. MATTHEW MASON-COX: Will you take this question on notice? Will you do an assessment—you best guess, an estimate or whatever you want to call it—of what you think might be needed in the circumstances?

Mr DAVID SHOEBRIDGE: Or indicate why you cannot.

Mr TURNER: Yes.

Mr WILTON: The upper House actually has done this work once previously. You might recall you actually made recommendations—not you personally—

The Hon. DANIEL MOOKHEY: Our Chamber?

Mr WILTON: That is correct. You made recommendations about enhancements that did go a considerable way towards helping us. We were making progress and then it all got turned around.

The Hon. DANIEL MOOKHEY: Mr Turner, do you have any industrial bans in place currently in respect to child protection?

Mr TURNER: Yes, we do have some bans. The main ban at the moment is in relation to the performance development program.

The Hon. DANIEL MOOKHEY: Why is that?

Mr TURNER: It is because when the Government designed the Government Sector Employment Act it got the Act around the wrong way. It abolished jobs and put people into roles. It then said that there would be capability frameworks drawn up to describe those roles. However, the Act said by July 2015 that all government departments must have a performance development program in place, and by July 2016 all government departments should have the capability framework in place. But we say that is around the wrong way because how do you get performance developed if you have not got your capability framework.

We have, not just in Community Services but also in several government departments, a ban on the performance development programs. We now have a recommendation from the Industrial Relations Commission for DOCS itself—although it is in court this morning—that only staff with a capability framework already completed or applying to their role should have to do the performance development program.

The Hon. DANIEL MOOKHEY: Am I right in my understanding of your evidence? Your members are being judged by a standard that does not yet exist?

Mr TURNER: They are being judged against a standard that they do not yet know they are doing.

The Hon. DANIEL MOOKHEY: What implication does that have on how caseworkers go about doing their jobs?

Mr TURNER: I will take that on notice. The most important thing is that all staff in Community Services are dedicated professionals working in the interests of children. They would much prefer to focus on the interests of children and to have the time to be out there doing what they know, what they are trained to do, and how to do it—not to be put into another program to do another role or another thing that they do not know. How do you work out a performance program and a development program when you do not know the capabilities that you are trying to inform, meet or be held against?

The Hon. DANIEL MOOKHEY: Why is it taking so long to develop that? What is the delay? What is going on?

Mr TURNER: There are delays at all different levels of government. I do not think any government department yet has the capability framework in place. It is about describing the roles. It is about again doing that work when you are actually trying to do your primary work, and the confusion or the lack of time to actually complete it all.

Mr WILTON: Imagine the milieu that people are operating in where they are competing to complete priority data to get accreditation so that you can legally continue to care for children that nobody else can because they are too challenging or because there is no capacity in the non-government sector, where you are juggling both out-of-home care and child protection risk of significant harm reports, and where you are in a position where you are being managed or supervised in such a way as to be compared with a set of standards that have not even been presented to you. What you end up with is a great deal of confusion. The question of leadership becomes the big question because at each point, as a casework manager myself, the thing that caseworkers needed from me was predictability, clarity, knowledge and skill.

They needed to be able to come in and say, "I know what I have got to do. I have got this case that is a bit more complex and I would like your opinion on it." So that is there to be provided. They might say, "I need additional support when I go out in the field because it is a complex case." It is incumbent on the manager to go out with that worker to help them with that complex case. When you have got even the managers themselves under pressure to produce priority work from three or four different sources, it is little wonder that we are running into people, not just caseworkers but managers, who in my discussions with them end up in tears. I had one in my office yesterday who is really seriously worried about her mental health.

The Hon. DANIEL MOOKHEY: I was going to ask from the perspective of a manager what do you need to manage staff when you do not have the standards around with which to manage them. But you have already answered that question.

Mr TURNER: We have been so concerned about the workload and what is going on that about 20 years ago our delegates developed what we call a workload planner, but they have updated and modernised it. I was about to say we did have another ban on because we were putting that in place to make casework staff work with their managers to implement that planner. But we had a meeting with the secretary, Michael Coutts-Trotter approximately a month ago. He has now agreed to allow the rollout of that planner. Until they can design and develop a better one he is happy to go with the one that we have designed.

The Hon. MATTHEW MASON-COX: I refer to complex cases. Obviously you have a caseload that has different levels of complexity. Does the department have like a fly-in, fly-out group that comes in to assist with complex cases?

Mr WILTON: Usually what happens is that if there is a critical incident or a child death then central office sends in a fly-in squad to work out what happened and who is responsible. That is not quite the same as coming in to help with a complex case. The difficulty around complex cases is that often decisions can be made by people who are at senior levels, that is, the director level where their agenda is really about dollars and saving dollars, which sometimes clashes with the caseworker requirements and the needs of a child that is acting out seriously in the community. Sometimes we end up clashing heads with directors over stuff like that because at the end of the day there is the question about how much money is available to provide support.

Mr DAVID SHOEBRIDGE: Will you provide on notice a copy of the standard workload planner?

Mr TURNER: Sure.

Mr DAVID SHOEBRIDGE: Earlier Committee members asked questions of caseworkers about whether there is a rule of thumb in the number of cases they get allocated. One caseworker said there kind of was a rule of thumb and the other one said there really was not. So I am asking you.

Mr TURNER: How our workload planner works is the worker will work with their manager to agree on time frames for different roles they are carrying out and then work out which different roles they can therefore get done within the 35-hour week. It is sort of the worker working with their manager to agree on what is achievable with the workload they have. But, yes, we can provide it.

Mr WILTON: There are certain rules around the use of it. Some managers like to tack on all the work they can even though the caseworker cannot get to it. So there are some abuses of it, but we have encouraged our members to make the point that if it is not dealt with in a way that is fair and equitable then they come back to a different system that says if you cannot use the workload plan the way it was intended or you refuse to use it then a maximum case load of six should apply. It is quite an arbitrary number, I agree. As I said earlier, two cases might be too much for some people.

Mr DAVID SHOEBRIDGE: There are different case loads whether it is out-of-home care or child protection. We are talking about six for child protection?

Mr WILTON: Yes.

Mr DAVID SHOEBRIDGE: What about out-of-home care?

Mr WILTON: At that stage, before the progression had moved on to the privatisation of out-of-home care proper the way it is now, it was across the whole program. You could be in any of those. People come back and they say, "How does that work with Practice First where you don't actually have allocations but you still have all these tasks?" As Mr Turner said, it is really quite clear that it works on the basis of how long it takes a person to do the listed tasks that can be measured out in the time that they are available.

Mr DAVID SHOEBRIDGE: As the Hon. Bronnie Taylor said, people are not robots. The Hon. Paul Green was talking about his experience in nursing where the nature of the case basically gives it a patient load. Intensive care might require a full-time nurse whereas a fractures ward might be able to function with a nurse amongst 12 patients. Are there any efforts or moves within the department to start coming up with some kind of robust case load analysis like that?

Mr WILTON: I am not aware of it.

Mr TURNER: We are not aware of any attempt to achieve that.

Mr DAVID SHOEBRIDGE: But do you not think it should be? You need some kind of established baseline to start the conversation with your manager, otherwise you could just be loaded with anything.

Mr TURNER: It is the lack of any such thing that led us to developing and implementing the workload planner. I do not want to speak for them, but I would presume it is their lack of an ability to think of an alternative that has led to the secretary saying, "Yes, we will work with your workload planner until we can design something agreed and better."

Mr WILTON: My view is a bit more cynical. I actually think that the absence of a workload planner makes it possible for the organisation to make the opportunity for people to do more than they can handle. A lot of our newer caseworkers who just want to impress and want to make a career put their own health and safety at risk. They will take on more cases than they should.

Mr DAVID SHOEBRIDGE: And ultimately put the clients at risk by having a massive overload.

Mr TURNER: Which is one of the reasons why you are seeing a rise of workers compensation claims within community services.

The Hon. PAUL GREEN: That is what the nursing ward found too. When you put it down in units per task we found out we were short-staffed. It was not the best method of showing not this Government but governments in general just what the true workload was across the ward. It works for baseline observation. I would imagine in a situation where you have a report on a child and you have to write up some papers you have some baseline things that you have to do, but it is not the be-all and end-all because you just could not plan for the flexibility that is needed for a child who is running away or trying to get some attention by doing something that is not really helpful.

Mr TURNER: And you have one child you are looking into and following up and then a child does run away and you have to decide what is more urgent.

The Hon. PAUL GREEN: You might need to provide close care where you have to be sitting with that child for 24 hours. You cannot put that in a tick list.

Mr WILTON: In the teams that I have supervised over a number of years and used the workload planner the case worker and I have an arrangement that says, "I can come to you during the course of this period that this work is planned for and I say to stop everything because I now have a piece of priority work for you to. I know we had agreed that you were going to do that but I reserve the right as a manager to give you work that is more urgent and so I need you to take it on." The very first thing that they do after we get all the questions sorted about what to do next is to record it on their workload planner so they are then able to say to me at the next workload planning meeting, "You remember that the reason I couldn't get to this and this is because you gave me that."

The Hon. PAUL GREEN: I think we call that competing priorities.

The Hon. DANIEL MOOKHEY: Either now on or notice are you able to elucidate what support the department provides for caseworkers who are suffering mental illness, vicarious trauma, post-traumatic stress disorder or receiving other forms of mental health assistance? Can you give us a view as to whether that support is going up or down?

Mr TURNER: My personal view is the reports are going up. As I said, what I saw when I went around eight offices was that the physical evidence of it is becoming appalling to the extent that I wrote to the secretary four weeks ago pointing out what I had seen. We had a meeting. We have now subsequently had two meetings to discuss those issues. The department, and I do not refer to the secretary here, claims to be addressing these issues but I do not think it is being addressed well enough to limit the trauma that is occurring to staff within FACS.

The Hon. BRONNIE TAYLOR: It is your personal view that this is happening. Do you have evidence?

Mr TURNER: The annual reports of FACS show that the workers compensation claims are rising.

The Hon. BRONNIE TAYLOR: You just said that it was out of your personal view.

The Hon. DANIEL MOOKHEY: I think he said he would take the other stuff on notice.

The Hon. BRONNIE TAYLOR: You said it was out of your personal view. I am just trying to clarify that.

Mr TURNER: After my tour and going to eight offices.

The Hon. BRONNIE TAYLOR: That is fine, I am just asking you to clarify that it is your personal view.

Mr WILTON: In addition to that, I am working with people who are currently in that state. They are caseworkers who their own managers are now saying to the insurer that it is a performance matter and their claim should be denied. Increasingly there are more and more caseworkers who have fallen down on the job who are not being given any kind of insurance support. They are relying on their own holiday leave or Centrelink, whatever they are able to get to make ends meet, while they try to recover and they pay for their own recovery as well.

The CHAIR: Thank you so much. I am sure we could go on but time has run out. Your submission was most helpful and your oral testimony has provided a lot of detail that will be useful in our deliberations.

Mr TURNER: We will reply to the questions we took on notice.

The CHAIR: The secretariat will liaise with you to resolve those.

(The witnesses withdrew)

KATIE ACHESON, Chief Executive Officer, Youth Action, sworn and examined

JACQUI McKENZIE, Policy and Advocacy Manager, Youth Action, affirmed and examined

The CHAIR: Thank you for your detailed submission, which is submission No. 71. You can take it as read. We have Committee members here from various parties. If you are okay with it we are going to share the questions around and allow it to flow pretty freely. Before doing that I will invite one or both of you to make a short opening statement to provide us with the maximum time for asking questions.

Ms ACHESON: I begin by thanking the Committee for the invitation to appear today. I also acknowledge the Gadigal people of the Eora nation on whose land we meet. As the peak body for youth services in New South Wales it is really important that we bring the information that is happening on the ground to the Committee today. Youth services in New South Wales are working as specialists in the context of young people to enhance and protect assets in young people's lives and to support them in times of need. Youth services interact in many ways with the child protection system. They see young people before they enter the system. They work with them at some of the most intense times and support young people as they leave care or reduce contact with the system. I also commend the work and the passion of many individuals, organisations, agencies and department for their commitment to providing better outcomes for young people at risk in New South Wales.

Our submission to this inquiry was intent on highlighting the situation for young people 14 to 17 in New South Wales—which is probably a little bit different to other groups the Committee has looked at—this at-risk group and people who are actually lost in the current system. We know that there are 2,582 young people aged 15 to 17 in out-of-home care right now in New South Wales. We know that those aged 14 to 17 make up a large proportion of reports—19 per cent of concern reports and 11 per cent of ROSH reports. We also know that they are least likely to receive child protection services and are well over represented in residential care and independent living compared to family out-of-home care and family group homes. We also know that there are a high number of reports of adolescents receiving no response at all. This is also confirmed by what we heard from services that this group of young people are receiving no response at all and the care options given are often poor or inappropriate, and where there is a responsibility of the Minister and the department they often get lost in the system that is supposed to care for them.

It is really important that we look at the fact that young people in this particular age group are at a pivotal time in their lives and intervention action makes a massive difference. This time is second only to the early years of life. So it is even more important for us to look at this group as a key pivotal time to see trajectory changes and as a result we should be seeing more intervention, not less or none, being given to this group. We applaud the steps the Government has taken so far but we want to see not just piecemeal adjustments, which we have seen so far, but an overarching systemic strategy for young people at risk in New South Wales. Youth Action affirms its recommendation that the New South Wales Government provide a clear picture of the current systemic response to this age group; that the New South Wales Government commit to reviewing the system and implementing an overarching strategy to ensure that young people who need support, receive it; that the funding levels are appropriate to the need; that funding is invested in early intervention and prevention, not just crisis; and that the New South Wales Government report on the progress it has made in previous inquiries because as we know from the 2008 Wood report we have not seen many changes, particularly for this age group.

The CHAIR: Was that a joint opening statement?

Ms McKENZIE: It was joint, yes.

The Hon. Dr PETER PHELPS: There are two components to recommendation 5 but can you elaborate on the "strengthen practices regarding young people who self-place"? Can you describe the extent and the nature of self-placement for young people or adolescents in this category?

Ms McKENZIE: We surveyed 67 of our members—we did not do a very extensive survey, we kind of hand-picked a small amount in order for us to prepare a submission for this inquiry—and what we heard from them was self-placement. So where a young person responds to their situation with their feet and chooses to go somewhere else—

The Hon. Dr PETER PHELPS: Where?

Ms McKENZIE: It depends. They might go back to—this anecdotal, this is coming from our membership base—their biological family, they might go into homelessness services, there is a range of places they go that is not their foster family and it is not residential care.

Mr DAVID SHOEBRIDGE: Or they might stay with a friend's family?

Ms ACHESON: Couch surfing, yes.

The Hon. Dr PETER PHELPS: The second component was "ensuring young people have relationships with non-government support services." Could you elaborate on that and could you also discuss whether adolescents in this category feel more comfortable dealing with non-government support services than they would with FACS or government support services?

Ms ACHESON: Across New South Wales there are between 300 and 500 youth-specific services that provide a range of supports for young people in different areas and communities for different target groups. We surveyed our members to see how many of those services, which are early intervention and prevention services, are actually dealing with young people of this cohort who are more at crisis level rather than the early intervention stage. Youth services and youth workers are well trained in what we call "soft entries". So they create relationships and meet young people where they are at, they also support them in their current situation, including what is going on with the family unit, with friends, with school, and they connect all of those things for the young person to have the support that they need and to help them to deal with the barriers they are currently facing. There is a real rapport and a unique skillset that youth workers have that is quite useful, and that is why young people are drawn to get supports from them more so than possibly a government systemic response.

The Hon. Dr PETER PHELPS: Is not the key learning of this that you can have all the excellent government services in the world but if adolescents are concerned about the implications of using them and they prefer to use the non-government sector for a range of reasons—whether it is better outcomes or because there is less big government or less concern about what will happen to them—then the funding priority in that instance should be on where the users of those services want to use services, not where we think as a government the money should be going?

Ms ACHESON: It is a difficult one to say that young people do not go—I would not say we have collected evidence to say that they are not going to government services; it is more about young people feeling like they can approach somebody. I know that the Committee has probably talked to a number of caseworkers in the department, but a lot of training happens to train workers who are engaging with young people at risk to meet young people where they are at in an age-appropriate way so whether you are working with a child or a teenager that person is responding. I think youth services are particularly skilled at that 12 to 25 cohort so that they can welcome, be encouraging and empowering to any young person.

The Hon. Dr PETER PHELPS: I agree, and your recommendation 4 relates to both FACS and the non-government sector being actively funded. The thing I found interesting in recommendation 5 was "ensuring young people have relationships with non-government support services", which implies—and I do not want to put words into your mouth—that there is a value-add that you get because of either the outcomes produced by non-government services or because there is a greater tendency for young people and adolescents to seek out those services because it provides them with something above and beyond what government provides.

Ms ACHESON: Absolutely, but it is a holistic response. So youth services are really great at that relational sort of space. They also need to be able to work with the schools, the health system and the family. So there are a lot of skills; it is not just that youth service being able to provide all the things. What they do is, they connect the young person to the right services and the people within those services—I mean the Education department and the Health department and those things are quite large sort of bureaucracies that most of us are challenged to navigate and helping a young person through that process is also important. Youth services and youth workers are really skilled at doing that. It is really key that youth services are a part of this process for young people, but they cannot answer the whole problem. You still need dedicated supports for the families, you need dedicated supports for making sure that all of the issues for the young people are being addressed and the youth service is definitely an important part of that.

Ms McKENZIE: I just wanted to add to what Ms Acheson was saying. It is about connection to community as well so a young people is not just an isolated person in the community. Part of the work that youth work does is to connect them to other services and to make sure that as they do grow as a person, as they do develop, that they know where to turn to for help if they do need it. Part of that is relationship skills that

youth workers utilise to ensure that the young person is not just a person in community but is connected to the different parts of community.

Mr DAVID SHOEBRIDGE: I did not read your recommendation 5 as saying non-government services are good and government services are bad or even to put in a hierarchy. I read your recommendation 5 as saying that particularly children who are self-placing, who therefore are not in their situation because of the intervention of the department, are actually hard to get to and you need to find a way to get to those self-placing kids and put them in contact with your services. Is that what you are saying?

Ms McKENZIE: I think what the recommendation is truly trying to speak to is that young people will self-place and you can have an amazing Government caseworker and you can have an amazing non-Government caseworker but that young person still needs to have a connection to community, which youth workers facilitate really well, to help them when they are self-placing to make sure they have someone who walks alongside them to support them, whether it is with mental health and other health needs or simply a caring adult.

Ms ACHESON: And as we are saying with this particular group, if the system is not addressing the issues and the young person is having to seek support in their own way and they are self-placed and they have found a safe place for them to sleep, then we need to meet them where they are at. And it is really important that, if a young person is in a place where they can have some safety and support that we do not stop providing services because now they have a roof over their head because we still have a duty of care and we need to make sure that they are safe and that they have the support that they need in order to succeed in life.

Mr DAVID SHOEBRIDGE: And it is recognising that children 14 to 17 have real agency and you cannot simply say: "No, I do not like your placement because I have got a preferred option in a care plan that we established two years ago." It is actually about working with the children.

Ms ACHESON: Absolutely.

Mr DAVID SHOEBRIDGE: And recognising that they will be making decisions about their lives as well, is it?

Ms ACHESON: Absolutely. And I think that the ability for any young person to be engaged in the decision-making processes that affect their lives is fundamental to the system that we have, whether they are zero or whether they are 17. Obviously that is progressive in their ability to make good decisions for themselves. It is progressive on knowledge. But we also need to make sure that young people are engaged in all parts of this conversation.

Mr DAVID SHOEBRIDGE: My last question on this point: Is there a tendency that you have noticed in either the department or in non-government organisations that by the time a troubled child is, say, 14 and they have been troubled for a while, that it is all too hard and we will just process them from refuge to refuge until they are processed out of the system? Is there an element of that in the system?

Ms ACHESON: Our report really drew some questions for us about that, particularly considering that this group is at such a pivotal point in life. With zero to five, if you intervene and it is good and positive you get trajectory change.

Mr DAVID SHOEBRIDGE: That is why I am asking you, why are they getting so little attention?

Ms ACHESON: The question is, why is there not a focus on this particular group where we know that we can have a trajectory change in their life to make sure they have the things that they need to succeed? It is almost the opposite of what the evidence shows. We are not doing it but it would seem that we should be putting it in because of exactly that.

Mr DAVID SHOEBRIDGE: I am asking you: Do you think you are fighting that kind of mindset? The evidence is X but the mindset says Y?

Ms McKENZIE: I think in our experience the evidence is there, as highlighted by the World Health Organisation and numerous other people who are experts in this area that perhaps policy has not necessarily followed. So with the early years we are seeing crucial research, we have seen strategy, we have seen policy that has been embedded in the way we work with these young people in the child protection system but we haven't necessarily seen that sort of investment that has followed the evidence necessarily.

The Hon. Dr PETER PHELPS: Could I make this suggestion: I agree with Mr Shoebridge, would one of the reasons be that nought to five-year-olds actually have very little agency and hence are easier to work with, whereas 14- to 17-year-olds require more effort?

Mr DAVID SHOEBRIDGE: Prickly, difficult, opinionated, hard—

The Hon. Dr PETER PHELPS: And hence, if there is a tendency, with limited resources, to focus on a particular area, you go for the easier option.

Ms ACHESON: Well I think if we had child protection systems that went up to 60, imagine the 60-year-old and their experience. Or even if you have 20 years of experience and you have had 20 years of barriers and challenges and success stories. If you have three years, you have three years of that. Obviously, it is an accumulative thing. So a 14-year-old has had 14 years of experience and barriers and challenges and successes and so, for some, you could say that the likelihood of them having more barriers is probably greater than zero to five and they are able to articulate it better. At the same time youth services work with these young people all the time and we have great success.

Mr DAVID SHOEBRIDGE: I think that we could have read story after story in the newspapers, current affairs, where you see how important it is to invest in early childhood education. Why are we not getting the same stories being told about how important it is to invest in our adolescents?

Ms ACHESON: Absolutely. and I think it is just a change of that rhetoric. It is about informing and I spent this morning doing that exact thing, challenging stereotypes of young people. It is easier to call them names and throughout history we have done that. The teen years are times where young people are finding their feet and it is an imperative time for them to work out their agency. Structures and systems do not tend to like it and we are quick to forget the young people and push them aside. I think what we see is that we need to start investing in and changing the way that we talk about it and say: This is actually a pivotal time; if we invest in this, it changes their future and our community's future as well.

The Hon. Dr PETER PHELPS: That goes to your Recommendation 5. Self-placement is important because these people have assessed themselves and are, in fact, much more likely to have positive outcomes, are they not?

Mr DAVID SHOEBRIDGE: Respect them and work with them.

The Hon. BRONNIE TAYLOR: I wanted to go back to what you were saying before and I think all aspects of the age group are really important here. I do not think one is more important than the other, and I think we have conclusive evidence about early childhood and that is why we value it because we have the evidence there. I am not saying that we do not have the evidence in this age group, but surely it is more about—again I will bring up continuity—and obviously you and people in your profession have a real expertise in the age group you work in, I agree hands down. Is it not about the fact that if we have someone that we know is in an early childhood phase that has been classified as at risk and we have some really great early intervention from government organisations [GOs] and non-government organisations [NGOs] and things are going along really well, chances are they might come up against that again. So if they are discharged—I am sorry to use a health term—but if they are discharged from that service and then left, it is likely they are going to come across you. So where is the continuity to make sure that, when they go from that phase to that phase, they are monitored and looked at? And when you are finished with someone 17, who then looks after that person? Why can it not be one continuum?

The Hon. Dr PETER PHELPS: From cradle to grave?

Ms ACHESON: The National Framework for Protecting's Australia's Children:

> All children have the right to be safe and to receive loving care and support.

and

> Children also have a right to receive the services they need to enable them to succeed in life.

That is not a barrier to a zero to 5-year-old or a 6- to 12-year-old, it goes throughout that continuum of life. Our social compact as a country with our citizens is that we provide care and support and services wherever we can, hence why we have a health care system and a justice system and similar things. What you are saying is a fundamental thing to the Australian community and absolutely true. Child protection adds some different layers for us: How do we make sure that the young people who come into contact with the child protection system at any point are continually able to be safe, loved, cared for and to get the support that they need? Whether they are directly in front of us, in the home or in self-placement or anywhere, they need to have the services and the things that they need to be able to help them succeed in life. It is just that we have made the statement it is a government responsibility but we all, as a community, are part of that process.

The Hon. BRONNIE TAYLOR: It is everyone's responsibility because that is what this whole inquiry is about, putting the children first, talking about different organisations and what they can provide at different points. They should all be working together to put the child at the forefront.

Ms ACHESON: It is a continuum and it is across the community. It is not just the parent's responsibility or the wider family unit.

The Hon. BRONNIE TAYLOR: It is the organisation's responsibility.

Ms ACHESON: The organisation's responsibility or the Government's responsibility. It is a responsibility of us all and if any one of us cannot fulfil that, then the rest of us must pick that up. That is part of the system, it is a holistic approach. Youth services are a really important part of that, particularly for this cohort but it is not the only part. You cannot forget the young person in this who is obviously at the centre of the conversation. But we must include their families, their extended families, their friends, their wider community, the schools, the youth centres and the community groups. It is so much greater than just one aspect, which I think is what you are pointing out and I completely agree. The challenge is—and what we got from preparing our report—that the data is not clear. We lose young people in the system consistently and this particular group we often lose. If they do self-place and we do not know where they are, the department often loses touch with them and we do not know whether they are getting what they need.

The Hon. BRONNIE TAYLOR: Therein lies an issue, does it not? Exactly what you have just said: someone loses touch and we talk about that so openly in these last few days, and that is not okay. We need to find a solution within the system so that if all of these organisations are losing touch of these very vulnerable people that we catch them. Surely that is the responsibility of all the organisations that are all being funded to work together to put the person at the centre.

Ms ACHESON: And at the moment youth services are often beneath the child protection system. We are seeing that young people are entering into youth services with quite high and complex needs and the youth services on the ground are the ones that are kind of catching them, but, at the same time, they are not funded to do that; that is not their funding or remit. They are not supposed to be a crisis intervention, but they are still doing that; it is part of the system. But how do we make sure that the young people, wherever they are, are getting the supports that they need? It is not about the entry point; it is about what that young person needs and where they are and how do we get them the supports that they need in that space?

Ms McKENZIE: And some of the issues that Katie raises is there should be a continuum and it is broken. So when you have services that are funded to do early intervention work but they are actually holding people who are in crisis because the child protection system has not caught them or does not have the capacity to deal with them—

Mr DAVID SHOEBRIDGE: Which is basically what we heard from the Benevolent Society earlier today.

Ms McKENZIE: Yes, and what happens is that early intervention work, which is really, really important to stop young people from escalating into crisis, they cannot do that crucial work because they are holding crisis people already because the child protection system has not managed to—

The Hon. BRONNIE TAYLOR: So maybe there is a real key and a solution into making sure that the continuum does not break.

Ms ACHESON: I agree. Cradle to grave is fantastic but let us just do—

The Hon. Dr PETER PHELPS: I was being deeply ironic.

Ms ACHESON: Let us just do zero to 17 and 364 days if, just barely, because that is the statutory requirement. Let us make sure that if a young person is in contact and we think that they are risk of serious harm that we provide the services they need to make sure that what they need to succeed in life is there. It sounds like a simple statement; it is a complex process, but it is possible, and there is lots of good evidence around the world of how to do that.

The Hon. DANIEL MOOKHEY: Which is a wonderful segue to the next line of questioning I wanted to ask about. We had evidence earlier in the inquiry on another hearing day about people's transition out of child protection from the age of 17 and above—not at the point of return to a family but, essentially, because the statutory requirement to care expires or they have outgrown it and therefore they are left on their own without any adequate support in that transitional phase. Do you think that is a truth? We also heard a suggestion that there needs to be outside the statutory system an accompanying system to help guide people who are

transitioning out of caseworker management into adulthood, and the fact that the threshold should be closer to 25.

Ms ACHESON: The argument about 18 as a mark, our Federal systems have said that parents are responsible for their children until they are 21, depending on which tax bracket you look at and everything like that, and it stretches to 25 at different points. The fact that we throw young people out of our system at 18, whether they are ready or not, is an arbitrary line that is not necessarily helpful for that individual. I think it is an important thing to be stated clearly that the 18 mark does not necessarily match everything else that we have in our Federal policies, particularly, that say that young people need more support beyond that point.

The Hon. DANIEL MOOKHEY: I understand there is an issue of alignment, which particular policy deems a person to be an adult for which particular reason—and let us not go anywhere near insurance. Are you able to provide us with a bit of policy guidance as to, for the purposes of child protection, what it should be?

Ms McKENZIE: If you look to research that is done in different areas, in different countries, like Scotland, for example, they have changed the age of transition to 21. We are an organisation that supports the age range 12 to 25 because there is some evidence that shows that the brain has not fully developed, so 25 is that kind of—

The CHAIR: There is more than a lot of evidence—that is a medical fact.

Ms McKENZIE: Yes. But it is complex. Some young people are ready to leave and they do not want to have any contact with their caseworkers at age 18, so it is about what support for them and what support for young people who want to stay with their families, but those carers need—

The Hon. DANIEL MOOKHEY: Sorry, just to interrupt. Is your evidence that the decisions being made are being made because a person no longer needs help, or is it more the case that the decisions are being made because, essentially, the rules say "18 you're out"?

Ms ACHESON: The rules say "18 you're out" not based on the need that is required. They do not have a choice. Eighteen is the gap. As you probably heard from many different people, child protection workers have high caseloads and struggle to be able to meet every single person and address every single need, so they have a guideline and it is 18.

The Hon. DANIEL MOOKHEY: It is more to ration capacity than it is necessarily to meet need?

The Hon. Dr PETER PHELPS: It is an historical thing: if you are an adult at 18 you are an adult at 18.

The Hon. DANIEL MOOKHEY: I agree; I understand your point, but I am asking the question: Is that, in your view, what is guiding the policy here as opposed to the needs of the young person?

Ms ACHESON: I think our report is clear about the 14 to 18: it is not needs-based anyway because they are not getting supports.

The Hon. PAUL GREEN: And the exit plans are not that good either—about 30 per cent of them only being completed.

Ms ACHESON: And there has been some great work done by CREATE, and another organisation that they did it with, to look at that transition and how to help. There has been a lot of movement in the child protection system to look at how can we better do this, but it is early stages and we need to do much better, and we know that. The question is about that arbitrary 18-year-old line, whether that is enough. But to have a system that was responding to the needs of the individual, that met every single need that every individual had, would be the ultimate that we could have in a child protection system.

The Hon. PAUL GREEN: It is probably the crucial time when all the services have done all the work, they have been along for the journey of the child up until 18, and then it is like they walk off a cliff; there is no support. But it is really crucial timing. If you can keep them going from there and then prop them up into adulthood, it is not a lifelong service of welfare, it is pretty well maybe jobs, career, growth, housing—a whole pathway. Would you be of the view that this inquiry would need to maybe think about that plus-18 resourcing and what that would look at, and do you have any models where it is working well? I think you said Scotland.

Mr DAVID SHOEBRIDGE: You can take that on notice if you like.

Ms ACHESON: We will definitely take that on notice, particularly about the models that are working. I would highly support recommendation or focus to look at appropriate transitions for young people out of the

care system at all points. I think probably a lot of the people you have heard from—and we are definitely clear on this— have said that that transition is so pivotal. Whether it is at 14 or whether they are being lost at 18 when they are exited out of the system, the transition for a young person into a space where they have autonomy for their own lives, that they have the skills that they need to be able to—

The Hon. PAUL GREEN: A safe autonomy.

Ms ACHESON: Safety—obviously there are some basic things that they need, like a safe place to stay, the ability to pay their bills, the ability to achieve their goals, whether they want to go into employment or into further education and training. The actual supports that are necessary for a young person in that transition point are pivotal and we would highly recommend that the inquiry would support that.

The Hon. PAUL GREEN: And that process is not unusual; it works in the correctional centres. I know down our way they built a section off the prison where the prisoners, when they are released and are free, go into a safe spot, and they are still ushered into the community, into jobs growth, assimilating back into the community safely, with some certainty, and then they are able to move from there to go back to their families. So it is not unusual and it is working in some way, shape or form in New South Wales.

Mr DAVID SHOEBRIDGE: Have either of you had experience working with young people when they get their leaving care plans?

Ms ACHESON: Yes, my personal experience has been from a number of years ago. As far as direct practical experience in recent times, no. There are a number of services who are in this space on a daily basis and they are members of ours and we talk to them on a regular basis and what they are saying has informed the submission. We felt it was an unique group that might not be covered by any other submission and we wanted to draw attention to it.

Mr DAVID SHOEBRIDGE: If an 18-year-old person wants to leave the system and not be followed by FACS for the next seven years of their life, we would strongly support that. You have to allow them to say enough is enough if we have a post 18-year-old transition plan. Is that right?

Ms McKENZIE: Absolutely.

Ms ACHESON: I think it is crucial that we are looking and putting the person at the centre of this, whether they are14 and not in out-of-home care but maybe they should have more intensive support or whether they are 21 and have just left out-of-home care, we need to look at what they need from their perspective and who is best placed to do that. If it is an 18-year-old and they do not want FACS following them for the next seven years that is fine but what else do they need and who are they going to get it from?

Mr DAVID SHOEBRIDGE: There may be other supports, but they must be able to say enough once they reach adulthood?

Ms ACHESON: If they are 16 and have stability and they get to that point. Eighteen is a arbitrary line we have created. The idea behind the line is that they have access to support and everything they need to be able to succeed. If they are 16 and do not need intensive case management from child protection, what other supports do they need and who is going to provide those supports?

Mr DAVID SHOEBRIDGE: I was talking to a young man a couple of months ago and he was transitioned out, but his transition was to be given details on his file that showed there had been serious sexual abuse when he was an infant, which he was not aware of. He was told that in a briefing. Then he was told, "That's it, we are now going to finish it up". He had to buy his own plane ticket from Sydney to his family around Moree way. That was his leaving care plan. It was a combination of shattering events. Is that unusual?

Ms McKENZIE: When we surveyed our members they said that some of the transitional stuff is getting better. I do not think that is uncommon.

Ms ACHESON: When we are talking about young people in the system you forget that they are young people. As a parent we have a responsibility to care and support. Is that the best thing to do? Is that caring, is that loving, is that supportive to drop that information and how do we do that in a way that is age appropriate for that young person? It is complex. Young people that are in the system have had complex barriers throughout their lives that put them in that place. You need skilled workers to walk beside that young person.

Mr DAVID SHOEBRIDGE: People have a right to know what their history is but, in your experience or members' experience, are there adequate structures in place so that information is handed over even in the most basically sensitive and appropriate way?

Ms ACHESON: There is a lot of work to be done. It is clear that case is not the first nor, sadly, will it be the last. Maybe in a couple of years when recommendations create changes we will see the change.

Mr DAVID SHOEBRIDGE: When I hear those stories repeated about the end of their care it is almost institutional abuse. It is the single worst way to enter adulthood. They get this awful detailed story about the past and are told, "Go and deal with it".

Ms ACHESON: That is one part of it. How do you share information and help a young person emotionally exit the child protection system? What happens after that? You pay for your own ticket and get on the plane but who is at the other end? Do you have the skills to find a place to live, to find a job and keep a job, to deal with conflict and to know how to budget? They are pivotal parts of that transitional period in any young person's life, let alone somebody who has not had consistency of care. It is pivotal to ask the questions but we must ask what is necessary for the trajectory of that young person's life to succeed? Rather than tick the box and ask, "Did we keep them in the system long enough?" Are they still alive? Yay! Tick. That is not enough. We need to make sure that they are able to go on with their life, make decisions for themselves and have the supports they need. There are good systems in place in the community with youth support services and child protection but I think there is a real need for that holistic continuum of support to go beyond the child protection system and make sure the young person has what they need.

The CHAIR: Thank you go both very much for the very global submission and your oral evidence. It will assist the Committee's deliberation as it develops a report and recommendations. There are some questions on notice and the secretariat will liaise with you. There is a 21-day return date on these questions.

Ms ACHESON: Could I say one more thing? I think the 2008 Wood report highlighted many of the issues that we are hearing again. One thing that is important to young people when you talk to them is that when they share their information and stories that information produces change, whether or not for them. They are keen for it to produce change in the system. Since 2008 there have been thousands of young people who have been part of this process that have fed back their stories. I commend the Committee for the work that it is doing and encourage members to pull the information together and see some movement on this. I would hate to see us having this conversation again in 10 years. There has been a lot of good work done and there is great reform happening at the moment. It is a pivotal moment to reform the system.

(The witnesses withdrew)

(Luncheon adjournment)

PETER JOHNSTONE, President, Children's Court NSW, sworn

Judge JOHNSTONE: If I can just introduce my two colleagues—Rosemary Davidson who is the Executive Officer of the Children's Court and Rebecca Kang who is the Senior Children's Registrar of the Children's Court.

The CHAIR: The Committee has received a submission from the Children's Court and it is marked No. 80, and that can be taken as read by the members of the Committee. Do you want to make an opening statement?

Judge JOHNSTONE: I would just like to say a few words to set the scene in relation to the Children's Court. It is a bit of an overview of the Children's Court and how it operates. The Children's Court of New South Wales traces its origins back to the early 1900s when specialist magistrates were first appointed to deal exclusively with children. This was the first recognition that children needed to be dealt with in the justice system separately and distinctly from adults. Today the Children's Court consists of 16 specialist magistrates, some 11 children's registrars and the president in various locations across the State.

In places where specialist children's magistrates do not sit, mostly in remote regions of New South Wales, the court's jurisdiction is exercised by Local Court magistrates sitting as the Children's Court. The Children's Court exercises jurisdiction in respect of youth crime, that is, children aged between 10 and18 years, and in care and protection. I sometimes describe our work as dealing with naughty children and bad parents. We also exercise jurisdiction under the Education Act in respect of children not attending school by way of education orders.

In our submission we have sought to highlight some of the key features of the jurisdiction: the therapeutic approach as opposed to the adversarial process as much as possible; specialist skills and experience of the magistrates and we look to exercise a holistic approach to children which has regard to the science of adolescent brain development; the high incidence of the cross-over between care and juvenile crime; the intergenerational cycle of disadvantage that prevails in our jurisdiction; and the overrepresentation of Aboriginal children in the system. They are the key things that we wanted to highlight in our submission.

The Hon. Dr PETER PHELPS: The Committee has received both written and oral testimony complaining about the adversarial nature of the Children's Court and believing that the system of child protection should be moved from an adversarial system, as in a traditional legal system, towards an inquisitorial executive body. What is your view on that?

Judge JOHNSTONE: First, the Act requires us to act in a non-adversarial process. In fact, we do operate in a way that has adversarial processes to some extent but one of the things I have been keen to do, and we are doing more and more, is to take a less adversarial approach. We do not call it inquisitorial as much as what I call the therapeutic approach. We try to conduct ourselves in a way that is more focused on the children who are coming before the court. For example, in our criminal jurisdiction the police do not wear uniforms, everybody in the court stays seated during the course of the proceedings and we do not allow the lawyers to conduct themselves in the way that they sometimes do in other courts, in an aggressive way as sometimes occurs in Parliament.

We like to set an example to the children to have mature debate in a calm and reasoned atmosphere. But there is a lot more we can do. One of the things that we believe is a feature of the specialist jurisdiction is that magistrates that operate in a court do conduct themselves in a much more therapeutic way than you would see in, say, the Local Court or the District Court, for example. But that is not to say we cannot improve the process.

The Hon. Dr PETER PHELPS: Another criticism that has been raised is what some people believe to be an undue deference given to the court in relation to the FACS presentation of its side of the case, more particularly given that we have also had testimony from FACS that indicates it tends to present a case that is skewed towards the problems with the family rather than any potential strengths with the family. Is there a bit of professional deference to the experience of FACS as to the views, opinions and lived experiences of the families themselves, especially in relation to orders dealing with the removal of children?

Judge JOHNSTONE: That is a big subject. I can start firstly by saying that in the Children's Court every family is represented, usually by Legal Aid. They do have their own lawyer to put their position. Insofar as whether or not we consciously or unconsciously defer to the opinions of FACS, we would like to think that we are sufficiently experienced and objective to be able to get to the nitty-gritty of what is happening in

individual families. Nevertheless, when it comes to a hearing, a trial, sometimes caseworkers and casework managers are people whose opinions we do value because of their level of experience in these areas and their knowledge on these sorts of matters. That is just a natural deference to what you might call expert evidence or quasi-expert evidence.

Mr DAVID SHOEBRIDGE: Thank you for coming and for your submission. In terms of the way in which standard care proceedings would happen, the child is removed and there would be an appearance in court normally one or two days thereafter.

Judge JOHNSTONE: Yes.

Mr DAVID SHOEBRIDGE: Could you take us through the standard procedure, perhaps?

Judge JOHNSTONE: I will take you through the process. The children are removed by the department; we have nothing to do with that process. They are then required to file an application in respect of that child within five working days and they come before the court. Generally, the first step in the process is to consider whether or not that child should be placed into State care on an interim basis. That means the court makes an order allocating parental responsibility generally to the Minister on an interim basis. The idea of that is the child is then in a secure circumstance under the care of the Minister whilst whatever it was that led to the removal is investigated in a way that can be done without the child being at risk of harm. That is the first step. That is an interim order.

Mr DAVID SHOEBRIDGE: Often people say that this is the establishment order with no admissions.

Judge JOHNSTONE: We get to the establishment order next because what happens after the allocation of parental responsibility is that an investigation is undertaken and an interim case plan called the Summary of Proposed Plan is presented to the court and an establishment hearing is conducted. What you have to understand about establishment hearings is that the threshold for finding that a child is in need of care and protection is a very low threshold. It is not the final test that you see in final care proceedings where the test for restoration of unacceptable risk of harm is applied. It is a very low threshold, which is basically saying to those parents that these children, in our view, need to be looked after while we find out in more detail what we need to do next. Also we cannot make any final orders until a finding is made. The Act in effect says you have to make a finding before you can make any further care orders. If you like, it is setting the next phase of the proceedings, which is looking at what is in the best interests of this child. The threshold question then to be decided is, firstly, can we restore this child to these parents? That is an issue we take very seriously. If the child can be restored immediately, terrific. If the child can be restored over a process over time with some supports put in place, that is all to the good. But if the child cannot be restored then the next step is for the Secretary to prepare a Care Plan, which decides where the child should be placed in out-of-home care but not restored to their parents.

Mr DAVID SHOEBRIDGE: What is the time frame for those three stages? There is the initial interim hearing, then there is the establishment and then there are the final orders.

Judge JOHNSTONE: Then there is the restoration or placement determination.

Mr DAVID SHOEBRIDGE: What is the time frame?

Judge JOHNSTONE: Usually the interim orders, as I say, are made within the first week. Establishment will occur in about the first month. Then we try to get the care plan within the next one to two months. Sometimes in determining whether or not there is a possibility of restoration we will engage the services of the Children's Court Clinic where we will refer the children and the parents off for an assessment. That can delay the process by another six weeks. Eighty per cent of our cases are determined within about nine months. I can give you the exact statistics later if you want them. The large majority of our cases are finished within one year.

The Hon. Dr PETER PHELPS: You indicated that there was a low threshold for the establishment hearing. Am I allowed to ask you do you think the law sets too low a threshold?

Judge JOHNSTONE: In my opinion? No.

The Hon. Dr PETER PHELPS: It does not, on the balance of the safety of the child?

Judge JOHNSTONE: Basically you are looking at what is in best interests of that child, should that child be being protected in the short term whilst a proper and reasoned considered approach is determined as to what should be the proper course of action?

The Hon. Dr PETER PHELPS: Does that not fall on the side of removal?

Judge JOHNSTONE: The child has already been removed at that stage. That brings us back to early intervention, which is something we have raised in our submission.

The Hon. DANIEL MOOKHEY: You have explained to us what happens once you get to the restoration versus out-of-home care, which is the first time that question has to be assessed. Are you able to explain after the court makes its first decision in that threshold phase to put a child in out-of-home care how does a parent go about recovering their child?

Judge JOHNSTONE: After the secretary brings what is called a care plan to the court which recommends to the court what should happen to that child, which will either be a restoration or placement generally or preferably with a family member and if not that then in out-of-home care. If a child is placed in permanent out-of-home care by final care orders, under this Act it is open to any parent to come back to the court at any time to seek a change in those orders and a restoration of that child to those parents under section 90.

Mr DAVID SHOEBRIDGE: But there are two thresholds in section 90, are there not? There is a significant change in circumstances and leave?

Judge JOHNSTONE: Leave needs to be granted, but basically to be successful in a section 90 application you have to show, firstly, that there has been a significant change in circumstances and, secondly, that the issues that led to the removal of the children have been addressed to the point where that child would no longer be at risk of harm in your care.

The Hon. DANIEL MOOKHEY: It has to be made on the application of the parent?

Judge JOHNSTONE: No, it can be made on the application of anyone interested.

The Hon. DANIEL MOOKHEY: Is there evidence that it is FACS that initiates the bulk of those applications or is it the parents?

Judge JOHNSTONE: No, it all depends on the circumstances. A lot of applications are made by FACS where there have been changes in circumstances. Generally you get applications by FACS where there has been some breakdown for some reason in the current placement or quite often where the children when they get around 16 and 17 relocate back to their own families, self-relocate, so they will bring an application to change the orders.

Mr DAVID SHOEBRIDGE: To allow the child to stay with the family.

Judge JOHNSTONE: Yes, to stay with the family, but you get a significant number of applications by mothers and fathers. I have been given a note. Can I mention something? In that process I forget to mention—and Rebecca Kange, who is our senior children's registrar would not want me to overlook this fact—we do have a significant capacity for alternative dispute resolution through our dispute resolution conferences. Our 11 children's registrars conduct mediation or conciliation hearings across the State, in that process and prior to the final orders being made, with a view to the parties reaching agreement between themselves as to what the best course of action is.

Mr DAVID SHOEBRIDGE: In what proportion of cases do you think interim orders would be made to remove a child from a parent's care and put them into the hands of Minister?

Judge JOHNSTONE: At that initial stage the allocation of parental responsibility tends to be about 99 per cent, and at the establishment phase, probably about 90 per cent of the children who have been reviewed and removed are found to be in need of care and protection.

Mr DAVID SHOEBRIDGE: Have you tracked the figures down for the final orders?

Judge JOHNSTONE: In terms of what happens to the children, the department would have some statistics as to what percentage of children get restored, what percentage of children go into family placements—as I understand it, at last count about 50 per cent of children not being restored to parents are going into family placements—and then statistics in relation to how many children are going to out-of-home care.

Mr DAVID SHOEBRIDGE: The court is meant to be there as an independent check on what the department has done.

Judge JOHNSTONE: Yes.

Mr DAVID SHOEBRIDGE: It does not feel like an independent check with the court agreeing 99 per cent of the time with the department; it feels more at that point that it is pretty much a rubber stamp. You are just making sure the document is in order and then the interim order is granted.

Judge JOHNSTONE: I can see how that would appear to be the case but the other side of the coin would suggest it means that by and large we believe that the caseworkers and the department are doing their job appropriately and adequately.

Mr DAVID SHOEBRIDGE: Infallible.

Judge JOHNSTONE: Never infallible.

Mr DAVID SHOEBRIDGE: Because effectively 99 per cent is almost infallible?

Judge JOHNSTONE: It is not infallible.

Mr DAVID SHOEBRIDGE: Ninety-nine per cent is about as close to infallible as one can get, is it not?

Judge JOHNSTONE: The problem with the analysis of the allocation of an interim order allocating parent's responsibility is that we do not get a fully developed, if you like, brief of evidence. We do not have the full picture at that stage because the circumstances surrounding that family have not been fully investigated. So to a large extent it is very much just what looks to be the case based on the material presented to the court.

The Hon. Dr PETER PHELPS: If you were a criminal magistrate, the prosecution would be required to provide any exculpatory evidence they had found as part of their submission, would they not?

Judge JOHNSTONE: They would in a proper criminal proceeding.

The Hon. Dr PETER PHELPS: But here you just get the arguments in favour of removal.

Judge JOHNSTONE: You get a report from the department that sets out the circumstances surrounding why the child was removed and then the parents come to court and have an opportunity to put their position. But generally, if you like, the evidence is not tested in the way it is at a final hearing.

The Hon. PAUL GREEN: The Committee has been told in evidence that a lot of parents do not know what is in the report, that the report contains things that they have probably said at a very vulnerable moment when they are confessing and trying to hold their world together. It appears that the report contains all the risk factors but it does not have any of the things they are doing right. If the report you are receiving is merely risk-based can you assist the Committee with how that works?

Judge JOHNSTONE: The way I would answer that is to say we believe ourselves to be sufficiently experienced to know when we think a child is at risk. As I have said, in the large majority of cases I see I believe the removal has been justified on what I have read in the report.

The Hon. PAUL GREEN: The New South Wales statistics for the removal of kids from homes are very high compared to world statistics. How do you justify the difference? You said that the bar was—

Judge JOHNSTONE: That first part of the phase is a low threshold.

The Hon. PAUL GREEN: Yesterday the Committee heard in evidence that the helpline has the risk of self harm [ROSH] system and it is at a high level. Let us take the example of a principal who calls the helpline and says, "I have got all these indications. I am calling because I have a ROSH situation." And the response is, "No, you have not met the threshold." Are you aware of the discrepancy in the height of the bar for the helpline and school reporting?

Judge JOHNSTONE: No, I am not.

The Hon. PAUL GREEN: I was asking if you were aware of that because you have to adjudicate on those issues.

Judge JOHNSTONE: What I can say is that you can get differences across different community service centres [CSCs] as to when it is justifiable to remove a child as opposed to not remove. But, as I have said, in the vast majority of the reports that I see I have no problem in allocating parental responsibility to the Minister because I believe from what I am reading in the report that it is justified.

Mr DAVID SHOEBRIDGE: Nobody is questioning your bona fides—

Judge JOHNSTONE: I am only speaking for myself.

Mr DAVID SHOEBRIDGE: —or the bona fides of any member of the judiciary. You are making decisions on the basis of what is presented to you in what you think is the best interests in accordance with the Act. If the only evidence that is highlighted and presented to you is, if you like, the evidence for the prosecution, and the fact that the family may have been keeping their children in school consistently, the kids are doing well at school, their nutrition is good, and that they have a loving bond with their extended family, if you are not given any of that evidence then how can you test whether or not the removal is the right thing at the interim point? That removal is so crucial.

Judge JOHNSTONE: Do not get me wrong, I think the removal is very traumatic for any family—that is one of the reasons we are advocating more funding and more attention to early intervention. I do not disagree that we are presented, to some extent, with evidence that is collected by the caseworkers but by and large the caseworkers present both sides of the picture. They have been working with the family, they know the family. In the cases I see there is evidence of drug use on the part of the parents, there is evidence of domestic violence in the household, there is evidence of abuse of the children and invariably those are the factors in those reports that justify the removal of those children.

Mr DAVID SHOEBRIDGE: But we remove children at more than four times the rate than they do in Italy, at well over double the rate they do in New Zealand and the United Kingdom, and close to double the rate they do in Canada and the United States of America, and as a result of that we have seen an explosion in the number of children in out-of-home care. When you look at those statistics do you think that there might be a problem with the threshold that has been applied?

Judge JOHNSTONE: I do not think I can answer that off the top of my head because I am only responding to cases that I see where I believe the majority of them are justified. I am happy to take that on notice but pure statistics are hard to disagree with if that is the statistic in countries like—I would be surprised if that is the case in New Zealand.

The Hon. Dr PETER PHELPS: We had evidence presented yesterday along those lines.

Mr DAVID SHOEBRIDGE: More than 2,200 children per million are being removed in Australia and less than 900 in New Zealand.

Judge JOHNSTONE: Per head of population?

The Hon. Dr PETER PHELPS: It was done on a per head of population basis.

The Hon. MATTHEW MASON-COX: My first question relates to the section 90 reunification provision. You commented earlier that legal aid is available for families that come to your court but the Committee has heard evidence that it is not available in relation to section 90 proceedings, is that true?

Judge JOHNSTONE: Legal Aid applies a merit test and that would be a factor in whether or not they will support a section 90 application. They would only provide legal aid to a section 90 application they thought had some real prospects of success.

Mr DAVID SHOEBRIDGE: Would it be fair to say that the bulk of section 90 applications have unrepresented applicants because they have not got legal aid?

Judge JOHNSTONE: Yes I suspect that there probably is a large proportion of unrepresented people making section 90 applications and that would be because they do not qualify for Legal Aid on the merit test.

Mr DAVOD SHOEBRIDGE: And then if they have not got Legal Aid, is there a presumption that there is no merit?

Judge JOHNSTONE: No.

The Hon. MATTHEW MASON-COX: Turning to early intervention, I just wanted to ask you your views, if I could be so bold, in relation to why there are so few parent capacity orders and indeed parent responsibility contracts that have been entered into? Do you see any reason why this option has not been taken up?

Judge JOHNSTONE: No, I cannot answer that question. It is one of the things that we are concerned about, the take-up of those new provisions that came in about 18 months ago. They are not being utilised to their full extent as we would like to see them being used.

The Hon. MATTHEW MASON-COX: Anecdotally have you had any feedback?

Judge JOHNSTONE: No, the only thing I can think of is that, for example, the orders relating to therapeutic treatment are not being taken up with the court because organisations are reaching agreement with those parents and do not need them to come to court. The only thing I could suggest is that perhaps it is just caseworkers getting used to the new system and it will take a while to work its way through, as they get used to these new opportunities they have for early intervention. I do not think I could express a concluded view of why it is that the casework level of those particular mechanisms are not being utilised as fully as we would like them to be.

The Hon. MATTHEW MASON-COX: I note in your submission, on page 5—I want to ask you about compulsory schooling orders. You make the comment that the Children's Court believes that the Department of Education has taken an overly litigious approach to compulsory schooling orders. Can you expand on that and the view that there may be a more therapeutic scheme in this area?

Judge JOHNSTONE: We have had some discussions with the Department of Education around this issue. The schooling orders are really an adversarial process where parents and children are brought into court. We would rather see a process whereby the department is looking more closely at the reasons why that child is not attending school and working more closely with other agencies to try to address the underlying causes for that non-attendance at school, rather than bringing them to court where you just make an order and if they do not comply with the order, then the parents are fined. We think that is a fairly blunt instrument and we have been encouraging the department to look at addressing the question of truancy in a more therapeutic way.

The Hon. MATTHEW MASON-COX: And how often would you have schooling orders?

Judge JOHNSTONE: We have a list probably once a week with—I cannot tell you the exact figures—you may get 50 children in a given week who are not attending school and they are not the ones who have been suspended or expelled from schools. If you look at our criminal jurisdiction, 40 per cent of the children who are committing the crimes that come before our criminal jurisdiction are not attending school at all, for various reasons.

The Hon. PAUL GREEN: In regards to home-schooling, there seems to be a bit of contention about whether a child should be home-schooled. Given that the system has a lot of pressure on different individuals and home-schooling might be appropriate for special needs and similar things, do you have a view on how the court sees home-schooling in the process of schooling orders?

Judge JOHNSTONE: No, I cannot say that I do.

The Hon. PAUL GREEN: It is not better; it is not worse?

Judge JOHNSTONE: I have seen some circumstances where children were being home-schooled and they are doing extremely well and I had one case where children were being home-schooled and it was an absolute disaster. It depends on the circumstances.

The Hon. PAUL GREEN: But you are not averse to home schooling as an option, if it is appropriate?

Judge JOHNSTONE: No.

The Hon. DANIEL MOOKHEY: The court maintains its own procedural rules.

Judge JOHNSTONE: Yes.

The Hon. DANIEL MOOKHEY: What do those rules say about document exchange prior to hearings?

Judge JOHNSTONE: There is a full and frank exchange of relevant documents. The department is required to produce its file to its full extent. One of the problems in the process is that the department gets subpoenaed and will provide a pile of paper a foot high and 70 per cent of it never gets read by the parties or lawyers in the case.

The Hon. DANIEL MOOKHEY: Is that at the interim stage?

Judge JOHNSTONE: That is right at the early stage. As part of the initiating application, within one week of it being filed the department is required, under a Practice Note, to file the relevant key documents and serve them on the parents and the others who are involved in the case.

Mr DAVID SHOEBRIDGE: That is not the whole file though, that is just the documents that the department thinks are relevant?

Judge JOHNSTONE: No, that is just the key documents. If the solicitor acting for the family thinks they want more, they can subpoena the department.

Mr David SHOEBRIDGE: And they will be focused on the risk that is being sought to be established?

Judge JOHNSTONE: I imagine that is probably right. They will present the documents that they see as relevant.

Mr DAVID SHOEBRIDGE: Supporting their case.

Judge JOHNSTONE: Yes.

The Hon. DANIEL MOOKHEY: Going back to your chronology, in respect to the interim aspect of it, you say—and I understand, of course, that the rules say—that the department is meant to file and serve on the parents. That is traditional, that is usually the interim level. Is that before they have had their Legal Aid solicitor appointed or after?

Judge JOHNSTONE: No, it is after. That documentation will be served on the solicitor acting for the parents. The Legal Aid system works in a way that, if the parents come to court on the very first day, there will be a Legal Aid solicitor there to represent them at that hearing on the first day and they will be represented pretty much by a solicitor from the outset and throughout.

The Hon. DANIEL MOOKHEY: We have heard a lot of evidence about people saying that they do not see the documents; that they have no opportunity to interrogate the documents; that they have no meaningful opportunity to provide instructions to their Legal Aid solicitor; that their Legal Aid solicitor tends to be inexperienced; that their Legal Aid solicitor is overworked; and that in general, at the interim decision stage, at best they get ten minutes of the court's attention and time. Are those concerns valid?

Judge JOHNSTONE: No, I do not think so. You need to understand, there may be parts of the system where that sort of thing happens in the country where we do not have the same level of attention, we do not have specialist children's courts operating, and we do not have the Legal Aid capacity out in the regions where the Local Court exercises the Children's Court jurisdiction. But at a place like Parramatta or Bidura or any of the other locations where we have specialist magistrates, the Legal Aid solicitors that appear in the Children's Court are very experienced, very able and I think do a very good job in representing their clients. They do get to see all the documents to the extent that, if they have not got them all, they can get them all. As I said before, they subpoena the department's file and, more often than not, they do not even read it. But that may be what you are talking about.

Mr DAVID SHOEBRIDGE: That is almost evidence of the concerns, is it not? They get the file and they do not read it. I would want my solicitor to read my file.

Judge JOHNSTONE: I would too.

Mr DAVID SHOEBRIDGE: And yet it seems to be almost routine that they do not, that is the tenor of your evidence.

Judge JOHNSTONE: That could be an inference you could draw from that, yes.

The Hon. DANIEL MOOKHEY: Thank you for your remarks in respect to the city aspect but we are seeing a lot of evidence of disproportionate child removal occurring in regional and rural areas, particularly amongst the Indigenous population. Has any thought been given to establishing children's courts in those regional remote areas, given that the need for them is so high?

Judge JOHNSTONE: I think about it every day.

Mr DAVID SHOEBRIDGE: You are preaching to the converted.

The Hon. DANIEL MOOKHEY: Going back to the court's personnel, which you said is 16 magistrates.

Judge JOHNSTONE: Sixteen specialist magistrates and about 11 children's registrars.

The Hon. DANIEL MOOKHEY: How many are Indigenous?

Judge JOHNSTONE: None. Two of the children's registrars have an Islamic background but at this stage we do not have any Indigenous participants as magistrates. In fact I think, in the whole of the judiciary of New South Wales, there is probably only one Aboriginal man.

The Hon. DANIEL MOOKHEY: Can you explain to us the steps that you take to ensure appropriate cultural sensitivity in respect to indigenous people who are subject to this system, given there has been such a long and torrid history about child removal from Indigenous people, continuing to today.

Judge JOHNSTONE: I am happy to tell you what we are doing to try to address that problem. One of the very first things I recognised when I became the President four and a half years ago was this issue of over-representation. It is in both our jurisdictions, something like 50 to 55 per cent of children who commit crimes and enter detention are Aboriginal children. Anecdotally we believe that something over 40 per cent of the children that are removed or come before the Children's Court in its care jurisdiction come from Aboriginal families.

Mr DAVID SHOEBRIDGE: 50 to 55 per cent of the children charged with crimes are Aboriginal?

Judge JOHNSTONE: Yes and over 50 per cent of the children in detention are Aboriginal. So I was determined to try and do what we could, as a jurisdiction, as a court, to address that issue. We do not remove the children; all we do is oversee the process. We do not arrest the children; all we do is deal with them once they have been charged. We have introduced a number of initiatives that we are attempting to try and do what we can from our end to try to reduce that over-representation. In our criminal jurisdiction we have established a Koori Court, as you have probably heard. That Koori Court was established without any funding from government or any change in legislation because I knew that if I went to the Government to try and get approval for it, it would probably take three or four years to get it and we would probably never get any funding. We established a pilot at Parramatta, which is, anecdotally, making a bit of a difference so far. We have not had it formally evaluated yet but it is in the process of being evaluated. We are seeing good results where the children in that process are having less interaction with police and juvenile justice as a result of that.

In the care jurisdiction we have insisted upon—and I think I have put a reference in the submission—proper cultural planning being a part of the permanency planning process. So when Family and Community Services brings the final permanency planning care plans to us we are insisting on a proper cultural action plan which identifies the children's origins, their language, their totems, and then puts in place a plan for them to go forward in care, understanding what their origins are and getting a sense of their identity as Aboriginal children, because we believe that is one way of trying to address that particular issue.

You mentioned regional areas. I would very much like to be able to have the capacity to send a specialist children's magistrate to places like Moree, Coonabarabran, Bourke, Broken Hill—some of those areas where there is a very high level of Aboriginal population, to ensure that the court's approach across the whole of the State is more transparent and consistent.

The Hon. DANIEL MOOKHEY: Is the reason that has not happened a resource reason?

Judge JOHNSTONE: We just do not have enough magistrates to service those country areas.

The Hon. PAUL GREEN: Would that be fly-in, fly-out or are you talking about long term?

Judge JOHNSTONE: There are places where there is sufficient work to justify a permanent placement. For example, more recently we put a permanent children's magistrate into Lismore. As yet we have not identified any other locations where we think we need a permanent magistrate, but we are doing what we call circuits. For example, one week a month I go to the mid North Coast and conduct a Children's Court at Port Macquarie, Kempsey and Taree; other magistrates go to the Lower Hunter. We do have circuits for the Riverina and the western districts, but, unfortunately, we have a chief magistrate who appoints children's magistrates—that is one of my issues: I would like to be able to appoint my own magistrates—and has not given me a magistrate to service those particular regions. We are getting evidence, for example, from Queanbeyan and Goulburn, as to a high rate of care filings in those regions, and I would love to be able to institute a circuit there and I would like to have a circuit going out to Moree, Armidale, Coonabarabran and that region.

Mr DAVID SHOEBRIDGE: The chief magistrate allocates magistrates in Children's Courts?

Judge JOHNSTONE: Children's Court magistrates are appointed by the chief magistrate in consultation with me. I would like it to be the other way round.

Mr DAVID SHOEBRIDGE: And is that from the existing pool of magistrates that some are allocated?

Judge JOHNSTONE: Generally yes.

The Hon. PAUL GREEN: You have come to the right place.

Judge JOHNSTONE: I have written to the Attorney and put in a submission to that effect. So I am on record as having made that request.

Mr DAVID SHOEBRIDGE: In terms of the best interests of Aboriginal children and Aboriginal communities, the very large claim that I meet when I am out in Aboriginal communities is to stop taking their children at the rate. It is not about getting a care plan which has their totem right; it is about "Don't remove so many of our children". But it does not seem to me that there is really a capacity for you, in the process you have talked about, to positively respond to that, if 99 per cent of interim cases is removal.

Judge JOHNSTONE: The court's role effectively is to be a supervisor, if you like, of departmental action. We do not initiate the proceedings, we do not remove the children. All we do is adjudicate on whether it has been appropriate to remove them; adjudicate on whether or not we believe that child, with all the evidence having been gathered, is in need of care and protection; and then adjudicate on whether the care plan that the department brings to us is appropriate and adequate.

Mr DAVID SHOEBRIDGE: But if you are agreeing with the department you say—

Judge JOHNSTONE: Ninety-nine per cent of the time.

Mr DAVID SHOEBRIDGE: And I assume it is not dissimilar as you move down the track, it is just that when you get to an establishment hearing, in a proportion of cases the department thinks that things have been sorted out, and when you get to a final hearing that concurrence with the view of the department is probably pretty consistent through the process, is it not?

Judge JOHNSTONE: Yes, it is just that I would not use the word "concurrence". We believe that what we do is an independent evaluation of the administrative process.

Mr DAVID SHOEBRIDGE: I will put this to you: If it is basically 99 per cent agreement with the department throughout the process, or near as—

Judge JOHNSTONE: That is at the establishment phase.[1] On the final hearings I do not know what the statistics are, but there would be a much larger proportion of cases at the final hearing where we reject the care plan that is presented by the department.

Mr DAVID SHOEBRIDGE: And the children being returned to the parents?

Judge JOHNSTONE: Sometimes. I cannot put a figure on that. I would say, off the top of my head, it is more likely to be in the order of—I will not put a figure on it, but it is much less than the 90 per cent where we would find establishment. I have done it myself in a number of cases where I rejected the department's care plan and required them to go away and prepare another care plan.

Mr DAVID SHOEBRIDGE: At that initial hearing of the establishment phase, evidence is put before you of risk. There may be child sexual abuse, there may be a risk of being exposed to domestic violence, there may be a risk of neglect—there is a whole patina of cases that come before your court. But do you also have before the court at that time opinions from psychiatrists and psychologists and epidemiological evidence that looks at the known damage of removal at the same time? Because you have got an academic, probably a well-founded risk on one hand if the child remains, but you have got absolutely rock-solid guaranteed damage if you remove—remove from the school, remove from the family, remove from their home, remove from their siblings often. Do you have that evidence before you?

Judge JOHNSTONE: Our magistrates know from experience the damage that can occur to a child by removal. But they also know, from their reading and their knowledge and their experience, the damage that can be done to the children if they are left in an environment where they are being subjected to those influences like domestic violence, like drug abuse, like physical violence. So we know from our experience how to weigh those risks up against each other.

Mr DAVID SHOEBRIDGE: Could you provide us with some cases where we can see that reasoning, where the magistrate is pointing to the epidemiological evidence, pointing to the psychiatrist's opinion, pointing to that evidence, where they have said, "Look, these are the risks and they are well-established and we know the damage that can occur from removal, but, nevertheless, I am taking into account this"?

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[1] Judge Johnstone subsequently advised that his response should have been “That is at the interim phase”.

Judge JOHNSTONE: You will not see it in the reasons. I am just saying that the magistrates have that knowledge from their learning and experience, from what they read and what our training consists of and their own experience. But you do not get that sort of evidence in specific terms in individual cases.

Mr DAVID SHOEBRIDGE: Why not? Could there be nothing more relevant than the fact that removal will damage the child and you are sure there is some evidence of it?

The Hon. BRONNIE TAYLOR: But if the child is at risk then that is the decision that the court makes.

Mr DAVID SHOEBRIDGE: But you are balancing risks. Should that evidence not be before you?

Judge JOHNSTONE: I am happy to take that question on notice. I have not thought of it in those terms. What we tend to do at that early stage is look at what we see as a greater risk of harm to the children from the other factors.

Mr DAVID SHOEBRIDGE: You say "greater", but there is no balancing that I can see.

The Hon. DANIEL MOOKHEY: I just want to turn to the construction of the risk of significant harm test. You were asked earlier whether or not you thought it was set too low, to which you said it was not.

Judge JOHNSTONE: That is at the preliminary stages.

The Hon. DANIEL MOOKHEY: At the interim stage. I just want to ask you as an adjunct to that question, do you think that the language of that test, designed to be interpreted by your court, is appropriately sensitive to Indigenous culture, given that we have heard a lot of evidence that Indigenous kinship ties and family ties have a totally opposite and quite contrary social design to non-Indigenous? Do you think that one of the reasons that test is leading to a disproportionate number of Indigenous kids deemed at risk of significant harm is because the test itself is not appropriate to their family circumstances? Is that a consideration we should be giving weight to?

Judge JOHNSTONE: I will not disagree that we could learn more about Aboriginal cultural situations and the Aboriginal culture with a view to making those decisions at that time. We would say, from the specialist children magistrates, that we do not differentiate between Aboriginal and other children. We are looking at the risk factors and they have nothing to do with the cultural background. It is the usual run of the risk factors that we see such as physical harm to the children, sexual harm to the children, drug abuse in the family, family violence in the household, and all of those usual factors that lead to removal. It is a socioeconomic circumstance that gives rise to the fact that we are seeing more Aboriginal children with those factors present.

Mr DAVID SHOEBRIDGE: The productivity commission states a disproportionate number of Aboriginal children are removed due to neglect. They use the amorphous term of neglect. It may be cultural values.

Judge JOHNSTONE: That could well be. Do not get me wrong, I would like to see us doing more in the Aboriginal space. I note the Minister was here. He ran a forum more recently on the issue of Aboriginals in care and a lot of good material came out of that that I would like to see implemented.

The Hon. DANIEL MOOKHEY: As a corollary, Mr Shoebridge asked about the extent to which you weight removal in a balancing sense. With respect to Indigenous removal is there any additional weight placed on the harm removal causes in Indigenous communities in your weighting process?

Judge JOHNSTONE: To be fair, the answer is, no.

The Hon. PAUL GREEN: I am going to read a couple of things and let you take it on notice or reply. Is it correct that when community services seeks a care and protection order in the Children's Court that both biological parents of the child will be informed of the court's process and be involved? More specifically, if the child is living with one parent will community services staff make efforts to identify, find and contact the second parent and directly provide that parent with papers about the child and court process that is under way?

Second, if that is the case, what is it a child protection worker is required to undertake to ensure that the noncustodial parent has not been abusive towards the custodial parent in the past and will not use the details and often highly personal information in the court's documents against that custodial parent into the future? If there is no procedure in place to address that at present, what is the duty of care that the community services hold for the safety of that custodial parent in these situations? At the heart of the matter is that the court documents contain extremely personal information and can make parents vulnerable. If a form of natural justice is followed

by providing documents to the noncustodial parents what checks and balances are in place to ensure the wellbeing of custodial parents? Can you take that on notice?

Judge JOHNSTONE: There are processes in the Act which enable us to suppress information from going to a parent that has a history of child abuse or violence in the relationship.

The Hon. PAUL GREEN: We have taken evidence about perpetrator resources. There is an urge to do something about perpetrator's resources. Are you of a view that we need further resources to rehabilitate perpetrators rather than getting mums and kids out of the homes? Do you have a comment as to that?

Judge JOHNSTONE: Yes. I think we should be doing what we can to educate everybody in terms of the damage that domestic violence can occasion. We mentioned New Zealand earlier. They have a sophisticated program for dealing with perpetrators of domestic violence and they can be rehabilitated.

The Hon. PAUL GREEN: You are an important witness given your history and experience. I am trying to balance the inconsistency with risk of significant harm [ROSH]. You say you have a low bar.

Judge JOHNSTONE: It is a lower test than when we make final orders.

The Hon. PAUL GREEN: Is it lower than the helpline? My concern is when schools are reporting to the helpline they are told it does not meet the threshold. In the interim visit you have a low bar. Is that meeting what the principal is reporting and the bar in the middle is the helpline saying they are not quite there and we have competing priorities. I am concerned that your low bar is probably what the principal is reporting and there is a hump in the middle that is inconsistent and those kids are at greater risk of being missed?

Judge JOHNSTONE: The only thing I will say is that every report that accompanies an application initiating proceedings has a lot of detail in it and invariably there has been a history. Caseworkers do not generally respond to one incident. There is a history of involvement with the family judged over a long period of time which predicates the need for that removal.

The CHAIR: Thank you for coming along this afternoon. The submission was good and the opportunity to get direct testimony was helpful. Thank you for the work you are doing presiding over the Children's Court and to your officers and staff, thank you. You have 21 days to return the questions on notice and the secretariat will liaise with you.

(The witness withdrew)

ANDREW McCALLUM, Chief Executive Officer, Association of Children's Welfare Agencies, affirmed and examined

WENDY FOOTE, Deputy Chief Executive Officer, Association of Children's Welfare Agencies, affirmed and examined

The CHAIR: I will commence by acknowledging that we received your original submission and the replacement submission that contained non-substantive amendments. It will be replace the original submission. I will invite one or both of you to make an opening statement. I ask you to keep that brief. Take the submissions as read.

Mr McCALLUM: Thank you for the opportunity to address the Committee today. I have a few opening comments and observations of an overarching nature. I have been involved for over 40 years in the space through living on a children's home campus to 35 years as a chief executive officer of service delivery agencies both in Victoria and New South Wales. I have seen a few Royal Commissions, commissions of inquiry and the like. The results have not always advanced the cause of vulnerable children and families. With respect to this inquiry, does the title and terms of reference lead us to ask the right questions?

If child protection, as it is commonly understood, is our starting point we have conceded defeat and, as a consequence, we should direct our attention to seeking solutions in a residual rather than the child wellbeing preventative space.

The drivers of child protection concerns do not reside in the conventional child protection system. As a consequence growing statutory forensic child protection is not where the solutions will be found, nor is seeking to extrapolate system-wide long-term reform from focusing on a series of unrelated, abhorrent, albeit horrific and tragic events. To use this as our starting point leads us inevitably to construct our vision to the extent that we see all solutions through this prism. Where does it lead us in discussion to such questions as: Do we as a society value children and families in a way that ensures all children are safe and nurtured? Are the community's expectations and networks available and accessible to ensure this happens?

Solutions will not be found exclusively or, in fact, predominantly in more regulation and legislation. Child wellbeing is intricate and complex. It does not lend itself to meaningful community debate by sensational tabloid headlines, nor to be used as a battering ram for political advantage. We owe our most vulnerable better as the change we aspire to will take generations, not years. I alert the Committee to an article I wrote in the *Drum* in 2013 which outlines some of that a bit more expressively around the notion that we can tend to be very myopic in the way we look at child protection and we do not look at it in the child wellbeing space. I think the new rhetoric is around child wellbeing for all. Dr Foote can give an outline of the submission before you.

Dr FOOTE: I just want to note three aspects of our written submission. The first one is the role of the Association of Children's Welfare Agencies [ACWA]. The second one is the present phase of the sector development in its post-transition form, and the opportunities that are available now for continually raising the bar in service delivery to further transform the system. As you know, the role of ACWA is that of a peak body and its purpose is to inspire a safe society for children and young people, families and communities and hope for their future. We support the capacity development of member services and systemic reforms where it is needed. The role of ACWA is to represent the expertise of non-government community-based organisations and to help bring about effective reforms that will drive better outcomes. We work with our sister peak organisation, AbSec.

New South Wales is a highly regulated State when it comes to the provision of out-of-home care. We note that all non-government organisations out-of-home care providers are accredited by the Office of the Children's Guardian. The areas of staff recruitment, training, development, support and needs of children are all independently assessed as a part of those standards. We think these standards are very important because when they are met children and young people know they will be safe and cared for in stable environments that are free from harm by caring and skilled adults. The standards are, however, only minimum and we have an expectation, and so do our members, that continuous improvement will take place as learning and knowledge emerges that adds to our practice.

In 2008 the most important inquiry in the history of New South Wales child welfare, the Wood report, called for the transfer of out-of-home care services to accredited non-government sector providers. This transfer needed to be underpinned by an integrated framework of services and an extension of the capacity of the non-government sector through increased funding, infrastructure and workforce development. We note that the Auditor-General's recent performance audit in 2015 has given that transfer an overall positive report card.

However, the non-government out-of-home care sector and the system as a whole continues to be in a process of refinement and there is more work to do. For example, we know that the sharing of information from FACS to non-government organisations is a key factor in the ability to be able to identify and manage risk. Our members are still dealing with inherited risk that came with the transition and in a few cases it was the first time that carers who were transitioned were assessed and for many others the first time that they had a caseworker come regularly to see the child in their care, or that they themselves were monitored. We have learned that it takes time for problems in these complex cases to be uncovered and systematically dealt with.

We also acknowledge the importance of governance structures to implement reform. Regional Implementation Groups [RIGs], which were local governance structures, supported joint work with FACS and non-government organisations and these provided problem solving opportunities and innovation that was developed through collaboration. It is also clear that non-government organisation service providers frequently go beyond their funding deliverables to provide what is in the child's best interests, for example, clinical specialists, educators for children with complex needs, and to delivering these services to children without funding.

We also know how important capacity building has been. Because of this, ACWA has been involved in a therapeutic care project with FACS and other government departments. The development of a workforce strategy to build pathways of learning and development via vocational education and training, including a graduate diploma in out-of-home care that is now awaiting formal sign off, and specific training for foster carers.

What we think is needed now is the right expertise with adequate resources to work with complex cases, not just qualifications, internal structures that imbed ongoing internal learning and development ensuring regular supervision, staff meetings and clinical consultations needed, and partnerships with other stakeholders who work in this crucial area so that we can have shared training and approaches and local collaboration with partners such as, not only FACS, but Health and Education. Approaches that we take need to be underpinned by robust evidence and outcomes, coupled with the need for innovation to be truly responsive to need. We need the ability to adapt models to a New South Wales context to ensure their fidelity.

Sound risk management as a sector is important and that includes a clear separation between government roles and non-government organisation roles on the ground, in particular in case management, day-to-day care and the statutory role. Non-government organisations need to be enabled to exercise their responsibility for case management, so importantly decisions about children are informed by those who are closest to them. Such sound risk management includes the need to do careful risk assessment of the risk to outcomes-based contracting in out-of-home care and how to mitigate those risks.

The Hon. BRONNIE TAYLOR: Mr McCallum, I thoroughly enjoyed your opening statement. I think you hit some pretty big nails on the head. You talked about your third case study and the young people's reference group in the northern region. It struck me that only one person who came with someone has given evidence to this Committee about their experience of the system of care. What resonated with me was a really impressive young woman who had been through incredible adversity and who now has a great story to tell. She is generous enough to use that to help other people in the same situation. I cannot remember the exact number, but one of the things that was hard for her was that she had more than 20 caseworkers in the whole time she had been in care, and she was about 23 years of age. She said that after she turned 18 years of age she was left with no transition plan. I thank you for speaking about solutions because we know about these big issues. It would be great to have recommendations after a person turns 18 years of age. The issue of continuity is continually raised. What would you say were some good, concrete solutions to make this better?

Mr McCALLUM: I think leaving care is critical in this whole process about how we deal with it. We do not deal with it very well at the moment, and that is across all jurisdictions across Australia. I think the National Framework for Protecting Australia's Children has some fairly good understanding of what is needed in that space. One of my problems is that we talk about these in jurisdictional terms when really some of the big lever items that really affect the lifelong outcomes of these kids are Federal issues, like when you talk about income support and access to tertiary education and a whole range of things. They are things that we know make a real difference and are part of how you build resilience in young people .

I like to look at leaving care as the most critical part of early intervention if you are looking at intergenerational attachment to the system. If you want to break that intergenerational attachment to the system you have to deal with the kids who are leaving the system now. There is ample evidence to suggest if you increase a few key elements within this, if you can stop young women from being pregnant by six months or 12 months, you increase their likelihood of not being attached to the system in some way, or if you give them some

access to tertiary education of some sort. We need to raise our expectations around this. I have heard too often from kids and I have recently been to an international conference talking about resilience. What kids are saying in this space is that people have very low expectations of us. There is that old comedy sketch about, "I want to be this", "Dumb it down a bit." That really eats at the heart of their own aspirations for themselves.

Until we stop saying "haven't they done well in spite of" we know we have not done well by them. I think we need to talk about it in those terms. If we are still lauding them for overcoming adversity we have not done them as a State and as a community any real favours in this process. Some of the things that come through in talking to kids who have done well is it is their own inner resources that seem to get them over these things. They will pick out the resources from people that they will see. New Zealand has done some studies about it. Iain Matheson, who I heard speak at the last conference I was at, talked about six key elements of what kids who have done well have got. Those things are actually inside themselves, not outside.

He said we have expectations of these kids that we would never have of our own kids and asked how do we change that sort of thing. These kids know that. If we are talking about getting on at the ground floor with the next generation of kids who are likely to come into the system, and we know they will be kids who had parents in the system, we need to get to them early and we need to make sure that they have a lifelong learning experience that we can track them through. The National Framework for Protecting Australia's Children has entered into that in that one of its key elements is kids leaving care and how can the Federal government bring some resources to bear on how we give access to these people to get into tertiary education and things like that. We know there are some studies in America and in the United Kingdom that indicate if they get into education it makes a huge difference to their lifelong outcomes and then by default their kids' outcomes.

The Hon. Dr PETER PHELPS: Last week the Public Service Association [PSA] put out a press release saying that there was a lack of regulation and oversight of these private operators, meaning the non-government organisation [NGO] operators of out-of-home care, which has led to shocking abuses. Is there a lack of regulation and oversight of private operators?

Mr McCALLUM: I think New South Wales is the only State where the NGOs get called private operators. NGO organisation are usually not-for-profit organisations. They are not the private sector in that sense. They do not exist to make a profit. So it is not a privatisation of the system and it is not an uncommon outcome. Often I have said if regulation was a measure of success New South Wales would be world's best practice because we are not short of regulation and we have a very good system in the Office of the Children's Guardian. That is a continuous improvement system. They are looking all the time as to how we do that. We know we have to raise the bar. We know that what is good today is not going to be good tomorrow or be what is going to be good next year. We know we have to increase our capacity to get policy improvement. One of the issues, and I think the department would agree with this, is that we have to get contracting right. The issue about what the Government is getting from the NGOs is not what they are buying but are they buying the right thing? I think we need to look at the contracting between the NGOs and the Government as something that can look to continuous improvement in that process.

The CHAIR: What do you say they are buying now?

Mr McCALLUM: They are buying accommodation services. They are buying places. We know that now we have to change our ways to say are we buying the best outcomes for children? What does that mean? For me, it means that an organisation has to have the capacity to do more than provide a bed.

Mr DAVID SHOEBRIDGE: It is output focused. The Auditor-General said it is wrongly output focused.

Mr McCALLUM: Yes.

The Hon. Dr PETER PHELPS: The criticism also from the PSA is that NGOs are not looking for kinship arrangements for Aboriginal children. Firstly, is that correct? If it is not correct, what policies and processes do you have in place to require organisations under your banner to pursue kinship arrangements for Aboriginal children?

Dr FOOTE: I just return to the previous question in terms of the PSA's argument in that NGOs have an additional level of regulation in comparison with the State government service providers through the contracting. There are three levels: Ombudsman, Office of the Children's Guardian, and the contract. In relation to looking for kin for Aboriginal families, I know that this is a fraught area and one that is best dealt with in the hands of the Aboriginal service providers themselves, who often report being able to make very quick finds of family members who have previously been invisible to others. In the absence of an Aboriginal service provider

our agencies have to apply the Aboriginal and Torres Strait Islander placement principle. They are also guided by the recent work that Judge Johnstone has been involved with in terms of cultural care planning. That presupposes that there has been an investigation of family.

The Hon. DANIEL MOOKHEY: You make the point that the people you represent are not for profit. Do you think there is place for for-profit providers in this space?

Mr McCALLUM: I am a bit agnostic on that particular proposition. I think that the key element is motivation. If the motivation is only profit I think there are some difficulties with people moving into that space. But if there is a particular ethos associated with some organisations they may actually be able to value add because of that. But I am not in the position of saying I would like to see the Bupas of the world moving into this particular space. I think there is some sense about some things that should not be privatised in the sense of government services. For anything that has a statutory intervention role in someone's life, I think governments cannot abrogate their responsibilities in that. To me, that goes to juvenile justice facilities and it goes to the actual child protection removal facilities. I think that has to be a statutory responsibility.

You have to judge organisations on their capacity to deliver on the basis of what you are wanting them to provide. That does not necessarily rule it out, but my particular interest is within the not-for-profit sector because that is who we represent. They have a history of providing good quality services and a history of being innovative and ahead of the game in many instances. They have the capacity to draw on community resources that other organisations do not have the capacity to draw on. That does not mean they can get things for cheap or they do it on charity but they do have people come and provide them with resources that would not necessarily be available to other organisations. Connection with community is a very valuable and important aspect of the work that our member organisations do. They live and breathe and work in their own communities and that is extremely important. You have to be very careful about right fit for right purpose.

The Hon. DANIEL MOOKHEY: If you cannot answer this I will understand why. The majority of the finances of your organisation is derived from government funding. Is that right?

Mr McCALLUM: That would vary significantly from 100 per cent government funding to 50 per cent government funding in some organisations. Some organisations have quite substantive resources of their own that they can bring to bear on doing quite innovative things, some of the larger organisations, but other organisations rely almost entirely on government grants and government contracts to deliver their services.

The Hon. DANIEL MOOKHEY: The additional resources that those other organisations bring—again, forgive me if this is too specific—are not debt financed, are they? Essentially they are more philanthropic funding or otherwise forms of not-for-profit, be it churches or as part of a mission focus on—

Mr McCALLUM: It is my understanding, and from my experience working as a chief executive officer in these organisations, it is terrible organisation—it is philanthropic organisations, it maybe donations from corporations and that sort of volunteer donation but it is not debt funded in the sense—

The Hon. DANIEL MOOKHEY: The only reason I was asking was because the financial resilience of the not-for-profit sector is now going to be shifting a lot more resources to it so it does become a very relevant consideration.

Mr McCALLUM: It goes to the heart of the governance of organisations. I think that is really where these sort of questions lie with organisations. What is their governance? What is their mission? How to marry their government responsibility with their mission and their commitment to their communities.

The Hon. DANIEL MOOKHEY: The Committee heard evidence that one of the things that concerns the Ombudsman the most is that the assurance framework for the non-for-profit sector is lagging behind the allocation of work to the non-for-profit sector. The Ombudsman made the point that because there is not an agreed assurance framework that cannot be inserted into the contracts to which you have just referred as being the third level of regulation. Do you agree with him in that respect? Do you have any views as to how the assurance framework has been designed? Have you been consulted on it? Have you had the opportunity to input properly for it? Are you starting to see that work translated into the next contract round?

Dr FOOTE: No, I do not have any knowledge of that.

Mr DAVID SHOEBRIDGE: So you not been contacted by KPMG? They are doing the quality assurance framework.

Dr FOOTE: Yes.

Mr McCALLUM: We have a meeting next week with KPMG around that. I am a bit unsure of what you mean by "assurance" in that sense.

Dr FOOTE: That is what threw me too.

The Hon. DANIEL MOOKHEY: I think the Ombudsman called it the capability.

Mr DAVID SHOEBRIDGE: I think it is referencing what the Auditor-General was talking about in the 2015 report—it is called the quality assurance framework [QAF].

Dr FOOTE: Yes.

Mr DAVID SHOEBRIDGE: Does QAF ring a bell?

Mr McCALLUM: Yes. I am with you now. There is a lot of discussion going on around quality assurance within the sector. It goes back to my other comment before—that is the dialogue between the contracting and the organisations about taking it to the next level. At the moment we have particularly linear contract arrangements with governments and we provide X number of spaces for X—

Mr DAVID SHOEBRIDGE: So many face-to-face hours, so many caseworkers?

Mr McCALLUM: Yes. The department and the sector and peak buyers like ourselves are trying to look at how we can put a quality frame around that which actually says that we are not only just getting the widgets but we are actually getting gold-plated widgets in this process. This should not be situational—a child in Wagga Wagga should not get a worse service than a child in inner Sydney—and that is one of the issues that the Association of Children's Welfare Agencies [ACWA] is very aware of. Quality can be variable according to geographic location and we need to make sure that it does not become a perverse disadvantage for people because of their geographic location.

The Hon. DANIEL MOOKHEY: Do you think 12 months is too short a contract period?

Mr McCALLUM: It is definitely far too short as a contract period.

The Hon. DANIEL MOOKHEY: What do you think should be the right contract period.

Mr McCALLUM: I think anything between three and five years, preferably five years. If you are going to get organisations to invest in the infrastructure necessary to provide these services—and people have to remember that this is not just about money for the protection of kids; organisations have to be quality assured in their own way. They have to have quality buildings, they have to have quality staff training, they have to have quality staff and they have to have quality infrastructure. You cannot actually just build that overnight and then dismantle it if you lose your funding in 12 month's time.

The Hon. Dr PETER PHELPS: Say we did move to a five-year funding model, contingent upon specific outcomes being achieved, will there be resistance to that from your organisations?

Mr McCALLUM: Personally I do not think—

The Hon. Dr PETER PHELPS: In other words, do they have the evidentiary assurance—to use that word again—for themselves that they can produce outcomes that might be sought by the Government if we were to move to a five-year model? But the problem is that if we move to a five-year funding model and what you are doing is producing no results then the Government would have a legitimate concern—

Mr DAVID SHOEBRIDGE: You would need regular reporting throughout the contract.

The Hon. Dr PETER PHELPS: Would your organisations, in return for longer funding models, be amenable to a tougher outcomes approach?

Dr FOOTE: I might reply to this one. In terms of the development of the QAF and the framework for the QAF we have been involved in that—I am sorry the name threw me—and we have had ongoing discussions with the department and enabled members. We have had lots of forums so that members have been exposed to the thinking around QAF. I think a key to this question about the length of contracts goes to the management and relationship management of the contract and how that is done. The skills that are needed in order to make sure that the contract is purchasing what the department actually wants is one part of the skills set, but the other one that is very crucial is that ability to manage the contract so that if the horizon changes the environment might require different things and there is an ability to talk to the provider about what they are doing and how they are doing it. That is why I think our learning when we had the transition period and had local governance

arrangements was very eye opening to us. That structure of governance allowed for there to be ongoing discussion and decision-making and problem solving.

The Hon. Dr PETER PHELPS: Was it eye opening in a good sense or "Oh My God, what have we got ourselves into?"

Dr FOOTE: It was a period of development. There would have been moments of "Oh My God" I am sure, but overall it was a process that allowed the non-government sector and government workers to develop ways of sharing information, risk, the burden that they were undertaking. I think it was a maturing experience that at the end of it the sector and non-government organisations were also able to work more collaboratively together, which is a key factor in whether the sector as a whole delivers for children and young people. In this sector we really have to have a high level of ability to work collaboratively across non-government organisations and with government, and different government departments, to provide what kids need.

Mr McCALLUM: The tension is around making sure that it is not a totally competitive environment where there is no cooperation because people are actually—

Mr DAVID SHOEBRIDGE: Longer term contracts help in that regard.

Mr McCALLUM: I am also of the view that the Government has the right to determine what it is purchasing and the agencies can actually choose or not choose to be part of that process, but I think five-year contracts will allow them to get a better outcome for what they are actually purchasing.

The Hon. DANIEL MOOKHEY: Can we infer from that answer that you do have concerns around the way in which competitive tendering is currently occurring?

Mr McCALLUM: We have not had a really competitive tendering process for a while now—not in our particular space; there was in the homelessness space.

Mr DAVID SHOEBRIDGE: And it was very unfortunate.

Mr McCALLUM: That was a very unfortunate experience. I think the department has learnt from that experience and I think the recommissioning that is happening within our particular space at the moment has probably learnt from that experience. You do not go out to decimate a sector—that is in no-one's interests at all.

Mr DAVID SHOEBRIDGE: Here is a bucket of money, fight amongst yourselves.

Mr McCALLUM: Yes, but there has to be some rules and regulations around what you are purchasing. And if the times are changing and the needs are changing and the organisations are not being responsive to that change, then they need to have a look at what they want to do with themselves into the future.

Mr DAVID SHOEBRIDGE: Has the Government been providing you with the relevant material you have been asking for in the course of this QAF review?

Mr McCALLUM: We have been engaged significantly with them. We have also run a number of forums that have allowed discussions to take place between us. Only they know if they have given us all the information.

Mr DAVID SHOEBRIDGE: Have you seen a copy of the report by David Tune? Has that been provided to you?

Mr McCALLUM: We have not had a copy of the report but we have had briefings on David Tune.

Mr DAVID SHOEBRIDGE: Have you asked for a copy of the report?

Dr FOOTE: Yes, non-government organisations [NGOs] have.

Mr DAVID SHOEBRIDGE: Would it be helpful to get a copy of the report?

Mr McCALLUM: Yes, we were actually—

Mr DAVID SHOEBRIDGE: I see you nodding your head, Dr Foote.

Dr FOOTE: Yes, it would be helpful and we have asked for it and I believe there is an abridged version to come.

Mr DAVID SHOEBRIDGE: Surely, if we are going to have a full and frank partnership between the NGO sector and the Government it has got to start with that kind of full disclosure and at a minimum surely that would mean getting the Tune report to you and to the public more broadly.

Mr McCALLUM: Given that we did actually do some consultation with David Tune in the process, I think it would be helpful for us to know what he made of our conversations.

The Hon. Dr PETER PHELPS: Back to out-of-home care. I want to put a proposition to you: That the rate of removal in this State is so high that, given the limited resources that we have, the ability of NGOs to properly service those children who might legitimately need removal—

Mr DAVID SHOEBRIDGE: Let alone do the early intervention.

The Hon. Dr PETER PHELPS: Let alone the early intervention—that the level of removal in this State materially works against good outcomes for people who legitimately need removal. Is that a fair assessment to make?

Mr DAVID SHOEBRIDGE: And to prevent removal in the first place.

Mr McCALLUM: Going to the issue of removal in the first place, that should be our starting point. The way we count numbers in out-of-home care in New South Wales is different to the rest of the country. There have been some increases. The reality is, if you are ever going to actually be dinkum about putting the resources into both providing the best service for kids who are in care and trying to have a realistic diversionary process, you have to double fund the system for quite a period of time because you cannot dismantle one without creating the other. You have to have some parallel processes happening here.

"Inverting the pyramid", that came out from the Australian Research Alliance for Children and Youth [ARACY] a number of years ago, pointed clearly to the way you do that. But they say that, in the interim, it is not cheap but in the long term it is the only way you will get to where you want to go. I think our removal rates are too high nationally. If you look at what is happening in New Zealand, it has the same sort of population base as us and they have less than half the rate. You have to ask why. Why are there so many children coming into care here? Do we believe that in the last 10 years we have had an outbreak of child abuse and neglect in Australia? I do not think so. If that was really the case, we should have a national summit on it.

Mr DAVID SHOEBRIDGE: The Hon. Peter Phelps' point is this: That if you have this massive allocation of resources to children in out-of-home care—and I cannot imagine what each individual child costs—that is like a huge Super Sopper that sucks up all the resources that should otherwise be being spent at potentially much more critical and influential parts of intervention, particularly in terms of early intervention.

Mr McCALLUM: I go back to my earlier point. When the next child death hits the front pages, that increases that particular part of the pie without people looking constructively at that being something that we could not have avoided but we need to look at how we stop the flow of people into that particular funnel. That is the issue that we are dealing with at the moment.

To take your point, we talk about the National Framework for Protecting Australian Children. It got $6 million in the last Federal Budget but over three years we spent nearly $1 billion on out-of-home care in New South Wales. That tells you where the financial priorities are and until we do something about that and until we actually invert that pyramid ourselves in New South Wales, we will continue to grow a system that is unsustainable and not in the best interests of a lot of children.

Mr DAVID SHOEBRIDGE: Not only that, but with the way in which the risk of significant harm [ROSH] reports are working, we are seeing that billion dollars effectively misallocated and spent after the 15th or 20th report, as we have heard. That is when the first intervention happens and by then it is so much more entrenched and difficult. Is that the kind of message you are getting back from your members?

Dr FOOTE: Yes, we have always advocated for a stronger focus on prevention and early intervention and it just makes sense on so many levels. But, looking at the ROSH decision-making, I think that has to be understood in terms of the skill to do those assessments properly and to make sure that they are accurate findings when there is a finding that a child has met the threshold. That is an area that needs to be tightened up so that we know we are directing children to the right sorts of services and making that an effective intervention. When it is made is key.

The CHAIR: Thank you very much. We appreciate you both coming along this afternoon and making yourselves available to provide some testimony. It sits well to augment what has been provided in the written submission. We appreciate that very much. There have been some questions on notice. We have resolved to provide 21 days to provide them to you and liaise with you. The Secretariat will do that. Thank you very much and I thank the Association of Children's Welfare Agencies [ACWA] for the work it does for some of the most vulnerable in the State.

(The witnesses withdrew)

(Short adjournment)

DEIDRE MULKERIN, Deputy Secretary, Northern Cluster, Operations, Department of Family and Community Services, affirmed and examined

MAREE WALK, Deputy Secretary, Programs and Service Design, Department of Family and Community Services, affirmed and examined

KATE ALEXANDER, Executive Director, Office of the Senior Practitioner, Department of Family and Community Services, affirmed and examined

The CHAIR: Welcome to you all for coming along this afternoon. We appreciate you making the time available to come before the inquiry today to give some evidence. I invite one or all of you to make an opening statement.

Ms MULKERIN: We will make a collective statement. I start by acknowledging the traditional owners of the land on which this inquiry is held today, the Gadigal people of the Eora nation, and pay my respects to elders past and present and acknowledge any Aboriginal colleagues here today. I also thank the members of the Committee for the opportunity for us to give evidence here today, and I do that on behalf of myself, my colleagues Maree Walk and Kate Alexander, and the department as a whole. The three of us have come here today to give evidence because of our specific roles in delivering child protection services for the department—I in my role as Deputy Secretary, Operations, responsible for child protection operations in Family and Community Services [FACS] delivered out-of-home care; my colleague Maree Walk in her role as Deputy Secretary responsible for programs, including funding arrangements with the non-government sector; and our colleague Kate Alexander in her role as Executive Director of the Office of the Senior Practitioner. Between us we have almost 90 years of collective experience in the child protection sector in a range of roles and other jurisdictions in both government and non-government.

Over the last few decades the child protection system has changed significantly in the scale and complexity of the challenges. The key drivers of child protection, such as family violence, drug and alcohol abuse and unmanaged mental health issues, are present across all of our communities. Our workers face these challenges on a daily basis and the complexity of this task cannot be understated. We are very proud of the work that our workers do and our partners in the non-government sector in their unfailing commitment to improve the lives of children and their families and their communities, and the support staff who assist them to undertake their role professionally and empathically.

We are all very aware that more needs to be done to improve the outcomes for vulnerable children. Between the Ombudsman and the Office of the Children's Guardian, New South Wales now has the most robust regulatory and oversight system in the country. We welcome the opportunity to provide further information to the Committee about reforms underway and to answer your questions as part of our ongoing commitment to improve the outcomes for vulnerable children and their families in New South Wales. Thank you.

The CHAIR: At the table are members from a number of parties. We have agreed that we will share the questioning between ourselves.

Ms MULKERIN: If I might just say, we will work out amongst ourselves who is best placed to answer because we have different responsibilities inside the department.

The Hon. BRONNIE TAYLOR: A few claims were made earlier in the day by other witnesses, and correct me if I am wrong, a claim was made that NGOs did not prioritise kinship placements.

Ms WALK: Perhaps I can talk about the whole system.

The Hon. BRONNIE TAYLOR: I just want to know whether that is something you say you do not have to prioritise. I think you absolutely do have to prioritise kinship placements.

Ms WALK: The people who do the removals are, obviously, the statutory agency, and they generally spend a lot of time trying to find family at the very beginning and, in fact, may often know the family, they may well be very familiar with the family. In the last 12 months, 41 per cent of new entries—that is, children who were removed for the first time—have gone to kin placements. That proportion, we think, is the absolute right direction. We screen kin carers, we pay kin carers—sometimes kin carers themselves find that a little over the top, but that is the system that we have in New South Wales.

The Hon. DANIEL MOOKHEY: Just to clarify that. Forty-one per cent—is that all children or Indigenous children.

Ms WALK: I said 41 per cent of all new entries in the last 12 months have gone to kin and relative carers.

The Hon. DANIEL MOOKHEY: Do you have that figure broken down for Indigenous?

Ms WALK: I can get that for you.

Ms MULKERIN: Yes, we do.

Ms WALK: Yes, we do. Was I answering your question?

The Hon. BRONNIE TAYLOR: You absolutely were answering my question. I just wanted to get that on record because I think it is really important that things are clarified from both sides. Also, there was an accusation that caseworker numbers were dropping. Is that true or not true?

Ms MULKERIN: It is absolutely not true. If I could start by saying that FACS internally are funded for $2,128 caseworkers across the State. Over the last year or so the rate of vacancies in our caseworker numbers has been relatively stable. In fact, in the last quarter it has been at 3 per cent, which is incredibly low. I have worked in other jurisdictions that have had much higher vacancy rates. We publicly publish the number of funded positions and the actual staff on deck; we publish that quarterly. That data is independently verified by Deloittes, the accounting firm; they verify the source of the data and how we do the count. So the funded number has not changed at all and the vacancy rate is at a historic low. There are more caseworkers on today than there have been at any time in the last five years.

The Hon. BRONNIE TAYLOR: Thank you for clarifying that for us. We had a site visit to your pilot, the co-location—

The CHAIR: At Wyong.

Ms MULKERIN: The Central Coast multiagency.

The Hon. BRONNIE TAYLOR: I am so impressed with it. I get really excited about things like people working together to get better outcomes for children. It looks like it is a really fantastic model—really fantastic people in there that have formed these great relationships and put children at the centre of the care, which is, I think, the way it should be. How are you all feeling about this initiative, because this is a really positive step. Are you planning to roll it out and are you really supportive?

Ms MULKERIN: I know that there has been a lot of evidence given to this Committee about Helpline, about ROSH numbers, about response numbers, about wait time, so I am sure there will be more questions for us about that. The Central Coast trial is one of the trials that we have underway to look at other ways in which we might respond at that very most immediate point of receiving our report. As you would have seen at the Central Coast, the call still comes into the Helpline, but it is transferred up to the Central Coast and is answered by the local staff there. Then at the point of taking the call there is a conversation with other partners about how best to respond to that report.

What we are seeing—it is early days and has not been in operation for a year yet—is very early promise about matters that are much better supported by early diversion away from the statutory system into support services. That has been showing early promise. In the same way, it has also helped the local staff prioritise those matters that only the statutory agency should respond to in a more urgent way. Great promise. We also have another trial at Macarthur—not quite the same as the Central Coast but similar thinking. We have a couple of pilots on at the moment to see what that can tell us about how we might reposition the whole intake piece of work.

The Hon. BRONNIE TAYLOR: I will finish but I would like to say I think it is really exciting that there is an agency actually looking at doing different things. We know that a lot of the stuff we have been doing is not working, for whatever reason, but it is actually trying something new. I think it is really exciting that someone is trying to look at solutions.

Ms MULKERIN: Thank you.

The Hon. DANIEL MOOKHEY: Why is it that 70 per cent of ROSH reports are not investigated face-to-face?

Ms MULKERIN: If I can take a step back and talk about overall numbers, the volume and our capacity to respond, at the helpline last year there was almost an 18 per cent increase in ROSH reports and concern reports notified to the helpline.

The CHAIR: In the calendar year?

Ms MULKERIN: Financial year.

The Hon. DANIEL MOOKHEY: Is that the 2015-16 financial year?

Ms MULKERIN: Yes.

The Hon. MATTHEW MASON-COX: What is that figure?

The Hon. Dr PETER PHELPS: It is 18 per cent.

Ms MULKERIN: The total volume of matters that went to the helpline in 2015-16 was just under 280,000 reports, contacts, pieces of information. You would have heard that the role of the helpline is to screen that information that is received by a lot of reporters across the State. All of that demand, if you like, then translates to ROSH reports. I know there have been a lot of questions about the threshold about ROSH reports—

Mr DAVID SHOEBRIDGE: There were 280,000 calls to the helpline. How many ROSH reports ended up coming out?

Ms MULKERIN: Down to—I will have to check that number—149,000 in this last year.

The Hon. PAUL GREEN: We are hearing evidence about the inconsistency of the helpline's benchmark regarding what kind of ROSH report needs reporting. When you have principals sitting on into the phone or people who are trying to report it, the helpline is saying, "I'm happy that you've assessed a ROSH situation, but actually you don't quite meet it and we've got other, competing priorities." Are you concerned about that?

Ms MULKERIN: Sure. If I could just correct the record, it was 139,000, not 149,000.

Mr DAVID SHOEBRIDGE: Up from 126,000 the year before to 139,000—that is the 18 per cent.

Ms MULKERIN: Yes. So 14,000, and the 18 per cent was the total volume of calls and contact—

Mr DAVID SHOEBRIDGE: To the helpline?

Ms MULKERIN: To the helpline, yes. The role of the helpline is to screen the information that is received. You would have heard and I know that you have been given evidence about the mandatory reporter guide that we encourage our mandatory reporters to use and then the screening tools that are used at the helpline.

Mr DAVID SHOEBRIDGE: We have been given a lot of evidence about dissonance between the two.

Ms MULKERIN: It is by design that they are not exactly the same, and I will explain that in a minute. You might know that 75 per cent of all reports to the helpline are by mandatory reporters. Despite that volume of report coming from mandatory reporters, over half of the reports to the helpline are non-ROSH matters. They do not meet the threshold.

The Hon. DANIEL MOOKHEY: So 139,000 are deemed to be ROSH. How many of them get face-to-face investigations?

Ms MULKERIN: In this last quarter, our caseworkers completed 30 per cent of them face-to-face.

The Hon. DANIEL MOOKHEY: Is that consistent with the quarterly average?

Ms MULKERIN: It is on an upward trend. We are seeing more. In this last financial year, 2015-16, we completed a full face-to-face assessment. If I could just take a minute to explain, because some of the terms are being conflated and some of the processes are being conflated in the evidence. A full face-to-face assessment includes a safety assessment, risk assessment and then at some point down the track another risk reassessment. That is the full process.

The Hon. DANIEL MOOKHEY: So 30 per cent receive that treatment.

Ms MULKERIN: Correct. Up to 60 per cent, though, of the total number, received some response and some service. The 30 per cent is a subset of the 60 per cent, if you like. A portion of other ROSH reports were subject to, for example, a direct referral to a support agency or we might have convened an interagency case discussion where we get the relevant support agencies together and work out that, in fact, what might be the best

response for this family might be a direct referral to a support agency, as opposed to the full statutory child protection response.

The Hon. DANIEL MOOKHEY: So 30 per cent is investigated fully and you say 60 per cent receive some other form of treatment that is less than full, and that could be from a referral to, presumably, something more than that. What happens to the other 10 per cent?

The Hon. Dr PETER PHELPS: It is the other 40 per cent.

Ms MULKERIN: It is the other 40 per cent.

The Hon. DANIEL MOOKHEY: Sorry: We still have another 40 per cent?

Ms MULKERIN: The 30 per cent is a subset of the 60 per cent.

The Hon. DANIEL MOOKHEY: Okay. What happens to the other 40 per cent?

Ms MULKERIN: They are what you would have heard referred to as closed due to competing priorities. This morning I heard the evidence from one of our PSA colleagues about triage and WAM. At the point that the helpline completes taking the report it is passed on to the local office. The local office will then do what we call triage, which is often looking at history—"Do we know the family? Is there a support agency already engaged?"—and it might do some initial checks about what is already known. That information, along with the report that was received from the helpline, goes to the weekly allocation meeting. It is at that weekly allocation meeting that all of the current matters that are open and require response are then worked through for priority and urgency.

Mr DAVID SHOEBRIDGE: Then, if they have not been got to after four weeks, they are closed.

Ms MULKERIN: Correct.

Mr DAVID SHOEBRIDGE: And that is the 40 per cent.

Ms MULKERIN: Correct.

The Hon. DANIEL MOOKHEY: I will hand over soon because I know there are lots more questions. You have given evidence about the trends—that is, there is an 18 per cent increase in ROSH reports—and a relatively good and concise explanation as to the likely trajectory of those 40 per cent that is not investigated, which I think you said was because of competing considerations or things. Given that, would it be wrong for this committee to conclude that the level of resourcing in the system is not rising to meet the rise in demand for the system's services? When you say that there are 2,128 caseworkers and it has not changed, that is great, but the aspect that we are missing here is that these caseworkers are being asked to do a lot more work.

Ms MULKERIN: It is not accurate to say that all ROSH matters are equal. What we can see is that as we get to more matters, the full face-to-face kinds of matters, the rate of substantiation has remained relatively stable. Even though we get to more does not mean that it is in effect one-for-one.

Mr DAVID SHOEBRIDGE: But if the rate of substantiation remains the same, then the more reports you get the more validated—

Ms MULKERIN: In fact I am saying the opposite. It is not accurate to say the more face-to-face complete assessments we do, the more substantiations we will make. In fact what we are finding is that with the decisions that our workers and managers are making about which of the matters before them they have prioritised, they are by and large making the right calls about which are the most urgent matters or the matters that require the most intensive response.

Mr DAVID SHOEBRIDGE: How can you say that if 40 per cent are not investigated?

Ms MULKERIN: Because we can track how many of those are re-reported back to us.

The Hon. DANIEL MOOKHEY: The trigger mechanism for whether or not your first call was right is whether or not the same case reappears later on?

Ms MULKERIN: It is one of the factors to take into account.

The Hon. DANIEL MOOKHEY: Is it the case that a child needing care may need to experience a second form of trauma in order for it to make a break out of the 40 per cent category and into the 30 per cent category because what you are saying is the only way in which we will find out whether something needs investigating is if it happens again?

Ms MULKERIN: That is not what I was trying to say. What I am saying is that if you look at the total amount of child protection matters that are reported to us, not all of those matters require a full child protection face-to-face assessment. There are some of those matters where the family and the children would be better served if services got in there early in a non-statutory framework. That is a better response for some of the children that are reported to us.

Mr DAVID SHOEBRIDGE: Thank you for giving us the updated figures. You say 2,026 caseworkers?

Ms MULKERIN: We are funded for 2,128 caseworkers.

Mr DAVID SHOEBRIDGE: The figure from your submission is 2,026 actual full-time equivalent [FTE]?

Ms MULKERIN: Yes.

Mr DAVID SHOEBRIDGE: Funded for 2,128 from 2,026.

Ms MULKERIN: That is actuals.

Mr DAVID SHOEBRIDGE: That is 2014-15, is that roughly the same now?

Ms MULKERIN: I am not sure what you are referring to.

Mr DAVID SHOEBRIDGE: Page 14 of your submission states you have 2,128 funded for 2014-15 and 2,026 actual. Are you saying it is still the same?

Ms MULKERIN: Yes, 2,128 funded and the average for 2015-16 was 2,032.

Mr DAVID SHOEBRIDGE: Roughly the same?

Ms MULKERIN: Yes.

Mr DAVID SHOEBRIDGE: In 2011-12, you can see there were 99,283 risk of serious harm [ROSH] reports with just on 2,019 caseworkers. That is about 51 per caseworker. We go through to 2015-16 and we have 100,039 ROSH reports and 2,030 caseworkers. That is 70, or 68, per caseworker. That sounds to me like validation for the evidence we heard earlier today of the caseworkers being distressed by the amount of work and not keeping up with demand.

Ms MULKERIN: There are two different issues in that question. One is how much work is coming in to the agency. It is clear that the number of staff has stayed stable and an increase in reports. That is not a State secret, that is well known. The other issue, which is the issue that your colleague was raising, is that not all of that work is allocated. It is not to say that in fact if there is 70 more per FTE child protection matters it does not mean that we are asking every caseworker to cover the growth, which is what the gap is, the closed competing priorities. If the worker numbers stay the same and the work increases there might be some way in which we could ask workers to take on more. It is the gap that we cannot get to.

Mr DAVID SHOEBRIDGE: That is what happened?

Ms MULKERIN: Yes.

Mr DAVID SHOEBRIDGE: The gap has grown?

Ms MULKERIN: Yes.

The Hon. Dr PETER PHELPS: I have a couple of administrative matters raised earlier. One of the witnesses, possibly the Public Service Association [PSA] raised the issue that what is recorded as face-to-face visits are not in fact face-to-face visits. Do you want to comment on that?

Ms MULKERIN: I would very much like to comment on that. The PSA has raised this concern with me before. A couple of things have been conflated together. In the last year or so we been much clearer with our workers about what we think are reasonable amounts of work for them to carry. You might have heard evidence that we are publishing internal data about how much work is coming into every community service centre [CSC], how many workers they have and what is a reasonable benchmark of work that we would expect they would get to.

Mr DAVID SHOEBRIDGE: Is this the dashboard?

Ms MULKERIN: Correct. As part of that one of the measures is about face-to-face. In the face-to-face count we pick up the count at a certain point in the process. When you look in to the records there is work under way. The PSA has raised with me before that they have concerns that an empty shell of a record might be created and trigger a count. When the PSA raised that with me in the past I caused a random sample to be taken across locations, CSCs and records and we could see no evidence of that. I have asked the PSA if they have particular concerns about particular locations I would be more than happy to receive that information. I again extend that offer. If the PSA has evidence this is happening it is not what we want or expect of our staff. I would be happy to look at it if the PSA has evidence of it.

The Hon. Dr PETER PHELPS: Ms Alexander, as Officer of the Senior Practitioner are you responsible for in-service training of caseworkers?

Ms ALEXANDER: Yes. One of the primary functions of the Officer of the Senior Practitioner is to support, inspire and elevate the role of practice in the agencies. Certainly one of our functions is the provision of training and skill development to our frontline caseworkers and managers.

The Hon. Dr PETER PHELPS: How accessible is that? It has been put to me externally that given the caseload which workers have it is difficult to access a reasonable amount of in-service training because of the nature of the way that training is provided. In other words, caseworkers say, "I cannot afford to give up two days to go to a course. I would much rather have it chopped into smaller pieces that I can do online or through video instruction". To what extent do you take into account the workload faced by caseworkers in the provision of in-service training?

Ms ALEXANDER: I can answer that in two sections: What we are doing now and what our plans are in the coming months and years. The point of breaking down training so it is accessible and quick to keep people sustained and inspired in their work has been important in the way we have used podcasts, video-on-demand [VOD] casts and our practice conferences. We just had 600 of our frontline staff at a practice conference in September. All of the keynote speeches and PowerPoint presentations are available on the intranet for staff. We try to break them down. We have been doing podcast series. All our staff have smart phones and they can access those speeches. When they are driving to work or travelling long distances we encourage them to listen to this interview with a foster carer or listen to a caseworker talk about her work.

We try as much as we can to disseminate information in different ways. We are aware that our staff access training in different ways. On top of that we worked very hard to use the group supervision forum. Nearly half of the State is working in offices where group supervision is the way they primarily make decisions about children. We use group supervision as a way to bring learning into decision-making in a real time way. Through the presence of a casework specialist or a psychologist in the group supervision, if a particular matter is being discussed that is of concern, maybe drug and alcohol or child sexual abuse, their role before the session would be to do some research, to bring some research and make sure that they can be teaching and inspiring alongside the case that is being discussed. Our staff have told us the value of group supervision as a way of learning, because it is alongside the actual child concern they are talking about.

There are a number of other things we do: Four times a year there are research to practice seminars and we are in the process of redeveloping the casework practice site. That is a clear set of our policies and procedures that we have broken down into plain English. We call them practice mandates. But all of them are linked to research. There are little videos, practice advice and how-to questions. The sexual assault resource kit will be rolled out in November and goes exactly to what you are talking about. It has lots of practical examples.

The Hon. Dr PETER PHELPS: What percentage of the 2,000 or so caseworkers have accessed these in-service training programs? You can take that question on notice.

Ms ALEXANDER: I will take it on notice. However, I can tell the Committee that at the practice conference in September we had 900 people watching online over the two days, and 600 in the audience. It was a fair proportion of our workforce. I also want to talk about the planning we are doing going forward, which picks up on the point about the importance of sustaining skill development in the workforce. Our attempts are aimed at inspiring and supporting practice at the time. However, how we sustain that skill development is the ongoing challenge. At the moment we are doing some important work involving looking at a whole approach to skill development from the first day in the agency through to management. We are looking at redesigning our entry-level training and our management training to base it around skill development and staff needing support, and then developing their competencies in practice before they can graduate up through the system. That is the work of the child protection academy that we are working on.

The Hon. Dr PETER PHELPS: Ms Mulkerin, do you keep a demographic analysis of your caseworkers?

Ms MULKERIN: We do.

The Hon. Dr PETER PHELPS: For example, do you have details of the ethnic identity, socioeconomic background—

Mr DAVID SHOEBRIDGE: Age and gender.

Ms MULKERIN: We certainly record age and gender.

The Hon. Dr PETER PHELPS: What about socioeconomic background?

Ms MULKERIN: No.

The Hon. DANIEL MOOKHEY: How many Indigenous caseworkers do you have?

Ms MULKERIN: We have about 240 Aboriginal caseworkers. I will provide some information about our caseworkers, because there are some common misconceptions about who they are. It might surprise members to know that the average age of our caseworkers is 41, more than half of the workforce is over 35, and more than 10 per cent are Aboriginal. In fact, that number is the highest in Australia.

The Hon. Dr PETER PHELPS: Presumably they are excluded from working in communities in which they are involved because of conflicts of interest.

Ms MULKERIN: Many Aboriginal workers do work in their communities. One of the challenges of that is the difficulty about being an Aboriginal person employed by a statutory agency, and their sense of obligation to their community.

Mr DAVID SHOEBRIDGE: But they are conflicted out if they know they have a connection with the family? Yes or no.

Ms MULKERIN: They will declare a personal conflict.

The Hon. Dr PETER PHELPS: But does that not automatically exclude them from decision-making?

Ms MULKERIN: It will depend upon the nature of the relationship and how close they are to the family members.

The Hon. Dr PETER PHELPS: It has been put to me that not all Aboriginals are interchangeable, and that people who are Aboriginal in a specific community have a particular level of knowledge, but they are not able to exercise discretionary powers within that because they are perceived to have conflicts of interest.

Ms MULKERIN: We ask all of our workers to declare any personal conflict of interest.

The Hon. Dr PETER PHELPS: But you are not saying that they are automatically excluded.

Ms MULKERIN: No.

The Hon. PAUL GREEN: It is probably not only that. There is a specific requirement within Aboriginal communities about country, respect for elders and so on. If you have someone from another country, it is not always appropriate that that person has input to your family, nation or mob. It is very conflicted as well.

Ms MULKERIN: One of the things that Aboriginal caseworkers bring to the work is, of course, their lived experience, their cultural connection, and their cultural understanding.

Mr DAVID SHOEBRIDGE: If they are conflicted out they do not bring it.

Ms MULKERIN: They might not be part of the decision-making about this child, but they are certainly part of the discussion and the practice in the office. They might not make a decision about, for example, their niece, their aunt or whoever, but they will be involved discussions in the office about practice.

The Hon. Dr PETER PHELPS: Why do we have the highest rate of removals in Australia, which is a country that has the highest rate of removals in the western world?

Ms WALK: I heard that evidence this morning, but I have not had an opportunity to examine the international data.

Mr DAVID SHOEBRIDGE: It is in submission No. 44.

Ms WALK: In response to the question about the rate of removal, we must separate that from our out-of-home care population. The rate of removal is about new entries and population is about children who stay. It is true say that New South Wales has the highest rate of children in out-of-home care. I will use one year to give members a sense of this. In 2011-12, the difference in the number of children we brought into care and the number who exited care was 300. In 2015-16, the difference in the number of children we brought into care and the number who exited care was 1,000. Exits are falling and entries are increasing slightly, but not dramatically. New South Wales does have a very high out-of-home care population, but not necessarily a higher removal rate. I will now deal with the proportions. The rate of children and young people in statutory out-of-home care—I know this is down in the detail—

The CHAIR: We need that.

Ms WALK: It is important because the figures fly around a bit. Statutory out-of-home care happens through the Children's Court. An order has been made by the court that the child is in need of care and protection. Our rate of children in statutory out-of-home care is between nine and 10 children per thousand. That is about the same number as there is in Victoria; it is certainly less than in the Northern Territory. We have a category that we call "supported care"; they are children who are with their families who often come through the Family Court, and we pay those families. If we pay them, they are counted as being in out-of-home care. That is, between 17 per cent and 20 per cent of the children we count in out-of-home care are in what we call supported care.

Every couple of years you will see an article in *The Age* asking why Victoria does not pay family members who take in children from a drug-addicted relative. That is supported care, and we pay them in New South Wales. We count them, we screen them, and we pay them the same rate. The rate of children and young people in out-of-home care is around 11.1.

Mr DAVID SHOEBRIDGE: Around 11.1 what?

Ms WALK: That is 11.1 children per thousand. It is just over 1 per cent of the population of children in New South Wales. Generally I say that between 1 per cent and just over 1 per cent of children live in out-of-home care in New South Wales. A proportion of those children live in foster care. The majority of children in out-of-home care live with family—a grandmother, an aunty, or an older sister. I think the general population often assumes that when we use the term "out-of-home care", they are in big children's homes or in foster care. In New South Wales, the majority live with family, and 80 per cent of them have come through the Children's Court. However, others have come through the Family Court, and they are not counted.

Mr DAVID SHOEBRIDGE: So, 20 per cent come through the Family Court and 80 per cent come through the Children's Court?

Ms WALK: Not all of that 20 per cent have come through the Family Court. We call it supported care. There are other mechanisms to pay them.

Mr DAVID SHOEBRIDGE: But 80 per cent of that population has come through the Children's Court?

Ms WALK: That is correct.

Mr DAVID SHOEBRIDGE: That is not always consensual.

Ms WALK: I am not disagreeing; I am simply talking about the population of 20,000, or the rate of removal. I am not arguing that the Children's Court and the removal process—

Mr DAVID SHOEBRIDGE: They have been removed it is just you are saying some have gone to kinship arrangements and some to distant foster arrangements?

Ms WALK: Correct. New South Wales in terms of its out-of-home care population also has a very small percentage in residential care. New South Wales closed its residential services in about 1998-99, the big government-run services. I do not know whether you have gone to see one but it would be useful for you to see them. They are little cottages. They are little homes. They have between four and six children in them. Some of them might have a whole family, a whole group. We have always had historically in Australia a very small proportion of the out-of-home care population living in residential care since we closed very large what used to be called a receiving centre, large residential homes that some of the large non-government organisations ran.

The Hon. Dr PETER PHELPS: You still have not answered the question of why we effectively remove at a rate double that of comparable countries like New Zealand and the United Kingdom. Is it because

New South Wales families are worse or is it because FACS workers are taking an unduly strict line as to what they consider to be an appropriate family? Is it simply a case that Britain and New Zealand are leaving too many vulnerable children in bad situations? Why is it?

Ms WALK: Ms Mulkerin and I will both address this. One is about what is the threshold for our caseworkers which I will leave with her. I want to talk about whether we have enough of what we call family preservation services. The other part of that is do we have enough what I call restoration services. The thing that concerns me is that when children come into care they stay for very long periods of time. The average stay for children who come into care in New South Wales is around 12 years. In other jurisdictions it would be a lot shorter.

Mr DAVID SHOEBRIDGE: If the average stay is 12 years for most kids that is their childhood and they do not get out.

Ms WALK: That is right. They might be living with grandma for that period and that might the best and safest place for them.

The Hon. Dr PETER PHELPS: Or they might be bouncing between foster carers every six months, roll the dice.

Ms WALK: The issue that you are pointing to is: Do we have enough investment in the area of restoration?

The Hon. Dr PETER PHELPS: No, my issue is should these children be removed in the first place. In other words if these children were in identical circumstances in the United Kingdom or New Zealand would they be removed from their parental care, their birth mothers generally speaking?

Ms WALK: Ms Alexander, do you want to talk a little bit about some of the removals research that we are engaged in at the moment? If we can come back to the resources around preservation and restoration, I will deal with that.

Mr DAVID SHOEBRIDGE: Just for the moment it is about benchmarking against comparable jurisdictions.

Ms WALK: That was the beginning of my answer. If we are going to benchmark you do need to get under the bonnet, if you like, with the detail and you need to benchmark what are removals.

Mr DAVID SHOEBRIDGE: But you need to benchmark. So let us hear about the benchmarking.

Ms ALEXANDER: What Ms Walk has referred to is a piece of work we are leading because we are concerned. We are concerned about the need and importance to keep more children with their families. Quite simply, the challenge for child protection systems is the ability to articulate and assess risk. It is important to bring to life how challenging that can be and how at risk some children can be. At the end of the day caseworkers in areas where there are no immediate services available at night, and to bring to life the very real decisions our caseworkers make in those situations and do not make lightly. That is the first job of a child protection caseworker.

The next job which is equally important—and we are really investing in this job—is the ability to help families change. If we really want to get more children home and bring fewer children into care we need a workforce that is equipped with the skills to lower risk. Lower risk means work with very disadvantaged, very troubled, very concerning situations where you need incredible skills, tenacity and compassion to lower the risk with those families, and an incredible support structure around. That is the work that we are really interested in investing in our workforce; not just the ability to assess risk but also to motivate and support change that lowers risk.

On that very subject we are doing a piece of work which to my understanding is the biggest piece of work in Australia of this nature. Right now we are looking at a large number of children who have been brought into care recently—a number as big as 125—and we are comparing 125 children at high risk who were not brought into care. We are going to question into that thinking the characteristics of the worker, the characteristics of the supervision, what were the factors that meant we kept some children at home, and why was safety different for those children in the worker's thinking and their manager's thinking—the ones where we said, "We just cannot leave this child today because we are too worried about the risk." The importance of us doing that research goes to the question of how can we better support our workforce to keep children with families and bring the support structure in the system around that keeps risk lowering day by day in very worrying situations.

Mr DAVID SHOEBRIDGE: The question was: Have you benchmarked the rates of removals in New South Wales against other jurisdictions in Australia and other comparable jurisdictions in the rest of the world? Surely that is a starting point. If it looks like the variable is 2½ times or three times the rate in New South Wales surely that is the start of an inquiry. Have you done that?

Ms WALK: It is in the report on government services every year.

Mr DAVID SHOEBRIDGE: Tell me now about benchmarking. How does New South Wales compare with comparable jurisdictions around the world?

Ms WALK: That was the data I was talking about—the nine per 1,000. So 0.90 per cent of the child population is roughly comparable to Victoria. Queensland tends to go up and down.

Mr DAVID SHOEBRIDGE: But that is when you ignore the other huge chunk that are being removed through the Children's Court but going into kinship.

Ms WALK: No, I am talking to you about two figures. I will go through them again. I will give the details in writing.

Mr DAVID SHOEBRIDGE: Is it in your submission?

Ms WALK: I am not sure so let us make certain that we give it on notice. There is the 11.1 per 1,000 children who are in out-of-home care. That is not removals. The Northern Territory is higher than that so that figure is below the Northern Territory. These are published annually in the report on government services, which generally comes out in January. We always benchmark. We look at that data. They are not all completely comparable because, as we say, our population in out-of-home care—

Mr DAVID SHOEBRIDGE: Is widely different to the Northern Territory?

Ms WALK: Our population in out-of-home care has two groups. The definition, the rules, around what is out-of-home care are slightly different in New South Wales. I think the previous speaker also referred to that. Our population in out-of-home care is anybody we pay an allowance for. That means because we pay an allowance for carers whose children were not found in need of care and protection and who were not removed by the statutory agency. But the carers who are receiving a carer payment from the department are included in that. If you take out that group it is about 9.1 which is roughly the same as Victoria, slightly under Queensland and around the same for South Australia. I thought your general point was whether that was too high. We agree with you. Yes, it is too high.

Mr DAVID SHOEBRIDGE: It has massively increased over the past 10 years.

Ms WALK: I can keep going through this. The population has increased but the removals themselves have not dramatically increased.

The Hon. DANIEL MOOKHEY: The 11.1 per thousand are in out-of-home care but not subject to statutory protection; is that what you are saying?

The Hon. Dr PETER PHELPS: No, that includes those who are subject to statutory protection.

The Hon. DANIEL MOOKHEY: Okay.

The Hon. Dr PETER PHELPS: So presumably the other ones are people who voluntarily remove themselves.

Ms MULKERIN: As Maree has said, going through to the Family Court process, it is a family decision that this child is best placed with grandma or with aunt. It is a group that is in not your traditional child protection process. They have not gone through a ROSH report, been assessed or gone to the Children's Court.

Ms WALK: We make a payment to the carer.

The Hon. Dr PETER PHELPS: The family has agreed on the basis, some would argue, that there is an explicitly coercive relationship—that if you do not agree to this it will end up in the Children's Court and you will lose them anyway.

Ms WALK: We could not speculate on the nature of the orders.

The Hon. Dr PETER PHELPS: There is a clear power imbalance between a Government department and a single mother of limited education skills from Western Sydney.

Ms MULKERIN: Definitely. If I can just go back to the Family Court process, the Child Protection Agency is mostly not involved in those proceedings. We are only involved in Family Court proceedings when the court invites us because, during the process of the Family Court proceedings, the court becomes concerned about a child protection matter. So we are not party to those Family Court matters, by and large.

The Hon. Dr PETER PHELPS: What about matters of alternative dispute resolution within the Family Court structure?

Ms WALK: These are not orders that we are proceeding with. These are orders that the Family Court are proceeding with. Our orders, of course, are in the Children's Court. I am trying to give an example of the two different rates of removal. You are asking which ones are we benchmarking against other jurisdictions.

The Hon. Dr PETER PHELPS: Yes, my fault.

Ms WALK: I am just saying that on the 11.1 statistic we are slightly less than the Northern Territory and on the nine in one thousand statistic we are around the same as Victoria and Queensland, which are generally comparable in terms of the definition or the business rule, if you like, about what is out-of-home care. I did not mean to take us down the pathway of the Family Court. I am just trying to give people a sense that New South Wales is relatively generous in terms of assisting other people in the family to care for their grandchildren.

The Hon. Dr PETER PHELPS: Even assuming that, comparing us to like jurisdictions around the world we are substantially higher. There has to be a reason for that.

Mr DAVID SHOEBRIDGE: You admit that we are the highest in Australia, except for the Northern Territory, which is wildly disparate.

The Hon. Dr PETER PHELPS: David, let us take them at face value. Across Australia rates of removal are roughly about the same. That is hardly surprising given that we have a standard culture across Australia. It is unsurprising that that would happen. If we are substantially higher than New Zealand and substantially higher than the United Kingdom that indicates to me one of the two things—either we are removing at a rate which is not merited, or those other jurisdictions are leaving children in risk of serious harm, which we would not have done.

Ms MULKERIN: There is a third possibility.

The Hon. Dr PETER PHELPS: That we have bad families in Australia.

Ms MULKERIN: We are trying to compare apples and oranges. Inside Australia, as Maree has just explained, who gets counted as in out-of-home care varies across the country. The systems and the way in which the work happens is not exactly the same across the world. So I ask you to exercise some caution in making the assumption that the way that Australia organises its Government services is exactly the same as the UK or New Zealand. That makes the comparisons quite difficult in terms of straight numbers. Right at the heart of the issue is: do we have the right emphasis, the right focus and the right investment? We would all say—there is no dispute amongst us—that our preference would be for much more investment up front, early—

The Hon. BRONNIE TAYLOR: Early intervention.

Ms MULKERIN: to prevent any intervention or any interaction with a statutory service.

The Hon. BRONNIE TAYLOR: It is the wrong way around.

Ms MULKERIN: If we could shift investment much earlier it would be, of course, be much better for families and children.

The Hon. MATTHEW MASON-COX: I just wanted to pick up a couple of evidential things before I move to the ROSH issues again. The Catholic Education Commission—I think it was them—put to us that the standard on which they make an assessment in relation to a ROSH report and call up the help line is different to the standards that you use. I do not think you answered that earlier. You said that you would talk about that later. Can you explain why you have a different standard, where you have issued a guideline to each of these reporters that is different to your standard.

Ms MULKERIN: The Mandatory Reporter Guide and the screening tool—the tool that we ask the help line staff to use—are complementary tools. They are both part of the structured decision-making suite of tools, which were all developed by the same organisation in the United States. They are entirely complementary. The Mandatory Reporter Guide is designed specifically for people not working inside the child protection

system. It is designed for those who are largely professional workers who have information about children and their families. It asks a series of questions, prompts some information, and then gives some information about whether or not this report, or this piece of information, may meet the risk of significant harm. It is specifically designed so that there is a kind of overlap with the screening tool. It is intended to make sure that there is no gap between the two. It does force a slight overlap.

The Hon. MATTHEW MASON-COX: Overreporting?

Ms MULKERIN: Yes, a slight over-reporting. I do not mean a significant over-reporting. It was a policy decision that the system, and the sector as a whole, would feel more comfortable about prompting professionals to make reports as opposed to not make reports.

Mr DAVID SHOEBRIDGE: You said that there was not significant over-reporting, but of 280,000 reports, there was 139,000—double!

Ms MULKERIN: If I could explain the process, it is a policy decision to try and make sure that there is no gap. It was a decision about which is the better approach—to have a slight overlap or to have a gap. The decision was made to do the overlap. Having said that, the mandatory reporter guide does not force somebody. If people get to the end and find that it says that it says that something is a non-ROSH matter, many reporters still report. So, despite the guide and the guidance they still make a report.

The Hon. MATTHEW MASON-COX: They feel an obligation.

Ms MULKERIN: And they are also required by law to make a report. One of the challenges we have—it has been talked about quite a bit here—is that some of those decisions, and the way in which the system is currently designed—focuses more than perhaps we would want on reporting as opposed to responding. So the system is designed to push information into the statutory child protection system with a view that that is the right response.

The Hon. MATTHEW MASON-COX: You triage from there. The risk management tools are what you use to do that triaging.

Ms MULKERIN: Correct. The help-line tools are different from the Mandatory Reporter Guide. They are about safety and risk and urgency of priority. That then goes to the CSC—the local office—and, as you might have heard, they then have another look at it. That is also by design. Sometimes it is said that this is a design fault; it actually is by design. The local office, who might already know the family, might already have other information and might know what other services exist, can make a decision based upon the history, the screening, their local knowledge and the available services. They can then decide the best way to respond. It is designed that they have the opportunity then to have another look at it.

The Hon. MATTHEW MASON-COX: In the 60 per cent of cases that either have a face-to-face assessment or some sort of referral, the filters are put in place and they hold what you would call the most serious cases. Is that really what you are saying? The other 40 per move down to what I think you call the competing priorities or are closed in four weeks.

Ms MULKERIN: Yes.

The Hon. MATTHEW MASON-COX: The 60 per cent that you actually respond to in one way or another are, if you like, triaged from the whole that are referred to the CSC. There is 40 per cent that slips down that you have triaged that you do not see as being as urgent as the 60 per cent you are actioning?

Ms MULKERIN: That is correct.

The Hon. MATTHEW MASON-COX: Of that 40 per cent are there some cases that you have not been able to look at simply because of a resource issue t, or is it that you are comfortable that they have been triaged to a point where they are not as urgent or at serious risk of harm?

Ms MULKERIN: They all meet the threshold for a risk of significant harm. They are all significant matters. None of them are smaller—

The Hon. MATTHEW MASON-COX: But some are more significant than others.

Ms MULKERIN: Some are more serious than others. The reality for our managers and our workers is that we ask them to provide a judgement call. Of the 10 matters they have in front of them they might have the capacity to allocate six. We ask them to use their best possible judgement based upon guidance and their

professional judgement and shared decision-making with other managers about which are the right ones to allocate.

Mr DAVID SHOEBRIDGE: The proportion that are not being actioned has been growing year on year with the number of substantiated reports that have been going into the system.

Ms WALK: Not the proportion.

Ms MULKERIN: No.

Mr DAVID SHOEBRIDGE: Sorry, the number. My question was wrong. The proportion is about the same: The number that are not being investigated is growing year on year.

Ms MULKERIN: Correct. The proportion is about the same. As the overall number of reports has continued to increase, as I gave evidence, the number of full assessments that we have been doing has increased. That has increased by almost 20 per cent in this last year, so we are actually getting to substantially more. We did a complete face-to-face assessment of 4,000 more children in this last year than we did in the year before. We are actually getting to more of them. But as the overall numbers continue to increase, you are right, the proportion stays the same.

The Hon. MATTHEW MASON-COX: We have the 60 per cent and we have the 40 per cent. The judgement that your case officers make about the 60 per cent that they are going to respond to sounds to me from what you have just said—and please correct me if I making the wrong conclusion—to be more based on workplace capacity than anything else.

Ms MULKERIN: Workplace capacity is one of the factors.

The Hon. MATTHEW MASON-COX: What are the other factors?

Ms MULKERIN: The other factors will be the issues about urgency, priority and danger.

The Hon. MATTHEW MASON-COX: But all of them are at risk of serious harm.

Ms MULKERIN: Yes, but some of them are more at risk or more in danger. For example, we might have a 12-year-old who has had two or three reports that are around issues of educational neglect being weighed up against a report about a six-month-old with bruising.

The Hon. MATTHEW MASON-COX: What happens if there are 10 and you can only allocate six but all 10 of them are really serious?

Ms MULKERIN: They are all serious.

The Hon. MATTHEW MASON-COX: I am just saying at the urgent stage.

The Hon. PAUL GREEN: How they are triaged. If you have 10 heart attacks you put 10 heart attacks through.

Ms MULKERIN: It will be about factors that we know are about danger and risks. They include age of child and type of injury—for example, a head injury or escalating patterns of violence. There will be a whole range of professional judgements about immediate danger, age of child, risk factors and history.

Ms ALEXANDER: There are also times when one office will help another in situations like that.

The Hon. MATTHEW MASON-COX: Is workplace capacity a serious consideration in allocating those risk of serious harm cases?

Ms MULKERIN: Yes, it is one of the factors. Indeed.

Mr DAVID SHOEBRIDGE: It is a primary consideration. You just do not have the resources.

Ms MULKERIN: I do not know that I would say it was primary. It is definitely one of the factors that goes into it.

Mr DAVID SHOEBRIDGE: If you have not got the resources so you cannot do 10 but you can do six you just allocate the six.

Ms MULKERIN: It might be though that in this week there are 10 matters that simply the managers cannot not allocate so they might ask for support from another office. They might call in some support from somewhere else.

Mr DAVID SHOEBRIDGE: Or stop investigating other cases.

Ms MULKERIN: They might stop doing some other work. It is a fact that they have a finite number of resources at their disposal.

The Hon. MATTHEW MASON-COX: In terms of the 40 per cent, now that we have established the 60 per cent, you say that they will be closed after four weeks unless perhaps there is another serious report or some other incident that gets reported through the system that keeps them active.

Ms MULKERIN: Yes.

The Hon. MATTHEW MASON-COX: When they are closed you keep track of when they come back to you. Can you perhaps take it on notice and give us the statistics of those cases that have come back through another risk of serious harm report?

Ms MULKERIN: If I understand your question, you are asking about those matters that are closed that we have not actioned and the proportion of those that are re-reported back?

The Hon. MATTHEW MASON-COX: Yes, that you might open again and take action on.

Ms MULKERIN: I will have to take that on notice.

The Hon. MATTHEW MASON-COX: The tracking through the system would be useful, as would the timelines that might attach to those sorts of cases. Your caseworker dashboard is a very useful. It shows for 1 April 2015 to 30 March 2016 a breakdown by region. It is really quite variable. To give you an example, Hunter New England—

Ms MULKERIN: That is all right; I know the variations.

The Hon. MATTHEW MASON-COX: I think it is worth stating there were 14,149 ROSH reports, and the figure is down to 23 per cent, as opposed to another region which might report just a couple of thousand and have a higher face-to-face response. What sort of movement is there between these regions? There are obviously some that have high need and are clearly reporting a much lower percentage rate of face-to-face contact. How do you monitor between the regions and resource those that are clearly in much higher need?

Ms MULKERIN: I think I mentioned earlier that in the last year or so we have created an internal resource dashboard. I spoke to every manager in the State face to face about expectations and accountabilities, basically, and set targets for every office in the State as to how many face-to-face assessments was reasonable for them to complete based upon the staff that they have in their office.

The Hon. MATTHEW MASON-COX: Can you give us a breakdown of the staff in each region that are caseworkers?

Ms MULKERIN: The dashboard does that. By setting those standard benchmarks across the State we can then track which offices are in a sense overachieving and those that are completing less work. What we have done in this last year particularly is that there are about 10 offices in the State where we have stepped in and provided some intensive support. You had some of our caseworkers here this morning. I know from listening to their evidence that their passion, energy and devotion to the work was fully on display. I absolutely want to take the opportunity to put on the record the fantastic work that happens every day across the State. This is incredibly difficult work. It is difficult in terms of workload, which we have been talking about. Equally as important is it is difficult heart work. This takes a heavy toll on our workers and it is complex work.

For those offices that have needed extra support over this last year or so we have done a whole range of things like helping them have a look at their systems in place and providing intensive coaching, training and support and mentoring for the managers. The biggest resource we have available to do this work is in fact our own staff. We have been working with all offices across the State to come to a position to say, "Are you working at your maximum benefit and what other supports do you need in order to keep lifting both the amount of work you do while absolutely keeping that in focus with the quality of the work that we do?"

The Hon. DANIEL MOOKHEY: My line of questioning is also around the assessment of risk of significant harm [ROSH] as well. We heard evidence about, prior to the ROSH assessment being made by the helpline, the helpline, for want of a better term, pushing the burden of investigation back on reporters. In fact, we had the Catholic office tell us yesterday about a sensational example of a report being made from a Central Coast Catholic school about a girl who was alleging rape by a sibling.

Mr DAVID SHOEBRIDGE: By another child.

The Hon. DANIEL MOOKHEY: Yes, by another child. We heard from the head of the child protection team that the helpline told them to ask the principal to conduct the interview to ascertain the meaning of the term "rape". Did you hear that evidence, by any chance?

Ms MULKERIN: No, I did not.

The Hon. DANIEL MOOKHEY: Has any such report been made to you about that that you are aware of?

Ms MULKERIN: No, and, to be honest with you, I cannot make any sense of that at all. If there was any information that came to the helpline that related to a sexual assault of a child, our workers have obligations to report those matters to the police. They have obligations in relation to taking a report about those matters and those matters would then be passed on to the joint investigation teams. Our joint teams are with the police and with Health. I cannot make any sense into that.

The Hon. DANIEL MOOKHEY: The evidence went on that the person who is the leader of child protection for the Catholic diocese tells us that she made the report personally. She gave the details and she expected a response to that over the weekend, for which none was aware. She was then told on the Monday to send principal in, which she then refused, and she had one of her trained counsellors undertake the work themselves.

Mr DAVID SHOEBRIDGE: It was actually the Joint Investigation Response Team [JIRT] that made contact and requested the principal to interview the student to clarify the child's understanding of the term "rape".

Ms MULKERIN: I do not know the case. It is certainly not what we would expect. It is not the process that is in place. I am happy to reach out to the person who gave evidence and follow up.

The Hon. DANIEL MOOKHEY: That would be helpful, but the point I am trying to get to is that we are trying to understand whether that is an exceptional practice or a normative practice. We are trying to understand the extent to which the helpline—or not necessarily the helpline but post the point of reporting—the extent to which investigations and assessments are not being prepared properly and occasions on which the burden is in fact being pushed back onto reporters as a result of resource scarcity. Can you explain to us what monitoring devices are around these interactions? What quality framework is there around these interactions? We are talking about a major reporter and the head of the major reporter telling us the story directly herself. You can understand why we would be troubled by this.

Ms MULKERIN: And I am troubled listening to you tell it because it is absolutely not what our expectations would be.

Mr DAVID SHOEBRIDGE: There are eight case studies in submission No. 67 from the Catholic Education Commission. Each of them is as troubling in their own way. Perhaps you might be able to respond on notice to each of those eight case studies.

Ms MULKERIN: Of course.

Ms ALEXANDER: Can I address that in two simple examples about the quality assurance process we have that sits behind the way we screen reports of the helpline? There are two examples. Deirdre talked before about the children's research centre from the States that developed the suite of tools that is our assessment framework. Part of that arrangement we have with them, when we brought that suite of tools into our workplace, is they come back and they do a regular audit—a random sample of reports through the helpline. They will look at them and they will apply the tools themselves and they will give us feedback on whether they think our staff are applying them the ways they are intended to be used.

Another example is that we have call recording of all calls that come into the helpline. Just last week my office was reviewing one case. We had someone listen to the call recording, listen to the information that was given by the community member, listen to the response by our person, watched and looked at what we put into the system, and had a look to see if we thought the quality in the screening process was there. They are just two examples of the way we have the quality behind those processes.

The Hon. DANIEL MOOKHEY: On notice, if you can provide the full statement of the full assurance framework, that would be great as well.

Ms MULKERIN: Sure.

The Hon. DANIEL MOOKHEY: I want to move on now to the other aspects of assessment that have come up in respect to the inquiry and that is evidence that we have heard from multiple people about great variations in assessment standards by region. Of the 15 geographical units that the Family and Community Services [FACS] undertakes this work through, what is considered to be ROSH in one area varies dramatically from what is considered to be ROSH in another. The evidence is that that is to do with, essentially, not a systemic problem that is common to this area of work; rather, it has to do with normative behaviour in a region and prolonged exposure of workers to that behaviour that adjusts their standards. All of that comes down to the fact that the entire system relates to subjective assessment on the part of the caseworker. What we want to understand is, firstly, do you agree that there is a great variation in what is deemed to be ROSH by region?

Ms MULKERIN: No, because that is a slight misunderstanding of where that decision is made. The decision about whether a matter is ROSH or not ROSH is actually made at the helpline. It is not made at the district level.

Mr DAVID SHOEBRIDGE: I think Mr Mookhey's question is about what action happens to a ROSH report once it gets to a district. The discrepancy that you have pointed out appears in the dashboard and Mr Mason-Cox pointed it out.

Ms MULKERIN: Yes. Just to be clear, the decision is made at the helpline based upon the screening.

Mr DAVID SHOEBRIDGE: It is centralised.

The Hon. DANIEL MOOKHEY: Yes.

Ms MULKERIN: So that is not a discretion by different locations. The discretion is then what happens with that report, which is the very long discussion we just had about how our workers might make a difference.

The Hon. DANIEL MOOKHEY: I understand of course, as you have said repeatedly, that you are relying on the professional judgement of caseworkers, but one of the huge issues that is coming through to this inquiry is the extent to which subjective assessment or objective assessment by caseworkers is an issue.

Mr DAVID SHOEBRIDGE: You are twice as likely to have a face-to-face assessment on a risk of significant harm report in Sydney than a risk of significant harm report on the Central Coast. That is what your figures show—twice as likely.

Ms MULKERIN: Some of that will go to capacity of the office. Some of that will go to the system—like, what other services are available. It might be that there is a decision made locally about these types of matters are best referred to this particular agency over here. I think you heard evidence this morning from a worker from Brighter Futures and intensive family support services. Where those services exist, our workers will be making decisions about referring some of the face-to-face matters—the ROSH matters—to those early intervention services because of the nature of the case and the presenting issues. The decision that a service, a non-government organisation [NGO] that who is able to stick with the family over 12 months, might in fact be that it is the best response for this particular family.

Ms ALEXANDER: But the other thing to say is that of course our workers are not—

Mr DAVID SHOEBRIDGE: But the Benevolent Society said that they were not early interventions; that they had one case where the first report had happened soon after birth and they had finally got the child when the child was seven and that there were 15, 10 or 20 early interventions.

The Hon. DANIEL MOOKHEY: You mentioned Brighter Futures. Brighter Futures tells us that often the first point of contact that they will have with the client is after, I think they said, five ROSH reports had been made about that one.

The Hon. BRONNIE TAYLOR: I think it varied, to be fair.

Mr DAVID SHOEBRIDGE: Your own submission does not say that Brighter Futures is an early intervention service anyway.

Ms MULKERIN: I am sorry, if I could just clarify: In the sense of the tertiary sector, Brighter Futures is definitely down the opposite end from intensive support. Of course it is not a mainstream early intervention service, but in the spectrum of work, the work that we do, it is definitely an earlier intervention service, perhaps it is more correct to say.

Ms WALK: I think in response to part of your question, I just want to outline two circumstances. One is that some of the ROSH reports that you are talking of are already open cases with non-government agencies. They have referred them because they have to. They are statutory. An incident occurred. There might have been domestic violence. They are active with the family. They visit once a week. They go around and they discovered that there was an issue of domestic violence last night. They refer it to the statutory agency. It might have been a very serious issue. The children might have been exposed to domestic violence. I am not saying it is not a ROSH report, but a report comes through. The local office at the Central Coast in particular may well say, "We don't actually need to do a safety assessment, risk assessment and risk reassessment [SARA] on any of this. It is already an open case. We will just make certain that they know that there has been a report, or the report could have come through from the police and we know that it is an open case already with Brighter Futures, so we need to let them know that the police went there last night and there was a big domestic violence issue.

Mr DAVID SHOEBRIDGE: The might explain one or two here or there.

Ms WALK: No, no.

Mr DAVID SHOEBRIDGE: But it does not explain what you see if you look in quarter after quarter on your dashboard reports. You get basically the same king of discrepancies. It is not one or two cases which you can point out. It is not fair to say that, or accurate?

Ms WALK: We can give perhaps give you the details of those cases that are reported as open cases in other agencies. We can give you that percentage.

Mr DAVID SHOEBRIDGE: There are twice as many open cases in other agencies on the Central Coast to what there are in Sydney. That does not make sense to me as an explanation for the discrepancy.

Ms WALK: We will give you the details.

The Hon. DANIEL MOOKHEY: The Committee has heard a lot of evidence about the untrammelled powers of caseworkers and, of course, a lot of people who have had interactions with caseworkers which they then deem to be negative will have a reason to have that view. But we have also heard suggestions about accreditation schemes, of lifting professional standards, and a lot of this is to do with fettering the subjective judgement of caseworkers. Firstly, can you explain the extent to which subjective judgment is tempered by all the other systems that are in place? Secondly, do you see merit in any of these suggestions or not?

Ms ALEXANDER: I welcome that question because it follows on nicely from what you were talking about. What I would see as the perennial challenge facing statutory child protection systems is the consistency of the response of the frontline worker, and in the human services industry this is not unique to child protection.

The Hon. DANIEL MOOKHEY: I am not suggesting that it is.

Ms ALEXANDER: No, but the heart of our challenge is how we address this one. There are teachers who inspire some children better than others, and there are nurses who care for patients better than others. In our workforce we have some outstanding caseworkers who use their authority—my ears were alert to Dr Phelps's point earlier about the use of our power. The heart of good child protection practice comes down to how we use our authority. There are times when the community and children need us to use our authority and there are other times where our compassion, skill and empathy with family is important. So where do we get our power to motivate change? Is it an overuse of statutory powers or is it an underuse? That is the perennial problem which comes down to the challenges of consistency, and how we work with that every day in trying to lift the standard of consistency is the point that you raise about subjective judgement. Because in our work, we would all acknowledge, it is not unique to New South Wales that there is subjective judgement and there is good research in other parts of the world that has shown that risk assessment is heavily influenced by things that are to do with subjective judgements of workers.

The Hon. DANIEL MOOKHEY: Of course.

Ms ALEXANDER: Our best attempts around this are structures like group supervision, placement panels, rigorous individual supervision, and continual exposure to research and thinking. Ms Mulkerin and I have just been rolling out a leadership package for all our managers that asks them to think about how they use their power and authority every day, asks them to reflect on their own use of power, and then they are rolling that out all across the State to help caseworkers on that very subject: How do I use my powers? Do families do things because they are afraid of the department or do families do things with us because we have all got the same goal about keeping their children safe? Subjective judgement—the decision of whether to leave a child or

take a child—is very much a part of that work. Really the most important thing that we are trying to do with our workforce is to put as many safety nets and structures in place to challenge robust thinking at the time and help people to try and lift the consistency.

The Hon. Dr PETER PHELPS: There is a fundamental problem there. Someone comes into a family and says, "Hi, I am here to help you. I am here to work with you." The family knows full well that that person who is nominally there to help them, could put in a report or could create a situation where their children will be taken from them. Is it any surprise, given this almost unreconciled duality of carrot and stick, that there is resistance, pushback, concern or reticence of families to engage with workers in that circumstance?

Ms ALEXANDER: What you have described is absolutely right; it is the challenge of good child protection practice. I could tell you story after story though and, unfortunately, the community is most familiar with stories that we can all cite about where we did not use all our authority and we may not have made the best judgement. There are so many examples of caseworkers who balance the use of authority with the use of skilful interventions, there are countless stories about that. It can work, it can happen but it is highly dependent on a sector of support around it. So the point you raise about: Who can I really drop my guard with? Who is my advocate? Who sits alongside me? Who helps me through this? We work very well when there are good support agencies beside our caseworkers.

The Hon. BRONNIE TAYLOR: It is an imperfect world. You can build those relationships but at the end of the day the priority has to be the child. On the one hand we are saying we have too many people in care and on the other we are saying you are not seeing enough people because of your ROSH percentage. This is really difficult. A lady from the Benevolent Society gave evidence before that she had worked in England—what was her name?

The Hon. Dr PETER PHELPS: Ms Dylan.

The Hon. BRONNIE TAYLOR: Yes, and as a worker in primary care it was drummed into us that if we failed to make a report then it was on our head if the next day that child was unsafe, drowned in a pool and was on the front page of the newspaper. That is a big thing for all those workers and for those nurses going into homes who do two-day child protection training. That also to be recognised. We are talking about this end of the spectrum—we are saying that it is too high and you are not seeing enough—but do we need to refocus on the other end with early intervention? Is that why countries like the United Kingdom and New Zealand have been doing a better job at? Have we been reacting on one end rather than the other? Is that how we turn this around?

Ms WALK: One of the things that we are introducing in the next period is much more focus on intensive family support and restoration. So we are using some evidence-based programs—in this case not from the United Kingdom but from the United States—in multi-systemic therapy and family functioning therapy.

The CHAIR: What does "the next period" mean?

Ms WALK: Within this financial year. So we are working with agencies and you need a lot of work around the training of the staff to develop them. That is why we are spending some time and making certain we have got the right system for that. What I am referring to is not so much the early intervention that might be a family support but ones that really—as Ms Alexander was talking about—really lowers risk. There are some families where people do make reports where there are concerns about the ongoing care, and there are others where there is ICE used and very little children, lots of the troika that really puts children at risk—drug and alcohol abuse, untreated mental health and family violence. Those three together make sometimes a home life incredibly toxic for children. It is reducing risk in those ones that really the statutory agencies, alongside with the high-end not-for-profits—I think you were hearing her experience not so much from Brighter Futures but from the United Kingdom in terms of staying in and working on those—that really requires a lot of solid support around families, including their extended family. A lot of the New Zealand work has been around getting the extended family to really support and take action with other members. They really move into the issues with families. For example, if a man is being violent to his partner and drinking they will put him on a plane and send him back to his family of origin and say, "This is not good enough." They take very intrusive action in the family in terms of trying to reduce the risk inside the family home.

The Hon. Dr PETER PHELPS: Do you have any statistics on children who have been removed subsequently having to have their own children removed at a later date—in other words, intergenerational removal?

Ms WALK: Yes, some recent work in New South Wales shows that women—there has not been no much tracking of the young men in terms of their children, and I think we need to do more of that—who grew

up in foster care, so not necessarily kinship care, having 10 times the likelihood of their children being removed. We can provide that data for you.

The Hon. PAUL GREEN: You talked about training of kinship carers earlier.

Ms WALK: I talked about the authorisation, but I can talk about training.

The Hon. PAUL GREEN: Is there training? If so, is it free?

Ms WALK: The department supports and funds training in a number of ways. The first way is that we fund an agency called Connecting Carers, which has coordinators all throughout the State. They have a regional basis. They organise training, support, information sessions for all carers, kin or foster, on a regular basis. We can give you the details of their training sessions, which are certainly on their website. They are really oversubscribed if anything. That is one form of training. The agencies themselves, non-government agencies as well as our own, will often deliver training as well. Ms Alexander talked earlier about podcasts and bodcasts and there has been some work using a colleague, Dr Howard Bath, who is particularly good at assisting carers understand trauma-informed work. We have a series of videos about that.

The Hon. PAUL GREEN: Are carers entitled to as much help as foster carers?

Ms WALK: Kinship carers and foster carers get the same amount of support financially. There is no difference between kinship carers and foster carers in terms of any carer reference groups or those kinds of supports in New South Wales.

The Hon. PAUL GREEN: I would imagine that Working With Children checks are mandatory for 100 per cent of kinship carers?

Ms WALK: Yes. I will get Ms Mulkerin to talk about the first 30 days, when we have a slightly different mechanism. Obviously, with kin carers, when you remove children, they are not already there because you go looking for appropriate carers who are family members and you do not have the time to deliver a Working With Children check. Ms Mulkerin will talk about what our workers in the field do. Kin carers in New South Wales, in order to be paid as a carer, have to be authorised as a carer. The process for being authorised as a carer is a Working With Children check and other things. They are the same whether you are a kin or a foster carer.

Ms MULKERIN: Often in the process of doing the child protection work, part of the work we ask our workers to do is to start to reach out to extended family—who is in the child's network, who is on the parents' network—that can provide help and support and act as a protective factor for children. In that child protection work we often identify possible relatives or kin who might be able to care for the child and might even start to have the discussions with parents about some respite or other ways in which the extended family can provide supports. As Ms Walk indicated, all carers are required to undergo probity checks before they can become authorised carers.

The Hon. PAUL GREEN: What audits do you do of your early intervention programs, particularly where you extend them to NGOs for policies and procedures, to ensure that those initiatives are being followed up and implemented in the way in which they are intended to be?

Ms WALK: There is a continuum of early intervention services. I am describing that because sometimes we might all have a different picture in mind. There might be a neighbourhood centre that is a really good drop-in centre or there might be a playgroup in a housing estate where women are particularly socially isolated having experienced domestic violence. That playgroup might be a bit more monitored and right on the doorstep of the housing estate, so they try to do a lot of soft entry work with carers. We would still see that as early intervention, but not case management. There are early intervention services like Brighter Futures, which are essentially case management services. They have a different role, we think, to play in reducing risk in families. You would not necessarily want to do lots of monitoring of the play group and those kinds of things—obviously, anybody who works with children in New South Wales is screened and has to have a Working With Children check. But you would not necessarily want a big oversight mechanism as children do not live there. You do want quality workers but you would largely leave that to the employing agency itself.

But for the case management agencies we want to ensure that they are qualified and looking at risk of significant harm in terms of whether they are reporting, taking action and reducing risk. Inside Family and Community Services we meet. For example, if we stay with Brighter Futures, we meet with the Brighter Futures providers—in fact, now we have started tracking what proportion of their clients have been reported at risk of significant harm and what proportion of their clients are re-reported following their intervention. Of course,

there are some agencies delivering a service take a high proportion of children at risk of significant harm and have a very low proportion of re-reports when they finish working with them. We think that is a great agency; it is essentially helping the families to get back on track and reducing risk in the family. Other agencies—and we have given them their data because they do not know if the family is being re-reported unless we tell them—take a low proportion of risk of significant harm as part of their whole caseload, but their families are re-reported at risk of significant harm. We would say that that means the work they are doing with the family is not actually addressing and helping reduce the risk.

The Hon. PAUL GREEN: You said there was an increase of 4,000 face-to-faces—

Ms MULKERIN: That is 4,000 more children.

The Hon. PAUL GREEN: That is great, because we asked about this in budget estimates about a year ago and Michael Couch gave us an undertaking that he would increase that figure.

Ms MULKERIN: Delivered.

The Hon. PAUL GREEN: Are you doing that with more staff or have you change systems?

Ms MULKERIN: No, the same amount of staff.

The Hon. PAUL GREEN: You talked about people hosting helplines. What is the average time taken for a ROSH report? Is there a waiting time? Is the helpline busy? Do you keep performance indicators [KPIs] on that?

Ms MULKERIN: Yes, I know a lot about everything that comes and goes.

The Hon. PAUL GREEN: Can you table that for us?

Ms MULKERIN: For sure.

The Hon. PAUL GREEN: Ms Alexander talked about a secret shopper situation. I hope it was done in that spirit and when you come to test people answering those calls, they do not know that you are oversighting them or actually measuring what they are doing. Are they aware that you are checking them out or are they unaware?

Ms ALEXANDER: It is a standard call recording that you get when you ring a lot of other helplines. The people ringing know there is a call recording and our staff certainly know that. A lot of our staff welcome call recording because it is a great learning device for them to listen to calls.

The Hon. PAUL GREEN: A call may come through and you pick one to review?

Ms ALEXANDER: We record them all. People can opt out.

The Hon. PAUL GREEN: Does it work like that?

Ms ALEXANDER: Yes, we go back and use them for training purposes or, as in the example I gave earlier, a particular case we were reviewing and we pulled the recording on that one.

The Hon. PAUL GREEN: My final question. The experience of those people handling the calls, are any of them fresh out of university and fresh out of their courses or are they all experienced past field staff?

Ms MULKERIN: At the Help Line it is a mix of staff.

The Hon. PAUL GREEN: So it can be a freshie as much as someone who is experienced?

Ms MULKERIN: Yes, like most offices.

The Hon. PAUL GREEN: What do you do to follow that up, given that quite often nothing can replace that experienced on-field understanding?

Ms MULKERIN: All new workers are required to attend a compulsory period of training up front, so there is more training for the Help Line staff before they actually get on the calls than for our frontline staff.

The Hon. PAUL GREEN: Because one of the comments we are getting as evidence is that we have got these people who go into the field fresh from university and they are judging according to the way the lecturer told them to. It is often not appropriate to the situation that has arisen. They do not really get it. The evidence is that these people have no kids, no life experience and have never had a job. Mum has got the kids off to school but her kitchen is in a mess and it looks like everything is out of whack. It may actually be quite in control, it may just be the way they get through their day. But to a young thing straight out of university it looks

like everything is out of control. There may be clothes all over the place and the dog might have done something in the lounge room at the same time that the surprise visitors have arrived. It might look totally chaotic but in fact it is the way they get through their day before they pick the kids up.

Ms MULKERIN: If I could go back to some of the information I gave earlier. The average age of our caseworkers is 41. Less than 15 per cent of our workers are in their first year. So there is a common misconception about who our frontline workers are.

The Hon. PAUL GREEN: Finally, the comparison with Victoria in terms of the Children's Court situation. Do we have the same sort of thing, where it is an interim order and five days and then the next process is five weeks, four weeks, to the next—

Mr DAVID SHOEBRIDGE: That is our system?

The Hon. PAUL GREEN: Yes, that is our system. And then you have a care plan that has to be tendered with the court. Is Victoria's the same? Is it comparable?

Ms WALK: Victoria is little different but we can provide that to you. Victoria has a lot more short-term orders so as I was trying to explain, we do not necessarily do more removals than Victoria but because they have many more short-term orders than we have, they tend to go back to the court much more frequently than we do, so we tend to have more long-term orders.

Mr DAVID SHOEBRIDGE: The children tend to go back home much more frequently as well.

Ms WALK: Not necessarily but their orders tend to be shorter. So they might stay in foster care and just go back and forward.

Mr DAVID SHOEBRIDGE: You might give us the averages between Victoria and New South Wales.

Ms WALK: Yes, but they certainly have more exits than we do, absolutely.

The Hon. PAUL GREEN: Is it not worthwhile, given the fact that we are in the benchmarking key performance indicators [KPIs] and we want the central figure of these things to be the children, have we ever surveyed the children to see what their response is of the service that has been provided to them by the department?

Ms WALK: I am pleased you asked that because we have not talked about the Pathways of Care research that the department is leading. It is a longitudinal study of children in out-of-home care. It is the biggest of its kind in Australia and certainly being spoken of—it has an international team of researchers from the United States [US] and Australia. We are regularly surveying all those children, from very little children right through to older young people. It has been going since 2010 when we did the first wave and we have just completed wave three. That is our research that we are doing, regularly asking those children.

Mr DAVID SHOEBRIDGE: You might update us with the outcome of that research.

Ms WALK: Yes.

The Hon. PAUL GREEN: Are they random?

Ms WALK: No, I can describe how the research occurred and then I will talk about what occurs for all children in out-of-home care. We took children who were removed in 2010, it is longitudinal research, so we are following them all through. Some of them obviously have gone home. Some have gone from foster care to relative care, that is not an uncommon movement. Some are still in care and they will have been there now for six years and we are following that cohort and will continue to follow that cohort for some time. So the research from those children, when one asks them, "Are you happy?" and "Do you feel safe?" is overwhelmingly "Yes".

The Hon. PAUL GREEN: Are they anonymous?

Ms WALK: It is hard to give you that answer because as some of our children are older and they use the computer aided survey techniques [CAST]. The agency that is leading that work is internationally known for surveying children and young people in care. It is a British agency. That technique of regularly surveying children in care is used by many of our non-government providers. So I think you might have had Key Assets provide information and certainly Life Without Barriers [LWB], so they would regularly survey their children. They also have their caseworkers ask them, as do our caseworkers ask children. But they do an anonymised and a not anonymous survey of children. They generally ask them around what we call "felt security". How safe do they feel and how happy are they? In 2015 Life Without Barriers surveyed all their children in care in Australia.

They are probably the largest provider. There were some children who said they were not safe and that prompted further questioning. Sadly often the reason the children felt unsafe was because of the status of their parents. They could not relax unless they felt that their parents—often their mum—were safe.

The CHAIR: I have a question I want to pose to each of you, starting with Ms Alexander. I will put the proposition to you that it would be better overall to have more emphasis on earlier intervention in the State of New South Wales. I invite you to think beyond the Department of Community Services [DOCS] lens, but in the State of New South Wales. What are the first and second largest obstacles that are in the way for the State of New South Wales to be able to tackle the issue of earlier intervention better than we are now? What is the first and the second largest obstacle, starting with Ms Alexander.

Ms ALEXANDER: It is a great question and off the cuff I hope I can do it justice. I suppose, from where I sit, in New South Wales I would go to the challenges of a very large state and demographic challenges with consistency of access to good services all across the State. So you are right to stress the importance of early intervention services and families getting parenting support and help before problems get to the point of their children being at risk.

The CHAIR: So geographics is the first. What is the second?

Ms ALEXANDER: The second one for me is about the quality of people across the board doing this work. It is incredibly hard and skilful work, in every part of the early intervention through to the statutory end.

Ms MULKERIN: The same question?

The CHAIR: Yes.

Ms MULKERIN: Mine is about elevating the evidence about what works in early intervention and really redistributing the resources that we have to programs that work. So really, making obvious the evidence and using that to drive the resources. The second one for me would be, allowing the experiences of people who have experienced the child protection system or have experienced trauma and vulnerabilities, their experiences really lead and drive those decisions.

Ms WALK: I think we do not have enough drug and alcohol and mental health adult workers helping families change. I think our work is too segregated. If I am a drug and alcohol worker I think as an adult about your drug and alcohol consumption, not about how I help you to parent better. The adult problem leaves the children in pain. I think that is one of our biggest obstacles, that we need that system to come together; it is too disaggregated. We have got the people worried about the children's problems here and somebody worried about the parental issues there and we need to bring them closer because that is the only reason why the child protection system is there. We are not knocking on people's doors and staying there when there is not one of those three things there.

The second obstacle is that we are not focusing on the first thousand days. We could really start to do some generational, turn-the-curve work if everybody—the early childhood nurse, the child protection worker, the drug and alcohol worker, the early childhood interventionist—if we really turned our hand to how do we keep this child bonded and at home; how do we help parents stay clean for the first thousand days? If we cracked that we would really turn the curve.

Mr DAVID SHOEBRIDGE: How many children have been removed in the last two financial years following high-risk birth alerts—perhaps if we go back over the last five years, because I have had many people contact me about high-risk birth alerts and about children spending only two hours to bond with their mother before they are removed. Is that what happens?

Ms WALK: Let us get that for you. Sometimes we have got the exact opposite; we have got the high-risk birth alerts teams working really well with saying, "I am going to help you keep your child", and we have got some great examples where Health and FACS have just said, "This is what our role is to do. We are going to help you keep your child".

Mr DAVID SHOEBRIDGE: For mothers who are the subject of a high-risk birth alert is there a policy in place that they are notified that they are the subject of a high-risk birth alert?

Ms ALEXANDER: The mother is not the subject of a high-risk birth alert; the child is, and our procedures about informing those parents are no different—

Mr DAVID SHOEBRIDGE: We are talking about an unborn child. To say that the mother is not the subject of a high-risk birth alert is kind of ignoring reality.

Ms ALEXANDER: It may sound pedantic. It is important to ask because it is about the focus, as we have had—

Mr DAVID SHOEBRIDGE: My question was: Is there a policy that the mother is notified that she is the subject of a high-risk birth alert, so that there can be a guaranteed set of criteria she can look at to keep the child and not have it removed after two hours or less in her arms?

Ms ALEXANDER: Our policy about that mother, the pregnant mother, as opposed to a mother of children who are reported today or tomorrow, about her right to access, is no different for a pregnant mother than for a mother whose children are in her family.

The Hon. PAUL GREEN: We took evidence that some pregnant mothers were led to believe that they were going to get restoration of their baby after it was born into their home, only to find out that once it was born it was ripped away from them, taken away and totally relocated, maybe because of all those reasons that they were not informed that this was going to happen, and they were devastated.

Mr DAVID SHOEBRIDGE: I had a pretty simple question. Is there a policy in place that mothers are notified across the board?

Ms WALK: Do you want us to get the policy for you with the data?

Mr DAVID SHOEBRIDGE: Just answer the question.

Ms WALK: You have asked a couple of questions and I am saying that we will provide the answers. One was about the removal of children with a high-risk birth alert.

Mr DAVID SHOEBRIDGE: I will make it really simple. Is there a policy in place that mothers who are the subject of a high-risk birth alert are notified that they are the subject of a high-risk birth alert so they can address any of the concerns before their child is removed?

Ms MULKERIN: I think that our answer is that we would actually have to have a look at what the policy specifically says. It may well be that the specific circumstances of a case—for example, if we are concerned that a young mother may be at risk—

Mr DAVID SHOEBRIDGE: I do not want this to degrade into 10 different circumstances. I would like an answer to it, and if you have not got an answer to it you are going to give it to me on notice.

Ms MULKERIN: We will take it on notice.

Ms ALEXANDER: But what I would say is we have specially dedicated high-risk infants teams who are established to work with pregnant mothers, and whenever they work with one of those mothers the mother knows absolutely what is in the report about her child.

Mr DAVID SHOEBRIDGE: The first question was: Is the mother even notified? If the mother is not notified, how could there be a team working with her? I need that answer first before I get this descent into detail that you are doing now. If that answer cannot be given now I will move onto another point.

Ms ALEXANDER: By explanation that I was trying to give, when we work with that mother of course she knows a report has been made. If we do not get to that case—

The CHAIR: You have said you will take some of what Mr Shoebridge asked on notice. He is pressing for some clarification. You do not think you are in a position to give any more information at the moment. If that is the case you can take it on notice and he can move on to his next line of questioning.

Ms MULKERIN: We will take it on notice.

Mr DAVID SHOEBRIDGE: You say that before a child is removed there is an assessment of risk, and that might be risk as a result of neglect or child abuse, physical abuse—there is a patina of different issues that might lead to a finding of risk that would lead to a removal. Is that right? There is a whole raft of potential risks.

Ms MULKERIN: Yes, and actual risks and actual harm that might have already existed.

Mr DAVID SHOEBRIDGE: Does the department have a set policy that you can point to, a set learning module you can point to or a set of case models or studies that actually identifies the known risk of removal? You said that a child that has been the subject of the foster care system is ten times more likely to be removed. We know that removing a child from their school greatly impacts upon their education. We know that removing them from their home and their family greatly impacts upon their development. Splitting them up

from their siblings greatly impacts on their development. Are case managers told, okay, there is this risk if they stay, but here is this whole package of risks of removal? Does that happen?

Ms MULKERIN: Sorry, I think—

Mr DAVID SHOEBRIDGE: Not risks, known damage that will happen with removal.

Ms MULKERIN: I think what you are asking for is is there a specific policy written that gives that instruction?

Mr DAVID SHOEBRIDGE: I am asking you is there a policy? Is there a learning module? Is there training? Is there evidence that is given to your caseworkers about the known damage from removal?

Ms MULKERIN: Yes, there is training and research and evidence made available to our workers about weighing up both the risks and the factors that are evident in their families. There is training made available to our workers about the evidence and the research of the impact of removal or placement disruption or disruption of their education. For example, as Maree has pointed out, the Pathways of Care longitudinal study [POCLS] research—the big research—is specifically helping us get much clearer evidence about the impact of placement disruption on children's educational outcome. So yes, the research is available and yes, there is training available and yes, our workers are aware of it.

Mr DAVID SHOEBRIDGE: And is that presented to the court when a decision is being made about the interim removal of a child or the establishment order? Is the court told, "Yes there is a risk if the child remains and here is the risk. But we know for a fact there is a certainty of damage if we remove and there is risk of damage if we remove and here is the risk. We would like you to balance them up please before the removal order is made because, surely, that is how we should be making a decision"? Is that what happens in court?

Ms MULKERIN: No. You asked Judge Johnstone earlier on this afternoon. The evidence that is presented to court is about the particular care matter that is in front of the court. Then the assessments that might occur during the course of the court matter will weigh up all of the factors around this child, so both the risks and the dangers, the factors that relate to their families, and also what other factors are relevant for that child; for example, disruption of their schools, disruption of their relationships, where are their siblings.

Mr DAVID SHOEBRIDGE: But if we know that putting the child into foster care means that that child when they grow up and have children is going to be ten times more likely to have their children moved into foster care, surely that should be part of the decision-making about a removal. If we are not doing that we are potentially putting really skewed decision-making with long-term social harm.

Ms MULKERIN: I think I have answered your question as best as I am able to.

The Hon. DANIEL MOOKHEY: Is there a policy in place, a module, any form of guidance—the same list of materials that Mr Shoebridge used in his previous question—that guides the behaviour of FACS solicitors?

Ms MULKERIN: In what way do you mean "behaviour"?

The Hon. DANIEL MOOKHEY: For example, model litigant policy—a commonly used tool across all departments to guide how the State behaves when it is engaged in litigation against citizens. Is there such a policy in place?

Ms MULKERIN: I believe so. I am not a lawyer, so I do not feel I can comment or make legal comments.

The Hon. DANIEL MOOKHEY: I am not asking you for a legal opinion. I am asking—

The CHAIR: Does it exist?

The Hon. DANIEL MOOKHEY: Does it exist? I will unpack it. The solicitors that the department uses are the Crown Solicitor and a panel of approved firms. Is that right? You use the Crown Solicitor's office and a panel of preferred firms.

Ms MULKERIN: And we have our own in-house.

The Hon. DANIEL MOOKHEY: And you have your own in-house.

Ms MULKERIN: Yes.

The Hon. DANIEL MOOKHEY: Is there any form of a model, a code, a policy or anything that would govern how they go about using their powers?

Ms MULKERIN: I understand that there is a model litigant policy, and I have just been told yes in support of the litigant policy.

The Hon. DANIEL MOOKHEY: There is?

Ms MULKERIN: Yes.

The Hon. DANIEL MOOKHEY: A huge amount of the evidence we have received stems from this theme that there is an inequality in power between the department and parents when it comes to the Children's Court system. In addition to that—although it is the case that, as you rightly point out, often when things arrive at the Children's Court the department is making an application that it wishes to have succeed, presumably because otherwise it would not be making the application—there is a lot of concern that there is a lot of abuse of power—that is, documents not being furnished at the appropriate times, records produced under subpoena not being full—

Mr DAVID SHOEBRIDGE: Or just exculpatory evidence not being presented.

The Hon. DANIEL MOOKHEY: Or exculpatory evidence not being presented. Do you think that that is a concern? Has your code or policy been reviewed or updated to take into consideration any of these concerns? Or is it the case that that is just the nature of litigation?

Ms MULKERIN: I think we should take the question on notice. I am not sure that we are equipped to actually answer those specific questions.

The CHAIR: That is perfectly fine.

Ms WALK: I do hear some of your questions about whether we think parents are as well represented in the court as they could or should be. I think in some of the answers we are saying we think that that area in terms of parents having an advocate—it might be in the Children's Court and many of them have Legal Aid, and in fact in some of the family group conferencing that has taken place over the last 12 months where I think there were over 100—really helps balance that out. It is not just parents but extended family coming to the table to talk about family issues and the safety issue. I do not think any child protection worker would disagree that we really need to get the balance right and that the balance is not as even as we would like.

The Hon. DANIEL MOOKHEY: I appreciate the answer. I understand that earlier in the process the use of the non-statutory powers and all the other carrots, for want of a better term, is nice but for the purposes of what I am asking on notice my question is specifically about the interaction of FACS and parents in the Children's Court system. We are particularly interested in whether there is a power inequality there and, if so, how it can be adjusted, corrected or mitigated

Ms MULKERIN: We will take it on notice.

The CHAIR: I draw the hearing to a conclusion by thanking you for coming along this afternoon and presenting yourselves for two hours of pretty close scrutiny. I very much appreciate the good spirits in which you have fully and frankly answered the questions as best you could. We know it is most difficult work undertaken by the department, and we know and appreciate that the work undertaken is done most sincerely and in the best interests of the children. There are some questions on notice. The secretariat will liaise with you on that. We have set aside 21 days for return, which I think should be satisfactory. Again, thank you very much.

Ms MULKERIN: Thank you for the opportunity of allowing us to expand our answers. It was really important that we came—

Mr DAVID SHOEBRIDGE: It was good that you came at the end of the day—

Ms MULKERIN: Fulsome.

Mr DAVID SHOEBRIDGE: —because you could see all the other evidence as it presented.

The CHAIR: Thank you very much.

(The witnesses withdrew)

(The Committee adjourned at 17:05 pm)